

# The Mediation Process

Mediation is a way of dealing with conflict or disputes that aims to enable the people involved to reach an agreement that satisfies everyone. The process is totally voluntary and no one can be forced to take part. Mediators are impartial and won't take sides, make judgments or lay blame. The mediation process is totally confidential and no information given by either side will be shared unless permission is given. Any agreement reached can be in-formal and voluntary or the parties can choose to make it formal by, for example, having a legal document drawn up based on agreement(s) reached in the mediation.

Below is an illustration of the mediation process as a series of phases which broadly speaking are passed through in sequence. However, as mediation is a learning process, it is important for the mediator to adapt it to the prevailing situation. For example, the mediator may decide that looping back to a previous phase rather than moving onto the next one is actually the best way forward. The time needed to complete each phase is very dependant on the issues and the extent to which the relationship between the parties has broken-down.

## **Phase one** – First contact with the first party

The mediators visit the first party (usually the person who has contacted them) and listens to their account of the situation. The mediators will then work with the first party to identify: mediatable issues; options and ways forward. If the case is suitable for mediation and the first party agrees, they move onto phase two.

## **Phase two** – Contact with the second party

The mediators visit the second party and offer them exactly the same opportunities as the first party. If the second party agrees they move onto phase three.

## **Phase three** – Preparing to work on the dispute

The mediators make a second visit to each party where they: Share any useful and appropriate information gained from the first visits; establish if a face-to-face meeting is the best way forward and discuss a possible agenda. If both parties agree to a face-to-face meeting a suitable date and venue will be arranged and the mediators will explain, in more detail, how the meeting will be structured and establish ground rules.

## **Phase four** – Face-to-face meeting

### *I. Hearing the issues*

The meeting will start by the mediators reiterating the ground rules and the process; if both parties agree to these they sign an 'Agreement to Mediate'. Both parties are then given equal (uninterrupted) time to explain their concerns, views and feelings while the mediators ensure that ground rules are kept, summarises what has been said and check that both parties have understood each other.

### *II. Exploring the issues*

Based on the issues raised the Mediators propose an agenda and then encourage the parties to discuss each item together and answer each others questions. The mediators: summarise what is said; check understanding; identify and check assumptions; acknowledge differences while all the time looking for common ground.

### *III. Building agreements*

Mediators will help the parties to create and discuss options by highlighting offers and encouraging problem solving. At an appropriate time suggestions will be summarised and the parties will be helped to crystallise agreements, ensuring that they are realistic and that there are contingencies built-in, should things go wrong. Agreements are written down and the parties will be given the opportunity to sign them.

Depending on the nature of the issues and the agreements which are sought, it may be necessary to involve solicitors in the process. Exactly how this is achieved is something that is established by the mediators with the involvement of the participants, usually by the end of phase three.