

Making the Most of Mediation

Peoplenovate® Dialogue

1. Understand the Purpose of Mediation

Mediation is not a trial.

The mediator does not decide who is right or wrong. Nor is the mediator your advisor.

The mediation process is designed to:

- clarify issues;
- improve communication;
- explore settlement options; and
- help parties reach a voluntary resolution.

Success is not always measured by settlement.

Sometimes a dialogue itself is valuable.

2. Prepare Properly

Good preparation is key to achieving something, and sometimes everything, out of mediation.

Before the mediation:

- review the key facts and documents;
 - identify your best-case and worst-case scenario;
 - understand the commercial, legal, and emotional costs of the dispute and weigh them against your capability and affordability;
 - consider realistic (not idealistic) outcomes and fallback positions; and
 - think carefully about what you actually need to resolve the situation.
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3. Decide What Matters Most

You can't have your "day in the court" in mediation. The process is not about winning, but about bagging that which is most important.

Try to identify:

- your core priorities;
 - what is negotiable;
 - what is non-negotiable;
 - what outcomes are realistic;
 - where flexibility may exist; and
 - what a workable resolution could look like.
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4. Communicate Well

What is said, unsaid and how it is said matters a lot. The mediator is not a mind reader and cannot help you if you don't tell the mediator what your interests and concerns are.

Helpful approaches include:

- listening actively;
 - clear articulation;
 - avoiding inflammatory language;
 - focusing on issues rather than people; and
 - actively thinking about possible solutions.
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5. Use the Mediator Effectively

The mediator is there to facilitate dialogue and help parties reach a resolution on their own terms.

You can work with the mediator to:

- reality-test settlement offers;
- Communicate needs and interests constructively;
- identify and clarify misunderstandings;
- explore settlement structures; and
- diffuse tense situations.

6. Think Beyond Legal Outcomes

Some conflicts are more than just a legal dispute.

Parties may also care about:

- reputation;
- relationships;
- confidentiality;
- time;
- stress;
- future opportunities; and
- certainty.

A good mediation process often addresses practical and human concerns.

8. If Settlement Is Reached

Before concluding:

- ensure you have taken legal and/or other relevant advice;
 - ensure terms are clear and workable;
 - confirm you understand the agreement;
 - identify and understand timelines and responsibilities; and
 - consider whether future communication mechanisms are needed.
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A space for mediation, dialogue, and human-centred conflict resolution.