

The Mediators' Institute of Ireland (The MII)

**MEDIATION
FOR
SEPARATING
COUPLES**



Relationship breakdown can be very emotional and stressful – making it particularly difficult to agree decisions in relation to living arrangements, finances and childcare.

Mediation can help by offering a framework for separating couples to make informed decisions with the help of a trained professional.

Research shows that over 80% of mediated cases are successfully resolved at the mediation or shortly after

What is Mediation?

Mediation provides a safe space for you and your ex-partner to come to agreement in relation to decisions about your children, the family home, finances and the future.

The process ensures that you are both treated equally and given equal right to be heard in a safe space, and to have your wishes discussed and taken into account.

Mediation is different to the adversarial court-based system. With the help of a professional Mediator, you and your ex-partner can make your own decisions about your unique situation and that of your family, rather than having a Judge make these important decision for you.

Mediation allows you choice and control.

Through the process of mediation the Mediator supports you in identifying your and your partner's particular needs and the needs of your family, and how best to have those needs met.

Mediation is less divisive and less expensive than litigation

Decision-making rests with the parties

HOW DOES IT WORK?

Mediation is a process, which means there is a structure and formula in how it is delivered to the parties. The issues discussed depend on the needs and wishes of the separating couple. Issues may include finances; family home; parenting; living arrangements; education; custody; maintenance; assets etc.

With the help of an experienced MII Mediator the couple systematically consider each issue, explore their options and come to decisions. Expert advice is encouraged to ensure that the separating couple can make informed decisions, and with the active support of the Mediator, negotiate the best outcomes for both themselves and for their family.

In mediation, an independent, neutral Mediator(s) assists the parties to come to agreement through collaborative engagement. In mediation, any agreement must be mutually acceptable to both parties.

Mediation is not:

- *Counselling or marriage guidance*
- *A legal service*
- *A financial service*
- *Compulsory*
- *An advisory service*

THE ROLE OF THE MEDIATOR

The Mediator's role is non-judgmental and non-directive.

The Mediator is neither a judge nor an arbitrator and does not adjudicate nor give decisions on the rights or wrongs of the actions of the parties. Neither does the Mediator decide on the agreements reached by the parties. The Mediator actively supports both sides in identifying their issues and needs, and in exploring how these needs can best be met.

Mediators use their expertise to support and facilitate the separating couple as they work through the issues that concern them. The Mediator encourages and assists the parties to listen to each other, to understand the needs of each side and to find a workable and lasting solution.

Mediation fosters good communication.

The Mediator ensures that the parties have gathered all of the relevant information and that both sides are fully informed of the necessary information pertaining to the issues being mediated, whether in relation to their children, their finances or other specific issues.

Mediation provides a private and safe environment

Mediation can support good parenting models

The Mediator will advise the parties to seek advice on their rights prior to, and during, the process.

It is important that you understand what you might be entitled to if you went to Court before you come to an agreement in mediation. The Mediator is highly skilled in helping the parties to identify their problems and in facilitating an open discussion to explore the options available to them.

The Mediator maintains a neutral position, which affords them the opportunity to ask difficult questions should the need arise. The parties make the decisions and the Mediator reality-tests proposed decisions, and manages and documents agreed decisions into a written document. The Mediator ensures that all issues that the parties want to discuss are addressed and encourages full disclosure of all assets and finance.

SELECTING THE RIGHT MEDIATOR

At the back of this booklet you will see a list of accredited MII Mediators who are qualified to mediate in separating couples mediation. For further information in relation to choosing the right Mediator and the type of questions you might ask to help both parties select an MII Mediator, please refer to the MII web site at www.themii.ie/faqs.jsp.

It is important to engage a Mediator who suits both of your particular needs.

TYPES OF MEDIATION AGREEMENTS

The mediation process is flexible and party-focussed, taking account of the needs and wishes of the parties and their particular situation.

The type of agreements that may be reached include:

- **Comprehensive agreements:** which cover all issues resulting from the separation including finance, parenting, accommodation etc..
- **Parenting agreements:** which address parenting issues and support good parenting models.
- **Financial agreements:** which cover the finances and assets of the couple.
- **Interim agreements:** where the parties make an agreement for a specific time frame.
- **Partial agreements:** which addresses a particular issue or issues.

PARENTING AND CHILDREN IN MEDIATION

Separation can be especially difficult for children and mediation is particularly effective in supporting parents in exploring and devising how best to support their children, both during and after the separation process.

Issues such as where the children will live; how time is divided between both parents; education; discipline/boundaries; religion; health; extra curricular activities;

Allows all involved to have a voice

MII Mediators are subject to independent regulation

and engagement with extended family members may be considered as part of the parenting plan. The Mediator ensures that the voice of the child is heard, helping to minimise any damage to the children caught in the middle of parental disputes. Parenting plans may be reviewed in light of the changing needs of the children as they progress through school or teenage years. This can be facilitated by the Mediator at a later stage and can be written into the Mediated Agreement.

CORNERSTONES OF MEDIATION

- **Confidentiality:** The Mediator is bound by a duty of confidentiality to each party during and after the mediation and may not be called to give evidence in any current or future proceedings unless required by law or as required by the MII Code of Ethics (www.themii.ie/code-of-ethics.jsp). The couple may also be bound by confidentiality depending on the circumstances.
- **Neutrality of the Mediator:** The Mediator will not take sides nor have a personal interest in the outcome of the mediation.
- **Voluntary process:** Mediation is a voluntary process and any party or the Mediator may withdraw at any stage if they so wish.
- **Flexibility:** Mediation is a flexible process and can be shaped by the Mediator to suit the particular needs of the parties.
- **Couple's autonomy:** All decisions in relation to the content of the mediation and the outcome of the mediation are made by the parties to the mediation.

EXPERT ADVICE

To ensure informed decision-making, parties are encouraged to seek specialist advice as appropriate, for example, a solicitor and/or financial adviser or pension specialist depending on the issues being discussed.

BENEFITS OF MEDIATION

- **Humane process:** Mediation provides a more humane and dignified means of resolving family disputes that takes account of the needs of all involved in a safe, confidential and private environment.
- **Control:** In mediation, the parties control both the content and the outcome; they are actively supported in voicing their opinions and in exploring the best possible outcome for them and their family.
- **Cost:** Both in monetary and personal terms, mediation is a cost-effective means for resolving conflict and reaching an agreement that is workable, appropriate and sustainable.
- **Timely:** Mediation is quick to put in place and flexible in its approach.
- **Good relations:** Mediation helps to improve communication and fosters resolutions that reflect the needs and values of both parties.
- **Creative solutions:** Mediation allows for creative solutions that may not be available in rights-based processes.

Allows for
consensual,
informed and
fair agreement

Allows for expert
advice and legal
representation

FREQUENTLY ASKED QUESTIONS

- Does the Mediator decide for us?
- If we don't settle, does it affect my rights?
- What if I am not satisfied with the Mediator?
- What if we can't agree at the mediation?
- How can I find out more about the different types of mediation?
- How long will the mediation take?
- Where is mediation used?
- Who usually attends the mediation?
- How much does it cost?
- How can mediation help parties in conflict?

For answers to these questions and any further queries please see the MII web site at www.themii.ie/faqs.jsp or contact the MII at 01 609 9190.

WHY USE AN MII ACCREDITED MEDIATOR?

MII Mediators who hold practising certificates have a high standard of training, accreditation and continuing professional development requirements that meet international and professional standards. All such Mediators are bound by the MII Code of Ethics and Practice (www.themii.ie/code-of-ethics.jsp) and are subject to independent regulation.

For a full listing of MII accredited Mediators available to mediate go to the Find a Mediator facility webpage at www.themii.ie/find-a-mediator.jsp

MEMBERS STATUS

To check the membership status of any MII Mediator, please go to the Registered Members webpage at www.themii.ie/find-registered-members.jsp

The Mediators' Institute of Ireland (the MII) is the professional association for Mediators in the Republic of Ireland and Northern Ireland. Established in 1992, it promotes the use and practice of quality mediation as a process of dispute resolution.

CONTACT DETAILS

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The MII is a not-
for-profit, member
organisation

The Professional Association for Mediators



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