

Online Mediation Policy (March 2020)

In light of Covid-19, we have updated our policy for offering online mediation.

As with all matters of suitability, the provision of online mediation will be subject to initial and ongoing assessment.

Considerations relevant to online mediation form part of our Online Agreement to Mediate, which you will be asked to sign if you wish to proceed. These considerations include the following:

- Both clients have access to at least one type of suitable technology.
- Both clients agree on the use of technology for mediation and explicitly accept an invitation to meet using that technology.
- Both clients are able to use technology effectively and any difference in clients' ability to use technology can be managed effectively.
- It is considered unlikely that using technology for mediation will impact negatively on the clients' continuing relationship.
- Technology use is not considered to pose a high risk in terms of clients' safety or the confidentiality of information.
- If considered necessary, a safety plan has been developed for the clients from an online perspective.
- The use of technology is not considered a hindrance in resolving the dispute.
- The use of technology is neutral or offers a benefit in resolving the dispute.

The suitability of online mediation is an ongoing process. Information may come to light, or developments may occur, over the course of an online mediation which may change our assessment of the suitability of a case for online mediation.

Before the mediation begins:

- We will introduce the clients to our preferred online technology (Zoom) and will discuss whether this, or some other technology, is suitable or not in the individual case.
- We will ask clients about concerns they may have specific to the use of technology and identify ways to manage these concerns.
- We will explore with clients their relative adeptness at using technology and ask how any differences might impact the mediation.
- We will discuss with clients the need to let everyone know if they cannot see or hear properly during the session. If such issues cannot be resolved swiftly, the session will have to come to an end.
- We will discuss what the absence of clues from body language may mean for clients and for the mediator when meeting online and we will discuss how to manage this.

These discussions must take place before we begin the actual mediation online, as they help us to set clear ground rules for the mediation, including rules relating specifically to technology use.

The general rules set for the online mediation apply at all times and using all technologies. Rules that we always apply to online mediation include:

- Online mediation must be conducted in a private setting. If the technology is audio or video-enabled and children are likely to be nearby, the need for child care must be considered, to ensure the children's safety as well as prevent them from overhearing or seeing the discussions.
- Unlike traditional mediation meetings, clients in online mediation are often participating from their home or sometimes from their work place. It is essential that clients arrange to have their environment free of distractions, such as other people wandering by. Distractions can result in less than full and meaningful participation in the mediation and can pose a risk to confidentiality.
- The importance of 'arriving on time' will be impressed upon clients, particularly since accessing the technology — for example, a teleconference or web-based platform — may take longer than clients expect. We may ask clients to arrive early so that any technical problems can be worked out in advance of the meeting start time.
- Basic rules of etiquette when using technology will apply. If clients are unfamiliar with online conferencing, we will explain these rules. Clients should be aware in particular of the importance of meeting in a quiet place. Background noise can be extremely distracting and can seriously disrupt the flow of discussions. Just one participant's background noise can affect the sound for everyone. At a minimum, telephones should be turned off, as they can be particularly disturbing and the temptation to respond to calls can be overwhelming for some people. Many audio-based technologies have a feature that allows participants to mute their sound. In addition to helping eliminate background noise, proper use of the mute feature can also reduce 'echo'.
- Turn-taking is especially important when using teleconferencing or web conferencing. It is crucial with audio-based technologies that capture and transmit the voice of only one speaker at a time. With such technologies, the words of one client may be completely lost if the other client talks over them.
- Multi-tasking (working on side-activities) is not acceptable when engaged in an online mediation.
- We allocate one and a half hours to online mediation meetings but recommend that clients and mediators all set aside two full hours to allow time to access the meeting and so that it can be concluded properly.
- We will discuss how clients will let the mediator know if they are experiencing technology fatigue during the mediation session.