

# Preparing for mediation: parenting

This infosheet is for separated parents or carers who have children under 18 years and who have booked in to attend family dispute resolution (mediation) with the other parent. Find out what to expect and what topics to discuss at mediation.

## What is mediation?

Family dispute resolution is also known as mediation. This is a process where you, the other parent and a third person who is a qualified family dispute resolution practitioner, talk about what happens with your children. A family dispute resolution practitioner is also known as a mediator.

The mediator's job is to be impartial and not take sides. They keep the conversation respectful and focused on the children and the future.

## Who can attend mediation?

Usually both parents participate in mediation. Other people who can participate are grandparents, aunts and uncles, or people who are not related to the children but involved in their care. This infosheet refers to parents but also applies to carers.

## When do you go to mediation?

You can use mediation when you cannot agree with the other parent about what is best for the children. You and the other parent may disagree on things such as where the children live, who they live with, how much time they spend with the other parent and important people in their life, where they go to school, who makes decisions about their health, where they can travel and other decisions.

You can use mediation soon after separating, before going to court, when you are going through court, and after you have a decision from the court.

As long as you both agree, you can attend multiple mediation sessions.

## Confidentiality

All discussions at mediation are confidential and cannot be raised by either parent in court or in any documents for court.

There are exceptions to confidentiality, such as if the mediator reasonably believes disclosing something to the authorities is necessary to protect a child or a person from harm, or to prevent a criminal offence.

## Safety

Your physical and emotional safety is a priority. The mediator will only book a joint mediation session if they assess that it is safe to do so.

## Do I need a lawyer?

Mediations at community organisations such as Relationships Australia, Anglicare and Centrecare usually don't have lawyers involved. You can get legal advice before mediation about your options, and after mediation about the effect of any agreements made.

Mediations at Legal Aid WA are legally assisted, so each parent has a lawyer. Mediations through a private mediator can be legally assisted or not, depending on the parents' preference.

## Intake sessions

Before you can attend a mediation with the other parent, a mediator will need to assess whether your case is suitable for mediation, in an intake session. Each parent is interviewed separately.

Each parent will be asked questions about the history of the relationship, any safety concerns, family violence, risk issues such as mental health, drug and alcohol abuse, cultural issues and more.

If the mediator is satisfied that mediation is appropriate and any identified risks can be safely managed, they will book in the parents for a joint mediation session.

If the mediator is not satisfied that mediation is appropriate, they will not conduct a mediation.

## What happens at the joint mediation session?

### In person mediations

It is preferred for both parents to be present in person for mediations.

There is a joint conference room where everyone sits, and the parents will usually have a separate break-out room where they can sit by themselves or with their lawyer.

The mediator decides how to conduct the session.

The mediator can decide whether both parents should sit in the conference room, or whether the parents should sit in their separate break-out rooms and have the mediator move from room to room, relaying what the other person says (this is known as a shuttle conference).

If you do not feel comfortable being in the same room as the other parent, you can let the mediator know and ask to remain in the separate room.

## Online mediations

Mediations can be conducted by video conferencing online, or by telephone, where the parents live regionally or are unable to meet in person.

The mediator decides whether to hold a joint conference call or joint video meeting, or whether to speak to the parents separately and relay information (similar to a shuttle conference).

If you do not feel comfortable speaking to the other parent directly, you can let the mediator know and ask to do a shuttle conference.

### Can I bring a support person?

This will depend on the mediator or organisation; there may be policies about whether support people are allowed to participate in mediation or not.

Often, both parents need to agree on a support person being present.

The role of the support person is to provide emotional support only, not participate in the joint mediation session or give their views.

The support person will usually remain in the separate break-out room.

## Topics to discuss at mediation

Before coming to mediation, carefully think about what you hope to discuss with the other parent. Mediation is a useful space to discuss anything affecting the children. Below are some useful topics to discuss at mediation.

### Communication:

- what is the best way to communicate with the other parent about the children? Phone call, text message, email, in person?
- what boundaries should be set? Keep the discussions polite, limited to the children, when to expect a reply?
- what is the best way to communicate with the child when they are in the other parent's care? Phone call, text message, email, social media?
- what boundaries should be set? Calls limited to certain times, limit on the amount of time, privacy when speaking to the child?

### With whom do the children live and spend time:

- is one parent the primary carer or is it shared between the parents?
- how much time should the children spend with the parent with whom they are not living?
- should the current arrangement stay in place long-term or should it change as the children get older?
- what is working in the current arrangement and what is not working?
- what happens during school holidays?

### Handovers:

- where will the parents usually do handover, at each other's house, or school/daycare, or a public place?
- who else can help with handover?

### The children's views:

- have the children expressed a view about their arrangements without prompting from either parent?
- what are the children's ages and level of maturity?
- should the parents arrange for a child-inclusive mediation?

A child-inclusive mediation is where a qualified child consultant spends time with the child to talk about their experiences, thoughts and feelings.

The child consultant provides feedback to the parents about their insights into how the child is faring, and what the child wants to share with the parents. The parents return to mediation after the feedback session.

### Special occasions:

- will the usual arrangements change for special occasions such as birthdays, Mother's Day, Father's Day, Christmas, Easter, or other religious celebrations?
- will the parents split their time during special days or agree to alternate spending special days by year?

### Education:

- how does the child travel to school/daycare?
- how do the parents help the child deal with homework and assignments?
- is the child happy with their current school/daycare and properly supported?
- does the child or either parent want to change schools/daycare, and if so, what other options are there?
- which school will the child go to as they get older?

## Health:

- does the child have any medical needs or allergies?
- if they have medical needs or allergies, what are they and how can each parent support those needs?
- who is mainly responsible for medical appointments and follow ups, prescriptions, administering medications? How can the other parent assist?

## Travel:

- does either parent have plans for travel interstate or overseas with the child?
- do both parents agree that the child can travel or what limits would they like on travel?
- does the child have a passport, if so who holds it and can the parents agree to provide the child's passport for agreed travel?
- if a parent misses their usual time with the child is there a plan to make up for that time?

## Partners and significant people:

- is there a plan on how to introduce new partners to the child?
- can new partners help with handovers or caring for the child?
- does the child regularly spend time with other family members such as grandparents and cousins? How can that time continue in each parent's care?
- is there anyone that the parents don't want around the child?

## Religion and culture:

- will the children be raised in a particular faith, religion or culture?
- how will the parents support this upbringing?
- what special days of religious or cultural significance will be observed?
- how will the parents ensure the children remain connected to their culture?

## Future changes or disagreements:

- how will you work out changes to arrangements (if needed) or any disagreements in the future?
- will you speak to each other and if that doesn't work, attend another mediation?

## What can't we discuss at mediation?

Usually topics about property settlement and child support are not discussed during a mediation for parenting matters.

This includes things such as who pays for the child's private school fees, costs of books, equipment and uniforms, out-of-pocket costs for doctor's appointments and medicines for the child, travel costs for the child including passports, flights and accommodation.

Although parents may agree to include aspects of parenting costs in their agreement, these are usually not able to be enforced in court if the other parent doesn't follow them.

You may wish to get legal advice about payment of children's costs from a lawyer specialising in child support.

## Discussions during mediation

The mediator will ensure discussions during mediation remain respectful.

It is common for people to be emotional. The mediator may suggest taking a break or either parent can request a break.

You cannot be forced to agree to anything. If you are feeling pressured or intimidated let the mediator know and they may stop the session. You can return to the session when you feel ready or say you do not want to continue the session.

The mediator may challenge you on your views or ask you questions on why you hold a certain view.

Keep in mind that they are trained to facilitate conversations, and use it as a chance to talk about difficult topics.

Be prepared to listen to the other parent's point of view without interrupting, and expect to have the same courtesy returned to you. Stay focused on the future rather than what happened in the past.

The mediator will help you keep the conversation focused on the children and their best interests.

See the infosheet '[Best interests of children](#)' on the Legal Aid WA website.

## After mediation

### What happens if we reach agreement?

If you can agree on some or all issues during mediation, you can enter into an informal agreement, or a parenting plan, or consent orders from the Family Court of WA. See the infosheet '[Making arrangements for children](#)' on the Legal Aid WA website.

You can also use [amica](#) to generate a parenting agreement. amica is a secure online tool developed by National Legal Aid to help separating parents work out parenting arrangements.


It is important to get legal advice about any agreement reached.


### What happens if we don't reach agreement?

The mediator can issue a certificate that allows either parent to go to court, to ask the court to decide on what's best for the children.

It is important to get legal advice about going to court for children's matters.

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