

Mediation

The basics on understanding what mediation is and when it can help during the separation process.

Mediation is a type of dispute resolution that is confidential, flexible, and voluntary. A neutral third party (the mediator) helps disputing parties communicate and negotiate to reach a mutually acceptable agreement.

Why is mediation helpful?

Mediation can be used to resolve a broad range of family law issues, including property division, child custody arrangements, and spousal support. Mediation can help you resolve disputes between you and your former partner without having to go to court.

It is considered a more cost effective and time efficient way to reach resolution and it is also emotionally beneficial as it gives you a space to have a voice and more agency in the situation.

In essence mediation promotes the spirit of cooperation. It gives an opportunity for both individuals to reach amicable agreements that reflect the best interest of all involved, especially if children are involved.

Benefits of mediation

Cost-effective

Generally, mediation is less expensive than going to court.

Faster resolution

Mediation can resolve disputes faster than the traditional court process.

Confidential

Unlike court proceedings, mediation is private and confidential.

Control

Having more control over the outcome, as agreements are mutually negotiated.

Mediation is confidential

Confidentiality in mediation means that the entire process cannot be referred to outside of the mediation. The 'without prejudice' nature of mediation means that anything that is said, or the offers exchanged cannot be used against a party or referred to in Court if the matter proceeds to a hearing.

Can my family lawyer participate?

Generally, each individual's legal representative will attend. There are clear benefits to your family lawyer attending, including to legally formalise any agreements reached.

Additional people may also be present at the mediation including support people or advisors. This is subject to agreement with the other party and the support person or advisor will usually be required to sign a confidentiality agreement.

The goal of the mediation process is to reach a compromise agreement that each party can live with that resolves all or some of the issues in dispute.

Is mediation a legal requirement?

Mediation is not mandatory in all family law matters but it is required in some cases.

Family Dispute Resolution (FDR) is a specific type of mediation which must, with limited exceptions, be undertaken before court proceedings in parenting matters. If you are looking to engage an individual for FDR, it's important to be sure that they are registered with the Commonwealth Attorney-General's Department as a Family Dispute Resolution Practitioner (FDRP).

Can agreements reached through mediation be legally enforced?

If you reach an agreement with your former partner at mediation, agreements can be formalised and made legally binding through consent orders or binding financial agreements. Your family lawyer will be able to prepare this documentation and ensure that the Court 'rubber stamps' this so it becomes legally binding.

If an agreement can't be reached

If mediation does not result in an agreement, litigation may be necessary. However, the majority of cases can be successfully resolved through mediation.

Next steps: starting the mediation process

Speak to your family lawyer about utilising mediation within your separation process. You can either let them know your preferred mediator or ask for recommendations.

If you are an existing Parker Coles Curtis client or planning on engaging with us, we cannot also act as your mediator as mediators need to be neutral for both individuals. For our clients, we encourage mediation for dispute resolution and will recommend other independent mediators.



We're here for you: meet Debra Parker

Accredited as a Family Dispute Resolution Practitioner, Debra is passionate about mediation and collaborative approaches to help individuals to resolve matters outside of court. She has completed thousands of mediations throughout her career and understands that sensible solutions deliver the best outcomes for everyone involved.

Debra is regarded as one of the leaders of the legal profession by colleagues, as recognised by the national Doyle's guide of the best lawyers in the country, which gives her 'preeminent' family law status in the ACT and 'leading' status as a mediator.

She is the only lawyer in Canberra with a Specialist Accreditation in two areas (family law and dispute resolution). With an 80% success rate for mediation, Debra is available for half and full day mediation.

After more detail?

To book Debra for mediation or for mediation rates, please email hello@parkercolescurtis.com.au or call us on **02 5114 2660**.

Disclaimer: The information in this fact sheet is general in nature and is not to be taken, or acted upon, as legal advice. It is not intended to provide specific guidance about whether you should take action or not take action on any matter and you should obtain professional advice where appropriate. It is essential to obtain legal advice tailored to your specific situation. The information provided does not establish a client/ lawyer relationship between the advisor/author and reader. To the maximum extent permitted under Australian law, the author disclaims all responsibility from any direct or indirect harm or damage occurring to a person relying upon information in this publication.