

Mediation

Minor Civil Claims



For more information contact:
The Magistrates Court Legal
Advice Service (MCLAS) to make
an appointment

Ph: (08) 8204 2444

*MCLAS is a free legal advice
service run by the Adelaide Law
School and is supported by a grant
from the Law Foundation of SA*



What is it?

Mediation helps parties to settle their disputes by:

Identifying issues which have caused the disagreement.

Helping both sides consider each other's concerns.

Helping people compromise.

How can you use it?

In the minor civil claims jurisdiction you may find yourself at mediation as a result of:

- ❖ a court order; or
- ❖ referral, providing consent from both parties has been obtained or as directed by the court.

Why do it?

Parties have more control over the outcome.

Held in comfortable non-threatening environments.

The mediator does not decide who 'wins' or who 'loses' – parties themselves decide the outcome.

It is private and confidential.

It can potentially reduce the cost and time taken to reach a resolution.

Who will mediate?

Mediations are held by qualified, independent and neutral mediators.

What to expect

The mediator will explain his/her role, the rules, and the procedure to be followed.

Each party will have the opportunity to raise their issues.

The mediator will ask questions to get more information from both parties and parties can respond to each other's comments.

What happens after?

If an agreement is reached on some or all issues, the mediator will refer the dispute back to the Court.

If an agreement is not reached, the mediator will refer the dispute back to the Court.

Confidentiality

All discussion in a mediation, including any agreement reached, is *strictly confidential*. The mediator and parties cannot disclose anything outside of mediation without permission of both parties.



Cost

Pre-lodgment mediation refers to when a Form 1A (Final Notice of Claim) is served and parties have not commenced formal legal proceedings. This kind of mediation is free apart from \$19.90 for the Form 1A.

Court ordered mediation costs are shared between parties and range from \$250.00 to \$2000.00 depending on the amount claimed.

Mediation is usually free if the claim is under \$6,000.00 and/or if the parties are considered to be 'impecunious' by the Manager of Mediation.

Preparing for mediation

Take note of the date and time of the mediation so you don't miss it.

Interpreting and disability services are available upon request. Contact the Magistrates Court on 8204 2444.

Write down your preferred outcome and any compromises you are willing to make before the mediation.

If you have any issues about the mediation process please contact the Mediation Unit.

During mediation

Voice concerns *directly* to the other side.

Listen carefully to what the other side is saying during their statements and do not interrupt them or make personal attacks.

Do not be afraid to make suggestions. The more ideas raised, the more likely you will resolve your dispute.

If you feel threatened during the mediation, request a private meeting with the mediator.

Keep an OPEN MIND, and prepare to COMPROMISE in order to find a realistic solution.

YOU have control – you are not obliged to agree to any solution. If you feel your position in unfairly compromised you can stop mediation at any time.

'Mediation is always worth a try: it can save time, money and energy, and often gets better results.'

The mediator cannot give legal advice. If you need legal advice, you can contact:

The Magistrates Court Legal Advice Service
law.adelaide.edu.au/connect/free-legal-clinics/magistrates-court-legal-advice/

The Legal Services Commission
www.lsc.sa.gov.au

The Adelaide Legal Outreach Service
law.adelaide.edu.au/alos/