

Your Parenting Mediation

Now that we are going to proceed to mediation with respect to your parenting issues, there are some things you need to think about before our mediation. Negotiating the arrangements with children can be difficult and emotional and I want to make sure that you have thought about all aspects of parenting prior to the mediation session.

Thinking about what you want to talk about is an important part of preparation so that you can organise your thoughts before the joint mediation session, which can help you plan what you want to say and how you want to say it.

If things go well in the mediation, then you also need to think about what you would like to see happen. You should consider the outcomes that you want, and be prepared to have a range of acceptable outcomes. You can ask yourself questions such as "what else might work"? There is often more than one option, so you need to consider what you really need and what you can live with.

It is also important to obtain all relevant information to better understand your own position. If we are not able to resolve things at mediation, then what does that mean for you? You should obtain legal advice prior to our joint mediation session so that if we do not reach an agreement you understand your options if you decide to instead go to Court or arbitration, and understand what you think will be the best result you can achieve, and the worst result that might occur if that were to happen.

It is also useful to do some thinking about what you might hear from your former partner or any other person involved in our mediation. Think about what might be their key concerns and what outcome you think they might be seeking? It can be useful, prior to our joint session, to have considered things from the other person's perspective, as that may assist you in considering the best result you could achieve or the worst result that might happen.

There is information available about what type of arrangements often work for children of different ages or developmental stages. I can provide you with links to these articles if you would like to read them.

While every family is different, most parents will want to discuss and include in any Parenting Plan or Order matters affecting the children, such as:-

- * The children's living arrangements;
- * What special occasions are important to your family and how any special occasions will be shared;
- * How school or other holidays will be managed;
- * How will changeovers, and transportation between houses and activities occur;
- * What activities will the children participate in and how these will be managed;
- * The children's education or health records, which may include what schools or doctors they go to;
- * Financial support of the children;
- * Any other issue that affects the children that is important to you and your family.

Your Property Mediation

Now that we are going to proceed to mediation with respect to your property settlement issues, there are some things you need to think about before our mediation.

What is the Process?

The process we follow for mediation will be:-

In your First Joint Session we will be:

- * Completing a comprehensive list identifying the assets and liabilities and what their values are;
- * Identifying what might need to happen before our second session, such as obtaining valuations or market appraisals, and obtaining legal and financial advice.

In your Second Joint Session we will be:

- * Considering the contributions and future needs, and any of the other needs or concerns you may have;
- * Exploring options and negotiating how we will divide those assets;
- * Discussing the steps necessary to formalise any agreement reached with respect to property settlement.

How we work out the values

If any issue arises about the value of the various assets then, prior to the joint session, Valuations or Market Appraisals can be obtained to assist in reaching agreement about the market value of any of the assets

What documents need to be exchanged

It is also important that you and your spouse make a full disclosure to one another about your current assets and liabilities. This is a requirement under the Family Law Act and in the mediation process being honest and upfront about what the current assets and liabilities are will assist in the settlement negotiations. Disclosure means providing each other with documents that clarify your assets, liabilities, and income, and may include things such as providing your recent Tax Returns, Bank Statements for any savings account or any credit card, loan or other debt, and providing your recent Superannuation Statement. If there is a business or Trust, then providing the Tax Returns and Financial Statements for the companies or Trusts is usually a good starting point.

Assets include:-

- * The family home, any holiday home or other investment home, unit or land;
- * Cars, boats, caravans;
- * Household effects, including all the whitegoods, furniture, artwork and other decorative items. It can also include personal items such as jewellery or clothing;
- * Any interest in a business, including any family business or any interest in a Trust;
- * Superannuation in either of your names;

Liabilities include:-

- * Any money either of you owe, whether in your separate names or your joint names and will usually include things such as:-
 - o mortgage or home loans;
 - o credit cards;
 - o hire purchase agreements, such as lease on motor vehicles;

Advice to Obtain before the Joint Session

We strongly recommend that you obtain legal advice before, during and after the mediation process. The legal advice before our mediation will assist you in understanding what the possible Court outcomes are that may then assist you in making any proposals, or in considering your partner's proposals in the joint session. We also recommend that you obtain advice from an Accountant or Financial Planner prior to the joint session, so that you understand and consider the consequences for some of the different options that may be proposed during the mediation session, such as whether there is any tax payable as part of a particular proposal, or whether you are able to raise a mortgage to buy out your spouse's share.

Things to think about before the joint sessions:

- * What your contributions have been, whether they have been financial or in the homemaking or parenting role?
 - * Did you or your partner receive any inheritances or financial gifts from family?
 - * Did you undertake any work (paid or unpaid) for a family business?
 - * What were your respective roles in the family, i.e., was one the primary breadwinner and one the homemaker, or a combination thereof?
 - * Do you or your partner have any health concerns?
 - * What is the income earning capacity for each of you, eg., if one spouse has been out of the workforce, then is there any financial support needed to assist that spouse to retrain or re-enter the workforce?
 - * What are the future parenting arrangements for the children?
-

Proper legal advice and financial advice can help:-

- * Avoid unrealistic expectations about the possible outcomes;
- * Ensure you are fully informed about the effect of any of the various settlement options;
- * Speed up the negotiation process.
- * Ensure any agreement reached is properly formalised

It is not unusual for us to need more than one session to negotiate a property settlement. Often you will both need time between sessions to either gather more information, consider the options, or obtain additional legal or financial advice. This is an important part of the process and you should not lose hope in the negotiations if several sessions are necessary.

Questions to ask your Lawyer

- * Advice with respect to the assets and liabilities that will be included in the pool of assets to be divided.
- * What documents should I provide my former partner?
- * What documents should I ask my former partner to provide to me?
- * What is it important for me to know about my contributions that will be considered?
- * What is it important for me to know about my former partner's contributions that will be considered?
- * What is it important for me to know about how my future needs will be considered?
- * What is it important for me to know about how my former partner's needs will be considered?
- * What is my the best case scenario?
- * What is my the worst case scenario?
- * If the mediation is successful, what are likely costs in formalising the mediation agreement?
- * If the mediation is not successful, then what are the likely costs of going to Court?
- * If the mediation was unsuccessful and I am required to go to Court, how long may the process take?

Questions to ask your Accountant or Financial Planner

- * What do I need to understand about any family business, companies or Trusts and what might they be worth?
- * What are the tax consequences, if any, of any options to transfer assets, particularly if there are shares, companies or Trusts involved?
- * Will I be able to obtain a mortgage to buy out my partner's share of the property?
- * If I receive cash as part of the settlement, will I be able to obtain a mortgage that would help me finance the purchase of another property?
- * Are there any advantages or disadvantages in either splitting the superannuation in my name, or in receiving extra superannuation as part of the settlement?
- * Can I access any part of my superannuation before I retire?
- * Am I able to refinance any other debts that I may retain after the settlement?