Court-ordered property mediation: A brief guide for people attending

About property mediation

The Federal Circuit and Family Court of Australia (the Court) has referred you by way of Court Order, to attend AccessResolve property mediation. An independent mediator will help you and the other party discuss your financial and property issues and explore settlement options with a focus on reaching final agreements if possible. The mediator does not make decisions for you or provide legal advice.

Relationships Australia Victoria has provided AccessResolve on behalf of the Court since 2012.

Legal advice

You may participate without a lawyer, but we encourage you to get independent legal advice before attending AccessResolve mediation, to help you prepare and to find out how to make agreements into orders following Mediation.

The process on the day

Mediation is generally conducted via video call, in either a 'joint' session with both parties in the one room, or a 'shuttle' session with each party in a separate virtual room and the mediator taking proposals from each party back to the other party. The format is decided by the mediator.

Sometimes the introduction may be in a 'joint' format before moving to a 'shuttle' format for the rest of the process.

During the mediation, the mediator may ask to speak:

- to each party individually (with their lawyer if legally represented)
- solely to the legal representatives.

Parties should allow 4 hours (half a day), unless your Court Order specifies otherwise. Your mediator will send you a video call link before the session.

The mediator's role

The mediator is impartial and will assist you and the other party to focus on resolution, explore proposals, and reach settlement if possible. They may 'reality check' proposals, asking you to explain reasons, evidence and details to help parties understand proposals. They may also provide information on possible outcomes if parties are unable to settle.

The mediator decides on the format of the session and provides the outcome of the session (settled, partially settled, no agreement) which is provided to the Court.

Your role

You need to prepare and provide the documents outlined in your Court Order to the mediator before the mediation. You must attend the mediation, unless you have reached agreement ahead of time and advised the Court of this.

During the mediation, you will need to provide information and an explanation for your proposals and be prepared to consider options from the other party. You may need to compromise to reach resolution.

Either party may share new information during the mediation for the other to consider. If you are self-represented, you can ask questions to help you understand the other party's proposals. The final decision to reach agreement, whether self-represented or not, sits with you.

Consider beforehand what you are prepared to settle for, and the range of possible outcomes should you not reach agreement.

Your lawyer's role

Your lawyer will provide advice on what you may expect as an outcome, based on the information you have provided them and the documents submitted by the other party. However, if new information is made available during the mediation, your lawyer can help you consider what that may mean for you and your decisions during the session. Your lawyer should advise on the range of expected outcomes if parties are unable to agree, as well as what would be a reasonable outcome for you to reach agreement.

How to prepare

Please provide the relevant documents listed in your Court Order **at least 7 days before your mediation date**, including:

- Confidential Case Outline and Balance Sheet
- Financial Statement and relevant financial disclosure documents
- Property or business valuations, if applicable
- Any relevant current or previous family violence/intervention orders (IVO / FVIO / AVO)

Check your Court Order for any additional documents or deadlines. If you are unsure how to prepare these documents, speak with the AccessResolve Family Dispute Resolution Practitioner.

When planning for the mediation, you may want to keep in mind the ongoing costs of litigation, both financially and emotionally, and consider what support you can access during this time.

Safety and support

Please tell us about any family violence concerns, recent safety incidents or intervention orders (IVO / FVIO/AVO) that are in place, so appropriate arrangements can be taken to keep you and our staff safe. Please advise if you need an interpreter, accessibility support or wish to request a support person.

Fees

No fees are payable to AccessResolve. Eligible parties may apply to the Court for a fee exemption. Refer to your Court documents for payment details.

Next steps

Your Court Order provides details of how to contact AccessResolve to arrange your mediation. Self-represented parties can request an initial consultation with the AccessResolve Family Dispute Resolution Practitioner to discuss the process, preparation and practical arrangements.

If an agreement is reached during mediation, orders by consent will be required to formalise the agreement. Speak to a lawyer or see the Court website for details. On completion of the mediation the outcome will be reported to the Court.

This fact sheet provides general process information only. Your Court Order takes precedence. AccessResolve cannot provide legal advice.