

Guidelines for Attending Mediations Without Legal Representation

Role of the Mediator:

The role of the mediator at the mediation is that of a neutral, impartial facilitator of negotiations between the parties. The mediator is not a legal adviser and is not empowered to advise parties on the merits of proposals made during the mediation nor on legal matters or procedures outside the mediation process.

The Role of the Legal Representative, should you decide to take this route:

It is advisable in cases involving legal rights for parties to attend the mediation with their solicitor or legal representative or with an appropriately qualified adviser. The legal representative plays an important role advising a party, particularly when evaluating the alternatives to reaching a settlement at the mediation.

Furthermore, when an agreement is reached at the mediation, this is usually written down and signed by both/all parties, becoming a binding contract. Signing such an agreement can have implications for your legal rights and a legal representative can advise their client accordingly.

Attending Mediations without Legal Representation:

Should the attendance of your legal representative not be possible or you prefer to mediate without legal representation, you may wish to consider the following options:

- Mediation is intended to give you ownership of your case and decision-making about your case. However, it can be an intense and pressurised negotiating environment, and parties may experience long periods of waiting whilst the mediator speaks with the other party. We would encourage you to bring someone with you to offer company and support during the day. This may be a friend, colleague or relative.
- In some cases, for example employment cases, you may require legal sign-off to an agreement.
- You may wish to arrange for telephone contact with your legal representative during the day and evening of the mediation.
- Should you reach an agreement at the mediation, you may wish to seek advice before signing off. If you do not have access to legal advice at the mediation, it may be advisable to request a breathing space of a couple of days, in order for you to seek appropriate advice and confirm the acceptability of the draft agreement in a less pressurised environment. You should preferably notify the other party in advance of the mediation, and the mediator on the day, if you wish to adopt this approach.

If you have any queries in relation to the above, please feel free to discuss these with your dispute resolution adviser.