



# Preparing for mediation

You can print out this worksheet and fill it out to help you strategise and plan before your mediation.

Once you have filled it out, you can take this worksheet to the mediation and use it to help you remember important information.



**You do not need to give the worksheet to the other parties or the mediator.**

**These notes are just for you.**

# 1. What is your dispute about?

Use this space to write down what the dispute is about.

Who is involved?

When did it occur?

Where did it occur?

What steps have you taken?

What happened as a result?

## 2. Think about the issues

What are the important issues do you want to talk about? For each issue, write down why it is important.

<b>Issue</b> (i.e. fence, behaviour)	<b>Why is it important</b>

Write down the issues you feel the other party might raise and why.

<b>Other party's issues</b>	<b>Why they think it is important</b>

### **3. Understand where you stand**

If you have sought independent advice (i.e. legal, local Council, financial, quotes) jot down how this affects your dispute.

A large, empty rectangular box with a thin black border, intended for the user to jot down notes on how independent advice affects their dispute.

## 4. Think about the options for ending the dispute

Write down all the options to deal with the issues in the table below. Don't forget to include the other party's issues.

Next to each one list all the options you can think for resolving that issue. Try and think of options that might be good for everyone. Talk to someone you trust about the options. They might come up with some new options for how to resolve the problem.

### **EXAMPLE**

One issue might be the way the other party shouts at you whenever you talk about the dispute. Options for resolving this could be:

- *the parties agree not to shout when they talk to each other,*
- *the parties agree only to communicate by email, or*
- *the parties agree not to have any contact between them at all.*

<b>Issue</b>	<b>Options</b>

Issue	Options

Review your options. Read through your list of options and for each one, think about these things:

- Is this option realistic? Can it be done?  
**EXAMPLE:** *in a dispute between neighbours, it would not be realistic to ask for your neighbour to move out of their house.*
- Is it possible the other party will agree to this? Does the other party want this too?  
**EXAMPLE:** *you may want to be able to talk to the other party without there being shouting. The other party may want this too.*
- Would it be possible to get what you want if you had to go to court?  
**EXAMPLE:** *you may want the other party to apologise. You may only be able to get this from mediation.*

## 5. Your emotions

Think about how your feelings may impact you in the mediation. Plan some strategies for how you can deal with becoming upset or frustrated during the mediation.

### **EXAMPLE**

- *Ask the mediator for a break*
- *Explain to the other side and the mediator what you are feeling*
- *Ask to have a support person at the mediation.*

<b>Strategies</b>



## 6. Plan how to communicate

Spend some time thinking about how best to talk during the mediation. Speak calmly and positively.

### **EXAMPLE**

*Instead of saying: "You deliberately made me angry and frustrated".*

*You could say: "I have felt very angry and frustrated".*

Strategies

## 7. Do you need to take someone with you?

Do you need?

a person to speak for you

a support person (who does not speak for you)

a lawyer.

Speak to your mediation service about whether you can arrange this.

## 8. Documents and information

Prepare a list of the documents (i.e. quotes, photos) you are going to take with you. It is helpful to have the documents in date order, for example from earliest to most recent.

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## 9. Reaching an agreement

When you make an agreement at mediation, you and the other party can also agree whether it will be an informal agreement made 'in good faith' or whether it will be enforceable. An agreement is enforceable if it is legally binding and parties can take legal action to make the other side keep to the agreement.

If an agreement is simply 'in good faith' everyone relies on the promise of the others to do what has been agreed. These sorts of agreements usually cannot be enforced.

At mediation, you and the other parties should decide what status you want the agreement to have and what steps you want to take if you want the agreement to be enforceable.

Mediations are generally made 'in good faith' and will only be enforceable if all parties agree to sign a legally binding document. There are some exceptions to this, such as where mediation is court-ordered.

If you have been referred to mediation by a court or you are going to conciliation as part of court or tribunal proceedings, you can ask the court or tribunal to make the agreement into an order of the court. This is called making 'Consent Orders'. Consent Orders can be enforced in the same way as any other court order.

### **Contacting**

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