

Family law and mediation: DO I NEED A LAWYER?



Once agreement is reached in mediation, it is important it is formalised properly.

Mediation is a form of alternate dispute resolution that can be used to help people resolve family law disputes, outside of court proceedings.

An independent person, known as a mediator, assists you to discuss and negotiate an agreement in a confidential setting.

Mediation can be lawyer-assisted or can take place without lawyers or, if both parties agree, with their lawyers present. This is known as lawyer-assisted mediation.

Some organisations do

not conduct lawyer-assisted mediation. If you are wanting a lawyer to represent you in the mediation process, you should check with the mediator that this can be accommodated when you first contact them.

There is no requirement for you to be legally represented at a mediation however this can be beneficial depending on your circumstances, including the complexity of the matter, the power dynamic between you and the other person and your confidence and understanding about the process and your options. A lawyer can help advocate on your behalf during

mediation and advise you about the merits of any proposed resolution.

Whether or not the mediation is lawyer-assisted, there is an important role for legal advice throughout the process.

Before you attend mediation, it can be useful to obtain legal advice about your options, entitlements and responsibilities and how the Family Law Act 1975 applies to your circumstances. A lawyer can also help you prepare a summary for mediation and provide advice about the mediation process, as well as potential outcomes including what could happen if

agreement is not reached.

For property matters, obtaining legal advice about financial disclosure and the appropriate information to exchange before a mediation can be critical to successful outcome. By exchanging relevant financial documents before the mediation, you can make fully informed decisions about a property split with a proper understanding of the assets, liabilities, and financial resources of each of you.

You can also seek legal advice before signing any agreement prepared at the mediation.

Once agreement is reached,

it is important it is formalised properly. This is essential in property divisions where parties agree at mediation about how to split their assets. Court Orders or a Financial Agreement are required to formalise the property division – a signed agreement at mediation will not be enough.

Whether your mediation is lawyer-assisted or not, understanding your options, rights and responsibilities is an important step to a successful outcome.

This article is general information only and is not legal advice or a substitution for such advice.

Wightons Lawyers

Family Law

Our dedicated Family Law team understand the impact of separation on families and that each matter is unique.

We provide advice and representation for all aspects of your family law matter, including:

- Divorce and Separation
- Property Settlements
- De facto and same sex relationships
- Financial Agreements
- "Prenuptial" Agreements
- Spousal Maintenance
- Parenting Arrangements
- Dispute Resolution Process
- Child Support
- Relocation Applications
- Recovery Orders
- Family Violence and Intervention Orders

Call us on (03) 5221 8777 to arrange an appointment with our Family Law Team. Appointments are available at our Geelong, Corio and Ocean Grove offices, as well as by telephone and online.

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