

Property Mediation

Introduction

Mediation provides lower cost options, less stress and can avoid lengthy court proceedings.

The mediator will provide a structured conversation that supports clients equally, to negotiate an agreement between themselves.

When couples separate, and need to make decisions about how to distribute property, finances and debts, property mediation can assist separating couples to work out their property and financial settlement.

A skilled, neutral mediator will provide a confidential and voluntary process. This requires both parties to be willing to participate and to agree to provide full and frank financial disclosure to each other.

When can we start the process of dividing our property and finances?

You can start property mediation process at any time after you have made the decision to separate. However, there are time limits that apply if you are unable to reach agreement, and decide to apply to court:

- Within 12 months of a divorce for married couples
- Within two years of the relationship ending for de facto couples

Do we need to get legal advice?

It is highly advisable for parties to seek independent legal advice.

Mediators are unable to provide advice to parties so it is important that each of you have a good understanding of your legal position so that you are able to negotiate effectively in mediation.

Our mediators can provide both parties with information on where to seek legal advice.

How is mediation different from using lawyers?

Mediation for property settlement can be a more cost effective and less adversarial way for people to come to an agreement regarding their finances and property division after separation.

Even if parties do not reach a final agreement, much of the preparation work that our mediators will ask you to do is required by lawyers during a financial settlement process, so you may be better prepared for legal negotiations after going through the mediation process.

How many sessions will I have to attend?

We find that generally, 2 sessions are adequate but this does depend on individual circumstances.

Each party will have an initial one on one assessment (up to 90 minutes) with the mediator to talk through your respective financial situations and to begin compiling the information that you will need for the property and financial settlement process.

Provided that your matter is assessed as suitable to proceed, a joint session (2 hours duration) will be arranged for both parties to come together (not necessarily in the same room) to begin settlement discussions. Further joint sessions may be arranged if needed.

What is the process?

The process can be described in four steps:

1. Identify and evaluate assets

Parties will list all assets and liabilities with the assistance of the mediator and work towards an agreed asset pool. Full and frank financial disclosure between you both will be encouraged at this stage, including exchanging documents such as superannuation statements, valuations and bank account statements.

2. Determine party contributions

This step helps parties to understand each parties' contributions, both financially and non-financially, and can include contributions from other family members. This part of the process looks at substantial and significant contributions that each party has made throughout the course of the relationship over and above working and raising children (eg. house deposits, renovations,

inheritances)

Your lawyer will be able to give you advice about your individual circumstances and whether any adjustments may need to be made in the final settlement to reflect this.

3. Identify needs and outcomes

The mediator will help parties to consider what their needs will be moving forward (eg. finding somewhere to live, ensuring that children are cared for, engaging in study to be able to find employment). Amongst other factors, your income, earning capacity, skills and qualifications are considered at this point. Your future needs may have an impact on the final outcome of the settlement. Your lawyer will be able to give you advice about your individual needs and an indication of what the courts might consider to be fair and reasonable in your situation.

4. Negotiate and agree on division of assets

The final step in the financial and property settlement process is making decisions about what the final outcome will be. This is often reflected in a percentage figure. Your mediator may also assist you to consider practicalities like; getting a house ready for sale, dissolving bank accounts or share portfolios, dealing with personal effects and distribution of furniture.

What happens next?

If you reach an agreement regarding your property and financial settlement you may request that your mediator types up a document reflecting this.

This agreement is not legally binding or enforceable but may assist you or your lawyer with the preparation of Consent Orders or a Binding Financial Agreement. It is strongly recommended that you formalise your financial settlement in one of these ways in order for it to be legally binding.

If you do not reach an agreement, you will be provided with a copy of the boardwork, however there is no requirement for any other documentation to be issued by the mediator prior to proceeding with legal negotiations or making application to court.

How much does it cost?

Property mediation fees are charged at an hourly rate based on your individual circumstances. Your mediator will discuss fees in more detail with you.

Interpreters



You can ask us for an interpreter in your language.

What do I do now?

If you feel that your situation would benefit from property mediation, or you would just like to know more, please call **1800 639 523** or send an email to enquiry@betterplace.com.au with your contact details.

Find out more
www.betterplaceaustralia.com.au