

THE ROLE OF MEDIATION IN FAMILIES

Which party is right or wrong?

The Mediator does not sit as a decision maker, determining right or wrong. A Mediator works within the law to help you create an agreement best suited to your circumstances.

Mediators are neutral and will therefore not give legal advice, but rather encourage parties to engage in constructive dialogue with one another concerning the issues and disputes at hand and to apply their minds to problem-solving on how to best resolve their dispute so that a win-win outcome can be achieved. It is for the parties to find a solution that meets their needs and interests without needing to resort to the expense, adversity, and uncertainty of litigation.



How does Mediation Work?

A Mediator will meet with the parties in person or virtually, identifying and talking through each party's concerns and issues that cannot be agreed upon to reach an expeditious, peaceful, and workable long-term solution. Mediation sessions are normally conducted as joint sessions with all parties in the same room. There are however circumstances where separate sessions may be needed to be conducted with the parties, at the discretion of the Mediator.

Once terms have been agreed on the Mediator will prepare the applicable legal document for signature by the parties. The Mediator will then facilitate that the necessary attendances are done, such as lodging with the Family Advocate or facilitating the necessary steps in the legal process to have the agreement entered into made Order of Court if this is agreed upon.

Child participation



Section 10 of the Children's Act 38 of 2005 states:

"Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration."

Section 31(1)(a) of the Children's Act states:

"Before a person holding parental responsibilities and rights in respect of a child takes any decision contemplated in paragraph (b) involving the child, that person must give due consideration to any views and wishes expressed by the child, bearing in mind the child's age, maturity and stage of development."



Simone Lamberti Attorneys
admin@attorneysl.co.za
0108803877

The principles of transparency, impartiality, and confidentiality of information are the cornerstones upon which mediation rests and these principles are strenuously upheld by the Mediator throughout the process.



Sections 6(2)(a), 7(1)(a) to (n), 10 and 31(1)(a) of the Children's Act deal with the best interest of the child standard and the right of children to participate and express their views in all matters that affect them, as well as their right to be heard in legal proceedings.

Child participation is an important part of the process and is required so that the child's views and feelings may be heard and taken into consideration so that parties make decisions that safeguard the child and are in the child's best interests.

With the parties' consent, the Mediator will assist the parties in appointing an independent expert that has the requisite skills and experience to talk to the child and provide the parties with feedback.

Family Mediation

Family mediation is often associated with divorce, it can however be helpful in a variety of situations that don't involve the end of a marriage. For example, family mediation can be used to resolve conflicts between siblings, parents and children, or other relatives. This type of mediation is particularly useful when there are ongoing relationships to consider, as it can help to preserve these relationships while finding a mutually acceptable resolution to the problem at hand. The Mediator works with the family members involved to facilitate communication, identify underlying issues, and explore possible solutions. Ultimately, the goal of family mediation is to find a resolution that works for everyone involved and helps to minimize the negative impact of the conflict on the family unit.



Post Divorce Mediation

There are cases where parties were not able to benefit from the guidance of a mediator before their divorce, which may have resulted in an unworkable agreement or Court Order that is difficult to implement practically. Mediators who specialize in post-divorce cases, help these parties by reframing the terms of their agreement in a way that addresses the concerns of both parties. By doing so, they can work towards a mutually beneficial solution that enables the parties to move forward and effectively implement their agreement. We provide a safe and neutral space for families to come together and resolve their disputes outside of the courtroom. With our extensive knowledge of family law and conflict resolution techniques, we help families navigate the difficult process of dividing assets, determining child custody arrangements, and establishing new family dynamics.



What are the advantages of Mediation?

- It offers a speedy resolution of disputes;
- It is considerably cheaper than litigation;
- It provides a win-win situation for both parties in a dispute;
- The process is flexible and avoids technicalities;
- It is a voluntary process;
- It promotes reconciliation;
- It promotes the voice of the child/ren to be heard;
- It can be conducted virtually which avoids travelling and inconvenience.

MEDIATION

Simone Lamberti Attorneys offers professional mediation services led by Simone Lamberti, a senior litigation attorney and accredited mediator with over 15 years' experience in family law and dispute resolution.

We specialise in family and divorce mediation, parenting disputes, and maintenance negotiations, providing a confidential, cost-effective alternative to litigation with legally sound, practical outcomes.

Book a mediation consultation today and take the first step toward a dignified, efficient resolution.

**Call Simone Lamberti
0828896237**

Email: admin@attorneysl.co.za

