



WILL THE MEDIATOR TELL THE PARTIES WHO IS RIGHT AND WHO IS WRONG?

No, a mediator does not judge the parties or tell them what the solution to their dispute is. It is for them to find a solution that meets their needs and interests. The task of the mediator is to assist them to do this.

The mediator will help them to identify the real issues and explore different options for resolving those issues. The mediator assists them, using skills acquired through training and experience, to diffuse conflict and explore options for settlement.

If the parties reach agreement the mediator will assist them to draft a settlement agreement. The settlement agreement is enforceable in law as a contract. It can be given additional strength by having it made an order of court, if the parties agree to this. If the parties are unable to settle their dispute through mediation then they may still resort to litigation and adjudication.



DO I NEED TO BE REPRESENTED BY A LAWYER?

No, parties have the right to be represented if they want to be, but this is not obligatory. Parties who are represented will be responsible for the fees of their legal practitioners. It is the task of the mediator to ensure a fair and structured process with a level playing field, irrespective of whether parties are represented by lawyers or not. Parties can also request that a friend or family member be allowed to be present during the mediation to lend support.



CAN MEDIATION BE USED WHERE LITIGATION HAS ALREADY COMMENCED?

Yes, matters can be referred for mediation at any stage during the court process before a judgement has been given.



HOW LONG DOES THE PROCESS OF MEDIATION TAKE PLACE?

Simple disputes can often be resolved within a few days. More complex disputes may take a few weeks.



WHAT HAPPENS IN AN EVENT WHERE MEDIATION HAS RESULTED IN A POSITIVE OUTCOME BUT ONE OF THE PARTIES LATER FAILS TO COMPLY WITH THEIR AGREEMENT?

If the agreement has been made an order of the court then it can be enforced through the Sheriff of the Court in the same way as any order of a civil court. If it has not been made an order of the court, then it is enforceable in the law in the same way as any other legal binding agreement.





WHAT IS MEDIATION?

It is a process by which a mediator assists the parties in a legal dispute by:

- facilitating discussions between the parties.
- assisting them in identifying issues.
- exploring areas of compromise.
- generating options in an attempt to resolve the dispute.

Mediation is an alternative to having the dispute resolved in court.



WHAT ARE THE BENEFITS OF MEDIATION?

- It offers speedy resolution of disputes.
- It is considerably cheaper than litigation.
- It provides a win-win situation for both parties in a dispute.
- The process is flexible and avoids technicalities.
- It is a voluntary process.
- It promotes reconciliation.
- Parties can use their own languages.



WHERE DO I GO FOR MEDIATION SERVICES?

You approach the mediation clerk in the Civil Section at the Magistrate's Court which has jurisdiction in respect of the dispute. The clerk will arrange for the parties to attend a meeting to assess whether their dispute can be submitted to a mediator.

Mediation will be rendered at dedicated rooms identified as **Therisano Centres**.



WHICH MATTERS CAN BE REFERRED FOR MEDIATION?

Most disputes are appropriate for mediation, as long as the court has jurisdiction in respect of the matter. Examples are contractual claims; motor vehicle collision and other damages claims; neighbourhood disputes and family disputes.



WILL THERE BE COURT FEES?

There are no court fees, but the mediator is entitled to charge a fee according to a fixed tariff. The parties contribute equally to this fee, which must be paid before the mediation commences.



WHO WILL BE THE MEDIATOR?

The mediator will be a person that the parties choose, with the help of the mediation clerk, from a panel of accredited mediators appointed by the Minister of Justice and Correctional Services. All mediators have undergone mediation training. Some specialise in particular types of matters, such as family disputes. The clerk will advise you as to which of the mediators is appropriate for your dispute, depending on factors such as area of practice and experience.



WILL THE MEDIATOR BE A LAWYER?

Not necessarily. Many mediators are lawyers, but they may also be experts from other professions. For example, engineers are often mediators in building construction disputes. Family disputes are often mediated by social workers or psychologists.