

# ResolvingMatters

## PREPARING FOR MEDIATION

*Practical Advice to help get the most from the opportunity*

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Like everything else we do if mediation is worth trying it is worth doing well. You can only get the most out of Mediation if prepared and ready for all possibilities. This is what you can do to be ready!

### ***Your position***

- Know your goals.....not the result you want but the criteria for a fair result that meets your needs
- Know where you are now
- Analyse why the dispute happened
- Prepare a written list of your
  - Needs
  - Interests
  - Best Result from litigation or other methods of resolution (or best alternative to a negotiated agreement **BATNA**)
  - Worst Result (or worst alternative to a negotiated agreement **WATNA**)
  - Strengths
  - Weaknesses
  - The cost to you of not settling the dispute
- Get realistic legal and accounting advice
- Ask...."*What does success look like to me*". Be honest and realistic about what you can achieve
- Rehearse
  - Who
  - When
  - What

is to be said for your side at the mediation meeting.

- In negotiation know the following
  - How you are going to negotiate....what are the issues that are important to you and what can you do without
  - Who is going to speak
  - What do you want to disclose
  - Any other tactics that may assist in getting to a result

### ***The others sides' position(s)***

- Analyse the other parties needs interests and positions as if they are yours.
- Ask why the other party is taking the position they have adopted.
- Understand what they want and why. Remember that their needs (like yours) will be financial, emotional and that they have principles to defend as well you do.
- Put yourself in the other party(ies) shoes and imagine what they need to settle the dispute **and how they feel right now about the dispute**. Remember if you get them what they need they are much more likely to help you get what you need.
- Work out how you and the other party(ies) can work together to resolve the dispute.
- Do the same preparation set out above for the other party's position. Write down your thoughts.

### **General**

- **Do not** set a bottom line. Be flexible. Keep an open mind.
- **Focus on the issues not your rights**.
- Be prepared to **listen** to the other party and the mediator.
- Be relaxed and open as far as possible. Remember that mediation is voluntary so you can leave if you are not comfortable with the process.
- Think "outside the box". See if you can bring a new perspective to the discussions that may not have been thought of so far.
- Try to "Expand the Pie". Bring to the mediation ideas that could truly result in a win/win result.
- **Be realistic!**
- Make sure that you **have authority** to settle. If you need to consult a boss or spouse or friend to finalise a settlement it is likely that they should be with you at the mediation.

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