

How should I prepare for mediation?

The following lists of steps are those you should consider doing before mediation. This list is not exhaustive but aims to provide you with some guidance:

- ❖ Make sure you read and understand the terms of the Mediation and Fees Agreements sent to you by your lawyer.
- ❖ Carefully read all the information the Mediator has sent out before the mediation.
- ❖ Ensure you know how much the mediation will cost and how the fees are to be paid.
- ❖ Understand that the concept of confidentiality applies to you and any other person who will attend the mediation with you. If you bring a support person to your mediation ensure that you have the consent of the other party and, if so, go through the terms of the Mediation Agreement carefully to ensure that you and the support person understand them and ensure that the Support Person Confidentially Agreement is signed and returned to us prior to the mediation.
- ❖ Understand that mediation is not about winning or losing but a chance to compromise and resolve the matter.
- ❖ Get independent advice about the advantages and disadvantages of your position going into the mediation. Start thinking of the reality of negotiation and the concept of compromise prior to the day of mediation.
- ❖ Have independent advice about the true delays in the litigation pathway and court systems and the cost of going to court.
- ❖ Consider the intangible benefits of resolution outside court, such as control of outcomes, minimising stress, minimising the damage to the ongoing relationship with the other party where you share children together, getting on with your lives and the danger of lost opportunities while the matter proceeds through Court.
- ❖ Understand the difference between a mediator's role and a lawyer's role at mediation. Make sure that you understand that the mediator is not there to put your case as if the matter were in Court or to convince the other party that you are right. It is important that you understand that your lawyer is there to assist resolution and plays a very different role than being only your advocate.
- ❖ Understand and be prepared for the process of the mediation – that is, what happens on the day of mediation. Whether there will be a joint opening session; will

it be a “shuttle” (separation of the parties during the process) or a joint mediation, and what each of those means to you.

- ❖ Make sure all valuations are done where the value of major items of property are in dispute. If there are minor items in dispute, think of ways that compromises may be reached on those values, such as, the use of the Red Book value of vehicles.
- ❖ Try to reach agreement with the party or their lawyers prior to mediation about how to overcome valuation or disclosure disputes.
- ❖ Prepare list of assets and liabilities be familiar with that list. Be familiar where there are still disputes and think about the need to look for compromises on the values.
- ❖ Have a list of goals and concerns for the mediation and put these in some order of priority.
- ❖ Have independent advice around the legal strengths and weaknesses of your dispute. It allows you to understand whether your offers made or ultimate agreements reached at mediation are sensible and safe for you and ensures any agreement reached can later be made into binding court orders or agreements.