



## Mediation

### Information for Parties and Representatives

#### Critical information

- The purpose of mediation is not to decide who is right and who is wrong, but to provide an opportunity for parties to reach mutual resolution of the matter without the need to participate in formal proceedings.
- Mediation is entirely voluntary. It is intended to encourage participants to discuss issues to see if they are able to resolve them and reach an agreement. You are not compelled or required to reach an agreement and whether you will be able to is entirely up to you.
- There is no set time limit for the mediation, but parties should allow about two hours. Please arrive at the Commission at least 10 minutes before the start of the mediation.
- If you have any accessibility or language needs, advise the Commissioner's Associate before the mediation so that arrangements can be made in advance to address your needs, such as booking an interpreter. These services are provided at no cost to you.
- If you cannot attend a mediation in person, you can ask to attend by telephone or video-link. All requests are considered on a case by case basis.

#### Preparing for the mediation

Before the mediation, you should review what happened and think about what result you would be happy with. If you think it would assist you, write a summary of the key events and dates to take with you. You should also bring any relevant documents to the mediation, including documents such as employment contracts, correspondence or medical certificates.

The day before the mediation, you should check the hearings and conferences list. This list is available on the Commission's website and on the screens outside the hearing and conference rooms on the day of the mediation. This will tell you which room your mediation will be in.

Where the parties to the dispute are individuals, it is intended that they be present at the mediation in person. However, where a request for mediation is made by a group of employees or a group of employers, the group may be represented by a person who is appointed by the group to act on its behalf. You may also bring a support person with you, but usually you will be asked to speak for yourself.

To appoint a representative, the parties seeking to be represented must file a [Form M2 – Appointment of a Representative](#).

## At the mediation

Although proceedings before the Commission are reasonably informal, there is some formality. Make sure that you dress, act and speak in a way that helps you with your case. Wear smart clothes with proper footwear and address the Commissioner by their title.

The room where the mediation is held is not a court room. The Commissioner and the parties sit together at a table. The mediation is not recorded except for any notes that the parties and the Commissioner may make.

At the mediation, each party makes an opening statement on what the issue is, in their view. The Commissioner may ask questions if a point is not clear. Keep in mind that mediation is not a hearing and there are no right or wrong answers. The Commissioner may ask whether participants have thought about what a possible agreement is. The Commissioner will attempt to assist the parties to reach an agreement and may divide the mediation and speak separately to each party for that purpose. Either participant may request a short break if they wish to think about issues or speak to someone.

## Conclusion of the mediation

The Commissioner will not require you to reach an agreement and cannot decide what that agreement should contain but will try to assist the parties to come to an agreement. The Commission can hold several mediations if the parties need time to consider the information presented to them.

If an agreement is reached it will be on terms that are mutually agreed between the parties, the parties may choose to write down the terms of their agreement. An agreement may be reached during or after the mediation. The Commission may register the agreement as a mediation settlement agreement, which is binding on the parties and can be enforced under the [Industrial Relations Act 1979](#).

If no agreement is reached, the application may be discontinued by either participant or the participants may agree to have the Commissioner Arbitrate the matter and make a binding decision.

## Need more information?

Commission staff cannot give legal advice or advice on how to best make your case. However, they can provide information on:

- the processes of the Commission;
- how to fill out forms; and
- other organisations that may be able to assist you.

The Commission's Registry can be contacted on 08 9420 4444 or [Registry@wairc.wa.gov.au](mailto:Registry@wairc.wa.gov.au).

[The Commission's website \(www.wairc.wa.gov.au\)](http://www.wairc.wa.gov.au) has other information that may assist you.