



Consensus Mediation

# Guide to Participating in Mediation

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Thank you for being open to hearing more about the process of mediation. This leaflet aims to explain to you what mediation involves and how it will work.



### **Introduction to Your Mediator**

My name is Mary Rafferty and I am an accredited Practitioner Mediator with the Mediators' Institute of Ireland. A former teacher and social worker, I have run my own independent mediation, coaching and training consultancy [Consensus Mediation](#) since 2005. I specialise in assisting people, teams and organisations to find solutions to difficulties that have arisen in working or employment relationships. As a member of the [Mediators' Institute of Ireland](#), the independent body which accredits mediators, I am bound by their Code of Ethics and Practice. This sets out clear guidelines that govern the practice of mediation.

### **What is Mediation?**

Mediation is a voluntary, confidential process that assists people in a conflict or dispute to communicate with each other in order to work out their own mutually acceptable agreement regarding the issues or difficulties that have arisen.

People sometimes perceive an invitation to participate in mediation casts them in a negative light or even as a form of sanction. The opposite is true however. Mediation is simply a facilitated negotiation. Openness to mediation demonstrates that you have the courage and resilience to step up to the challenge of a difficult conversation. It shows a focus on finding solutions and moving forward and not letting this situation impact you negatively any further in the future.

### **How does mediation work?**

#### Pre-Mediation: Initial one-to-one meetings

This is an opportunity to meet you initially on a one-to-one basis in order to explain the process in detail and help you figure out how the mediation process can be of use to you. This meeting is confidential and nothing you discuss here will be discussed or mentioned to the other person in the dispute. I may be asking you to complete some preparatory documentation beforehand and bring it along to the meeting. This is not for sharing with anyone else; rather it's just a good basis for our discussion together and preparing for the mediation session.

I will also be meeting with the other person or persons in the dispute. When I have talked to everyone on an individual basis and made sure that mediation would be a good fit for the situation, we will then agree a time and a place to meet together for a joint mediation session

#### Joint mediation meeting

This is where you and the other person(s)/parties meet together at a time and venue convenient to all for a joint mediation session.

The mediation session usually begins with the Mediator outlining the key principles and parameters of Mediation and you will be invited to jointly sign an 'Agreement to Mediate' document which affirms your commitment to the principles and groundrules of mediation as outlined above.

Each of you then have some uninterrupted time to speak, where you will be asked to outline the key issues that you would like to talk through in the session(s) and to listen respectfully and without interruption to each other's issues. You will then get an opportunity to respond to each other and talk in more detail about the various issues you have raised.

As the process develops, it may be appropriate also to hold separate private meeting(s) with each of you. These will be confidential and each person will get equal time.

As the mediator I will be helping you identify and clarify for each other what your key needs and interests are and help you both communicate these clearly and respectfully to one another.

My role will be to guide the discussion, keep you focused, keep it constructive.

I am also there to encourage and reassure you, keep you on track and help you see progress, even if it doesn't always feel like that. You can take time out for a break at any stage.

When the key issues have been aired and talked through, I will be getting you both to come up with ideas for what might work better for the future.

Finally, depending on the issues and the matters being agreed, these can be summarized in either a verbal or written agreement.

### **Is my situation appropriate for mediation?**

The key factor that distinguishes appropriateness of a situation for mediation is a willingness on each person involved to:

- Listen and seek to understand the other's viewpoint
- Want to engage in a dialogue with a view to resolving matters
- Understand that mediation is not about getting everything you 'want', rather it is about finding a solution to a dispute that everyone can live with and brings closure to the matters in dispute.
- Be willing to reflect on yourself and how you are reacting to this situation and looking at what you can learn about how you manage 'conflict' and difficulties in working relationships.

### **What can I expect from the Mediator?**

- To ensure that you understand how mediation works and what is expected of you in participating
- To be impartial – this means to support each participant equally
- To facilitate you to get clarity about the real issues you, what you need to communicate to the other person(s) and how best to do this
- To facilitate you to participate effectively and communicate the key messages that you want the other person to understand.
- To assist you to identify options that would be workable for both you and the other person(s)

The Mediator **does not** give advice, make proposals, judgements or any decisions about the issues between you and the other person(s).

### **What's expected of me as a participant?**

- Participate in good faith – this means you are genuinely interested in trying to achieve a solution through mediation.
- Be open to hearing other perspectives about the situation and where the other person is coming from.
- Understand that mediation is not about winning or losing, rather it's about workable and pragmatic solutions to problems that are stressful for all concerned.
- Talk about the situation from the viewpoint of your experience, concerns and needs rather than blaming or labelling the other person or their behaviours
- Be willing to look at yourself and how you are reacting in this situation and be open to learning how you could have a different perspective that would be less stressful and more empowering for yourself in this situation.

## **Do I have to go to Mediation?**

You are free to participate and to withdraw at any time in mediation. Most people feel apprehensive about going to mediation. This is understandable, there may have been some difficult interactions in the past with the other person(s), you may feel angry, frustrated, hurt and/or anxious. Yet like many things which are hard to do, it can also bring many benefits. Critical to its success is that participants are willing and open to working together to find a mutually acceptable solution.

## **Who decides the outcome?**

You and the other person(s) retain control over all the decisions and the outcome of the mediation. You will not be forced to agree to anything that you are not happy with – mediation is about helping you find a solution that meets everyone's needs to the greatest extent.

## **Will there be a report?**

**All information and discussions that take place as part of the mediation process are confidential and without prejudice and may not be used in any future formal or legal proceedings. Both you and the other party will sign a written agreement to this effect.**

No details on either what took place or the outcome can be discussed with others, except what it is agreed by you both to disclose. Neither will any formal records or minutes will be taken or retained aside from a final Mediation Agreement (see below).

Confidentiality enables parties to say things to each other during the process that may help progress the mediation. This might include sharing specific information or offering an apology or acknowledgement.

Confidentiality extends to:

- Communications before, during and after the mediation process
- Any and all spoken and written communication arising out of or in connection with the mediation
- Parties, mediator and any representatives or support parties

Exceptions to confidentiality are:

- Where something is disclosed that places a Duty of Care obligation on the Mediator (risk or threat of harm to any individual)
- There is a requirement by law to breach confidentiality
- To enable the Mediator to defend themselves from a complaint arising from the mediation
- Concerns in relation to the protection of children

## **What about the paperwork?**

At the start of the mediation session between you and the other person(s) the Mediator will ask you and the other party(ies) to sign an Agreement to Mediate. In this way you are committing to uphold the principles outlined above. You will receive a copy in advance and can ask for clarification of any aspect of it.

At the end of the process, you and the other person may decide to record in writing key details of what you have agreed upon. This is known as a Mediation Agreement. Usually these are a series of points recording the areas of your working relationship that you will work to improve.

Some issues may warrant a more formal and binding contract; in such cases, all participants would have an opportunity to get advice, legal or otherwise, before making a binding commitment to a Mediation Agreement.

## **What if it doesn't work?**

Participation in mediation does not impact on your statutory rights or prevent you from taking subsequent action should you decide that the issues are not satisfactorily resolved. It is expected however that for the duration of the mediation process, you will not engage in any other formal or legal process in relation to the matters in dispute.

**How can I make the best use of mediation?**

You will have a chance to reflect on this during the one-to-one pre-mediation session with me and ask any questions that will help you decide whether or not, and how best, to participate in the mediation process.

Please read the accompanying document 'Difficulties in Working Relationships' and bring it along completed to the initial one-to-one session.

Thank you for being open to participating in mediation. It takes great courage to address difficulties in working relationships face to face, and find a way to move forward and let go of all the upset that goes along with this.

I look forward to meeting you.

Best regards

A handwritten signature in blue ink that reads "Mary Rafferty". The signature is written in a cursive style and is placed on a light yellow rectangular background.

Mary Rafferty

## **Profile: Mary Rafferty BEd MSocSc MMII**

Mary is an accredited Mediator and Certified Conflict Coach, in private practice since 2006 and has worked as a consultant in conflict-related areas in a wide range of organizations and workplaces in the public and sectors.

Mary is an accredited Practitioner Mediator with the Mediators Institute Ireland (M.I.I.), Ireland's only independent professional association for certification and registration of mediators. She also holds certification with the International Mediation Institute (IMI).

Mary is Lead Trainer on an MII Approved Accredited Mediation Programme to Certified Level and a graduate of the CEDR (Centre for Effective Dispute Resolution) Master Skills Mediator Training Project (2011). Mary lectures on the Masters in Dispute Resolution Workplace module in Independent Colleges.

Mary is certified in the internationally renowned and innovative CINERGY™ Conflict Management Coaching Model. She is also a member of the international team of Approved CINERGY™ trainers and has delivered the signature 4-day Conflict Management Coaching Programme both in Ireland and abroad.

Mary is also certified to administer the Conflict Dynamics Profile (Eckerd College, Florida), an assessment instrument dealing with conflict behaviors in the workplace which provides a powerful way to improve self-awareness of what triggers conflict in individuals as well as how they respond to conflict

Mary is a Director of the Mediators' Institute of Ireland and Chairperson of the Accreditation Policy Committee.

Mary holds an Honours Degree in Education, a Master's Degree with Distinction in Social Science and has attended a wide variety of specialised trainings in the field of conflict resolution.