



**Blackthorn Resolute**

**MEDIATION GUIDE SERIES · GUIDE 1**

# **Divorce & Separation Mediation: What to Do When You Can't Agree**

A practical, step-by-step guide to resolving parenting, property and financial disputes without going straight to court.

---

A PRACTICAL, NON-CRIMINAL DISPUTE GUIDE  
[support@blackthornresolute.co.za](mailto:support@blackthornresolute.co.za)

## UNDERSTANDING THE PROCESS

### What Mediation Is — and When to Use It

Divorce and separation mediation is a structured, confidential process where a neutral third party.

The mediator helps both of you work out the terms of your separation directly, rather than having a judge decide for you. The mediator doesn't take sides and doesn't make the decision; they help you both communicate, identify what actually matters to each of you, and reach an agreement you can both live with.

It is a civil process focused entirely on resolving the practical and financial consequences of the relationship ending.

| CONSIDER MEDIATION WHEN                                                                                                                                                                                                                                                                                                                                                                                                       | GOOD TO KNOW                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• You and your partner agree the relationship is over but not on the terms</li> <li>• There are children involved and you need a parenting plan</li> <li>• Property, savings or debt need to be divided fairly</li> <li>• Court feels too slow, too public, or too expensive for your situation</li> <li>• You want to stay on workable terms with your co-parent long-term</li> </ul> | <p>Mediation is voluntary and either person can stop at any point. It works best when both people are willing to talk, even if the relationship itself has broken down. It is not couples counselling — the goal is a workable agreement, not reconciliation.</p> |

### Why it exists

Litigated divorces put decisions about your children, your home and your finances into the hands of a court, on a court's timeline. Mediation exists to give separating couples a faster, more private, and usually far less expensive route to the same practical outcome — a signed agreement covering parenting, support and property — while giving both people more control over the result.

## WHEN THE DISPUTE ARISES

### What To Do, Step by Step

#### 01 Get clear on what actually needs to be resolved

Before contacting anyone, write down the issues in plain terms: living arrangements for children, contact schedules, division of property and debt, and any ongoing financial support. This list becomes your starting agenda.

#### 02 Raise mediation with the other party

You can suggest mediation directly, through a lawyer, or through a family mediation service. Frame it as a way to keep things private and move faster, not as a tactic — that framing matters for how it lands.

#### 03 Choose an accredited family mediator

Look for a mediator with specific family or divorce mediation accreditation, not just general mediation training. Ask about their process, fees, and whether they offer a joint first session to explain how it works.

#### 04 Attend an intake or information session

Most family mediators start with a short individual screening call with each person, partly to explain the process and partly to check mediation is appropriate — for example, it is generally not recommended where there has been domestic abuse or coercive control.

#### 05 Gather your financial and parenting documents

Bring income records, a rough asset and debt list, and your children's current routine (school, activities, existing care arrangements). The clearer your information, the fewer sessions you'll need.

#### 06 Attend joint sessions and work through each issue

Sessions typically move through parenting arrangements first, then finances. The mediator keeps things structured, makes sure both people are heard, and tests whether proposed solutions are actually workable.

#### 07 Put the agreement in writing

Once you reach agreement, the mediator drafts a memorandum of understanding. This is not automatically legally binding — you'll usually still need a lawyer to convert it into a formal, enforceable agreement or court order.

#### 08 Have the agreement reviewed independently

Each person should have their own lawyer review the final agreement before signing, even where the mediation went smoothly. This protects both of you and confirms the agreement is fair and enforceable.

**GETTING READY**

## How to Prepare & What Happens Next

### Bring / prepare this before your session

- ☐ A rough list of jointly and individually owned assets, savings and debts
- ☐ Recent income evidence (payslips, tax return, or similar)
- ☐ Your children's current school, activity and care schedule, if applicable
- ☐ A short list of your non-negotiables versus your flexible points
- ☐ Any existing informal agreement you've already made about children or finances
- ☐ Contact details for an independent lawyer to review the final agreement

### Inside the mediation

Sessions are usually held jointly, though the mediator may occasionally speak to each person separately ("caucusing") if things get tense. Expect the mediator to set ground rules, keep both people on topic, and slow things down when emotions run high. Most family mediations take between two and six sessions, an hour or two each, spaced roughly a week or two apart to allow reflection between rounds.

### Possible outcomes

A full agreement covering parenting and finances; a partial agreement on some issues with the rest referred to court or a lawyer-led negotiation; or, in a minority of cases, no agreement at all, in which case you retain the right to go to court — nothing said in mediation is normally admissible as evidence afterwards. Most people who mediate in good faith reach at least a partial agreement.

**BEFORE YOU GO IN**

## Common mistakes to avoid

- ✗ Going in without a clear idea of your own priorities and non-negotiables
- ✗ Using sessions to relitigate the relationship instead of solving practical issues
- ✗ Skipping independent legal review of the final written agreement
- ✗ Assuming the mediator will decide for you — they won't
- ✗ Withholding financial information, which erodes trust and slows everything down

## Frequently asked questions

**Is divorce mediation legally binding?**

The mediated agreement itself usually isn't automatically binding. It becomes enforceable once it is reviewed, formalised and, where required, approved by a court or turned into a signed legal agreement by your lawyers.

**Do we need lawyers if we're mediating?**

You don't need a lawyer present in the room, but it's strongly recommended that each person has independent legal advice before signing anything, so you understand your rights and the agreement holds up later.

**What if we can't agree on everything?**

That's common. Mediation can resolve some issues and leave others for further negotiation or court. A partial agreement still narrows what has to be formally decided elsewhere.

**Is mediation appropriate if there was abuse in the relationship?**

Not always. A good mediator screens for this during intake and may recommend an alternative process where there is a power imbalance, safety concern, or history of coercive control.

**How much does divorce mediation cost compared to court?**

Costs vary by mediator and number of sessions, but mediation is typically a fraction of the cost of a fully litigated divorce, largely because it takes far fewer hours of paid professional time.

## Contact us

Website: [blackthornresolute.co.za](https://blackthornresolute.co.za)

Email: [support@blackthornresolute.co.za](mailto:support@blackthornresolute.co.za)

---

*Not legal advice. This guide explains how family mediation generally works and is intended for general educational purposes only. Family law and mediation procedures differ between countries and regions. Always confirm local requirements and get independent legal advice before signing any separation or divorce agreement.*