

# MEDIATION FOR THE COMPLAINANT AND RESPONDENT

You are the Complainant or Respondent in a Magistrate's Complaint or have cases that are filed in the Protection from Harassment Court or the Community Disputes Resolution Tribunals. You have been asked to attend mediation by the State Courts' Court Dispute Resolution Cluster (CDRC). The purpose of mediation is to help parties reach a mutually acceptable settlement without having to bring your case to trial.



# MEDIATION FOR THE COMPLAINANT AND RESPONDENT

## WHAT IS MEDIATION?

### **A way to settle disputes**

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The mediator is a neutral third party who will facilitate negotiations between parties to settle the case out of Court. The mediator will not take sides in the dispute and is unbiased. Neither will the mediator give any legal or other advice.

### **A meeting led by the mediator**

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The mediator will help parties work towards a settlement that both parties agree to. Be prepared to listen to the other party and see how you can address his/her concerns, just as you would want the other party to listen to you and address your concerns.

### **Not a trial**

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The mediator will not judge or decide who is right or wrong in the dispute.

### **Confidential and without prejudice**

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Matters discussed at mediation are confidential and without prejudice.

“Confidential” means that everything that parties discuss during mediation will not and should not be revealed to anyone else.

“Without prejudice” means that if the dispute cannot be settled through mediation, what the parties say at the mediation cannot be revealed and used against them in Court.

## Will the mediator force parties to settle?

No. The mediator will not force parties to settle. The goal of the mediator is to help the parties settle the dispute by finding a mutually acceptable solution. The decision on whether to settle and the details of the settlement are to be decided and agreed entirely by both parties.

## Who is the mediator?

The mediators in the CDRC are judicial officers, volunteers and Justices of the Peace.

## Why should I attend mediation?

Mediation has many **advantages** over going to trial.

- > Confidential and without prejudice discussions and settlements
- > Faster resolution
- > Greater peace of mind
- > Less costly
- > Less stressful
- > More flexible and informal
- > Parties have greater control of results

## What happens if I do not attend mediation?

The Duty Magistrate/Judge has directed for the case to be fixed for mediation as part of the case process.

If the Complainant fails to attend the mediation, the case may be dismissed. If the Respondent fails to attend the mediation, another mediation session may be arranged, or the case may be sent back to the relevant department for further actions. If the case is referred back to the relevant department, the Respondent then misses the chance to negotiate a mutually acceptable out-of-court settlement with the Complainant in a private and confidential setting. The Complainant may then proceed with the case which may result in the Respondent having to face a trial.

**As such, all parties are strongly encouraged to attend the mediation.**

## What happens at mediation?

### Introduction and joint session

The mediator will meet both the Complainant and the Respondent to explain the mediation process. Parties will have the chance to speak about the dispute, and the mediator will help parties to identify the issues that each of them are concerned about and look at possible ways to resolve the dispute.

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### Private sessions

If necessary, the mediator will speak to each party separately in a private session. This is a time to tell the mediator about concerns you have, including those you may not be comfortable sharing with the other party. It is also a time to continue to explore possible mutually acceptable solutions. The mediator will not tell either party anything you say during the private sessions unless you allow the mediator to do so.

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### Further joint and private sessions

If the mediator thinks it is useful, the parties may have more joint and private sessions.

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### Conclusion of session

If parties reach a settlement, the mediator will meet the parties together to check and confirm what they have agreed on. The mediator will record the terms, and the case will be closed. Both parties will then have to comply with the terms of the settlement.

If parties do not reach a settlement, the mediator will either:

- > arrange another mediation session; or
- > send the case back to the appropriate department for the next steps to be taken for the case.

Mediations are conducted either physically or by way of a virtual court session (video conferencing via Zoom). The CDRC will inform you if your mediation will be held via video conferencing. Please refer to [www.judiciary.gov.sg/attending-court/virtual-court-sessions](http://www.judiciary.gov.sg/attending-court/virtual-court-sessions) for the guide to virtual court sessions.

## **What should I bring along for mediation?**

You should bring along any documents, photographs, records, etc. that are relevant to the dispute. (For example, if you want the other party to reimburse you for your medical bills, you should bring your medical report and receipts.)

## **How long does mediation take?**

It depends on how soon the parties are able to reach a mutually acceptable solution.

Mediation sessions are usually fixed for one morning or one afternoon of about three hours per session. In many cases, the parties resolve the dispute well within that time. In some cases, you may be required to come back for another session.

## **Can I bring along a family member or friend?**

You can bring a family member or a friend with you to the mediation at CDRC. However, you will need the mediator's permission for them to enter the mediation room. Where the mediation is conducted by way of a virtual court session, you are required to inform the mediator if there are other persons present together with you.

## **Do I need to pay any fees for mediation as a Complainant or Respondent?**

No. Mediation at the CDRC is free of charge.

## **Do I need to engage a lawyer?**

There is no need to engage a lawyer if you are comfortable with attending the mediation on your own. However, if you have already engaged a lawyer, your lawyer can attend the mediation with you.

## How do I prepare for mediation?

### **Mediation can only work if both parties:**

- > come in good faith;
- > are willing to listen to one another, consider each other's interests and concerns and are reasonable towards each other;
- > are prepared to work together to find mutually acceptable solutions; and
- > focus on resolving the dispute and come with an open mind to find mutually acceptable solutions.

### **It is helpful for you to think about the following questions before you attend mediation:**

- > What is it that the other party is likely to need in order to resolve the dispute, and why is this important to you/ the other party?
- > What solutions can you think of that would resolve the dispute in a way that would be fair and reasonable to both parties?
- > Is it better to go for trial over the dispute or to settle it at mediation? Consider factors like time, costs, convenience, peace of mind, relationships and any other long-term considerations.

The mediator will not decide your case. Therefore, trying to persuade the mediator on who is right or wrong will not be helpful in resolving the dispute.

Disclaimer: This publication is produced for general information only and is not intended as substitution for legal advice. A lawyer should be consulted should you require legal advice on your case. The State Courts disclaim any and all liabilities arising from and in connection with the contents of this publication.

All information is correct as of 1 February 2022.

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