

Mediation: creating agreement and commitment

John Scotland Consultants' mediation service is available to assist organisations and individuals where there is conflict between two or more people. Our mediators are qualified and experienced in workplace mediation.

Your mediator will initially discuss your situation and if mediation appears to be the appropriate intervention, will work with those in conflict to talk through their difficulties in order to reach agreement about resolving the conflict and the nature of their future relationship.

Our mediation service

Mediation allows all parties in conflict to express their primary needs clearly, to discover ways to satisfy these and reach fair and workable final agreements. It is voluntary, where all parties agree to the mediator's intervention and authority to facilitate the agreements that follow.

Our mediators are qualified and experienced in mediation in business and in the community. They are skilled in helping all parties arrive at a common purpose that also serves their primary individual needs in the spirit of fairness and honour.

The mediation protocol

Mediation consists of two main stages – preparation and mediation. Debriefing can also be conducted after the mediation.

Preparation

This is a preliminary meeting between the mediator and each party, alone. This may take up to 60 minutes, although time may vary depending on the matters involved and the party's familiarity with the mediation process. This is best conducted in person. However if time and distance are problematic, this can be done by video conferencing or phone conversations.

Preparation generally involves the mediator in the following:

- Listening to each party's general perspective on the situation
- Assessing the appropriateness of the issue for mediation
- Checking the person's readiness to participate in mediation and to help with their preparation
- Discussing the party's primary concerns and the requests they wish to make of the other party. How best might they phrase these concerns and requests to ensure the best possible outcome?
- Helping them consider what the other party might raise and how they may respond
- Discussing the ground rules for successful mediation
- Seeking commitment to the mediation process
- Signing of an agreement to enter into mediation.

If all parties agree, then mediation proceeds. Only two people are generally involved in mediation thus with three parties, either two or three mediations will be required. Alternatively, and only if deemed appropriate, a facilitated meeting between all parties can take place. Other parties can attend the mediation as support or to provide information. They can only participate if requested by the mediator.

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The general mediation process

Introduction	<p>The mediator introduces the process and the initial agreements about how mediation will work</p> <p>Each party briefly states why they are being involved in mediation and what they hope to achieve</p>
The agenda	<p>Each party lists their main issues and concerns ensuring that everyone is very clear about them. This is the agenda.</p>
Exploration	<p>The mediator then asks each party in turn to talk about each item on the agenda from their point of view. The other party then summarises their understanding of what has been said. These points of view are clarified and discussed.</p>
Creating options	<p>Each party then suggests actions that either or both parties can take that might resolve one or more of the issues raised. Once these have been clarified, they are tested for their workability.</p>
Final agreements	<p>Each of the suggested actions is discussed until agreement is reached. These final agreements are documented and signed by each party. The final agreement includes one agreement about action that can be taken if either party feels the agreement has been breached in any way.</p>
Private meetings	<p>Private meetings between the mediator and each person may take place at any time during the mediation. These allow the mediator to check for how the party is feeling about the mediation process, to reality test, to check for unexpected issues and for issues that have not been raised.</p>

Involvement of other people and provision of information

Only those involved in the dispute can be involved in the mediation. Other parties can be involved in specific ways subject to full agreement by all parties. These are:

Support people and advisors: Support people and advisors can include anyone who will make it easier for a party to participate effectively in mediation. They can include family, trusted friends, legal or financial representative, engineers, town planners, union officials, subject experts, work colleagues, professional peers and interpreters.

Support people and advisors do not generally participate in the mediation. However, they can have private meetings with the participant. If, however, the advice from an expert is useful to the mediation and all parties agree, the expert can provide that information in the mediation.

Spokesperson: If there are two or more people in a party to the mediation, they can nominate a spokesperson to participate on their behalf.

Information: The mediator may seek information from any party or advisor at any time to inform themselves of any background to the dispute. The mediator will advise all parties of the information they have gathered prior to the mediation or as soon as possible thereafter.

Confidentiality

Confidentiality is to be observed by all parties. Each party, advisor or support person will sign an agreement to this effect. The mediator will not disclose personal information arising from the mediation unless the parties grant permission, or there is an overriding legal obligation to do so.

Ground Rules used for mediation

- We first become calm and centred, and stay that way.
- We agree that we are here to find a way forward.
- In turn and without interruption from others, we will describe our primary requirements – which must be succinct, fair and honourable both in law and in common-sense.
- We will treat all parties with respect and listen to each other first.
- We will then, with the mediator's assistance, work together to find a way that works for all, each taking turn to have their say.
- We will focus on the problem and not the person.
- We will not blame or accuse.
- We agree that when we become upset, we will pause and regain our composure before continuing. We can call time out if needed.
- We agree that being stubborn and angry will not work and will close down and waste the mediation.
- We agree to document and sign our agreements on completion of the mediation.
- The mediator controls the meeting

What are the qualifications and experience of the mediators?

John Scotland [BA, Grad Dip Ed, Grad Dip HRD, TAE Cert IV, Prac Cert Mediation]

John is a fully qualified Mediator (Practitioner's Certificate in Mediation). As a leader and consultant, he has assisted many individuals and groups, primarily in the workplace, to successfully manage or resolve conflict and internal difficulties. He has also conducted numerous negotiations between business groups.

John is also an organisation development specialist, skilled in training and coaching. He conducts training programs designed to provide negotiation and conflict management skills for leaders and other key staff within organisations.

Organisations that have used John in these areas include but are not limited to:

- The WA Department of Premier and Cabinet
- Landgate
- WA Network of Alcohol and Other Drug Agencies
- WA Department of Education
- Curtin University
- WA Department of the Attorney General
- Suncorp/GIO
- GHD Engineering
- Worley Parsons Engineering
- Kalamunda Shire Council