

## Practical Steps for a Mediation



This is an adaptable introduction to practically managing a mediation process. It details two stages to a mediation process: the initial contact, and managing the mediation session itself. Though it focuses on face-to-face mediation, many aspects can be used in other mediation processes such as shuttle mediation, where people may not want to meet face-to-face at first.

### Initial contact

You should meet the people involved separately to start with. This can be done by phone or in person.

The need here is to:

- Find out what's been going on and how it's affecting people.
- Explain mediation and your role(s) as mediator(s).
- Clarify what they want to get from the process, and their concerns.
- Clarify any logistical issues (e.g. when might be a good time to meet with the other person - in mediation usually called the other party - if there are any times they can't meet, if there are any access needs).
- Check if they want to have someone support them during mediation, and their views on the other party having someone to support them (and who the supporting people will be).
- Confirm they are willing to proceed. You will also need to confirm with supporters what their role and responsibilities will be during the mediation, and their willingness to proceed.

### Managing a mediation session

The underlying themes to remember throughout are that the people present are responsible for the content of what is discussed and agreed, and mediators are looking to facilitate this by identifying where the opportunities are for movement.

#### 1. Welcome and introductions

- Welcome and introduce all the parties, and check how people would prefer to be addressed. If there are supporters present, check again that both parties remember agreeing to them being there, and what their role and responsibilities will be during the mediation.
- Introduce and confirm how the mediation session is structured by saying something like: "In a minute, we will discuss and confirm our working agreement. We will then ask X to explain the main things they'd like to talk about. During this time we ask Y to listen and not interrupt. The mediator(s) will summarise what's been said. We will then ask Y to explain the main things they'd like to talk about, and ask X to listen and not interrupt. The mediator(s) will summarise what's been said. We will then check we've all understood what has been said, clarify any misunderstandings, and list the key issues, facts and feelings expressed. If both agree, this will form the basis of the mediated discussion."
- Explain that there will then be a discussion of the issues with a view to resolving them by consensus to their joint satisfaction. The mediator(s) will facilitate this using active listening, support them to explain the issues, clarify points of disagreement and agreement, and look for ways of moving forward.

- Note that there may be a need to pause the session for people to access their support, have smaller meetings, or to take breaks; explain that anyone can suggest pauses at any time. Say that any agreements reached can be written down, if people want.

### The working agreement

These are some items commonly included. The agreements apply to the mediator and all participants. Ask for agreement on each item, one by one.

1. Everyone will respect each other; you can ask for behaviours that people think would show this.
2. Language that other people find offensive will not be used; you can ask for examples of this.
3. No one will interrupt anyone while they are speaking, unless this is thought acceptable.
4. Everyone will keep the content of the mediation confidential, unless agreed otherwise.

Check everything is understood and answer any questions. Check this throughout the mediation if you think things have not been understood.

## 2. The Agenda

Once each person has had the opportunity to give a short account of the issues without being interrupted, the mediator's feedback should be neutral and non-judgemental. If there are issues that the parties have told you about prior to the session that are not mentioned, make a judgement about whether to check on a one-to-one basis if these are to be included in the mediation.

## 3. Clarifying the issues to be discussed

Once the mediator(s) has given feedback to both parties, say what you think the main issues are that need to be discussed and check if the parties agree. Each party may well be hearing what has been going on for the other person and how it has made them feel for the first time. It may also be the first time that each party has been able to say what has been going on for them without someone interrupting them or giving them advice. Check that both sides have understood what has gone on. Try and keep this part of the session short as the main part of the mediation is for the parties to talk to each other, not you.

## 4. Exploring options

This is the main discussion and where your active listening skills become the most useful. Start by asking one of the parties to talk about one of the issues identified. Take the discussion from there. Your role is to get the parties talking to each other. You can use supportive body language and spoken language to do this. For example moving your head to look at the other person if one party is directing all their words at you, or saying "I think you need to say that to X."

Keep these points in mind when exploring options:

- Affirm and encourage people as needed.
- Encourage them to see beyond their own perspectives.
- Encourage creative problem solving and possible options.
- Ensure that both parties are 'hearing' each other.
- Build the momentum; every little agreement will lead to the next.
- Always welcome statements of regret or apologies, no matter how small.
- Remind the parties of the working agreement when necessary.

## 5. Reaching agreement

As each agreement is made, keep a note. At the end, recap what the agreements have been. Bear in mind that the final agreement should be balanced. Good practice would be to say something like: "X agrees to... Y agrees to..., X and Y agree to..." and so on. Check with the parties that they think the agreements are fair, and check that the agreement includes how they will both try to resolve issues in the future. Ask everyone including the mediators to sign the agreement. Record if there are issues remain unresolved, with any agreement about how they will be addressed.

Mediation is not often this straightforward, in Rhizome's experience, but it can be. Further resources will be shared on the Rhizome website for people who want to resolve issues through mediation, including mediation top tips to help with some of the common issues that can arise during mediation.