

When two organisations fall out, there are many ways of resolving the issues.



Mediation is a more considered option.



Sometimes trust gets broken



We think we have an agreement with someone from another organisation, an expectation of what will happen and how they will behave.

Then something happens that we didn't expect, that was contrary to the spirit or the letter of our contract and we feel hurt, threatened, angry.

There is no question that disputes arise all the time.

The real question is how we manage them.

Mediation tends to be the answer for people who like to control their lives.



What should you do?

1) First talk to the other organisation



- ☀ Face to face, with as senior a person as you can.
- ☀ Seek information.
- ☀ Do they know what seems to have happened? How would they respond if it has? What would they want to do? Can you help? What lessons could you learn to prevent a repeat?
- ☀ And so on. Treat them reasonably and they should reciprocate.

2) What if that doesn't solve the problem?

- ☀ Talk to someone you trust – a Board member, your accountant or lawyer.
- ☀ See what they think may have happened, whether the other organisation's response seems unreasonable or a breach of the understanding or the contract between you.
- ☀ If court is an option, be sure you understand the stages, the timescales, the costs and possible outcomes.
- ☀ Be very sure of your facts, have them in writing or as physical evidence if possible.

3) Then contact a mediator



Why would you call a mediator?

1) First because we can “facilitate” a difficult conversation between you and the other organisation while you prepare for court.



- ☀ Mediation and court actions are often run in parallel, or with the case “sisted” or delayed pending the mediation outcome.
- ☀ 90% of mediations work and are much faster and cheaper.
- ☀ If it fails, you will have lost no time, little money and shown the Court a willingness to negotiate.

2) Second because we can help you rebuild a valuable relationship.

- ☀ If the relationship is valuable, the mediation process will help you identify how past errors occurred and allow you to agree how to prevent repeats. Court actions rarely do that.

3) Third because we can help both parties to broaden their possible outcomes.

- ☀ Mediators are trained Principled Negotiators a well known approach in developing options for mutual gain.
- ☀ The process helps you create innovative ways of working together, resolving future issues, of creating and sharing new value in the relationship. Courts cannot do that.



What will happen?

1) An initial, confidential telephone call or meeting.

- ✦ With you and/or colleagues or advisors to answer questions, listen to your issues, agree any issues of law to be covered or set aside and scope dates for a first joint meeting.
- ✦ You can ask about our relevant experience in business and your dispute type and you can form a view about whether we would be able to work with you or not.
- ✦ Finally we would outline budgets and timescales.



2) Email follow up & reading materials

- ✦ More answers to questions about the dispute, plus more detail about the mediation process.
- ✦ We will ask you to send us Agenda points for the main problems you must have resolved which we issue as a Shared Agenda before the first joint meeting.
- ✦ We ask you to prepare a 5 minute opening statement of those problems and your hopes for the mediation outcome.

3) Then:

- ✦ we do the same with the other Organisation
- ✦ we finalise budget and the joint meeting details.



At The Joint Meeting.....



The mediator will start with a few opening comments, such as...

- ✦ Welcome, check use of first names, housekeeping. Remind everyone of the successes of mediation, agree basic ground rules for the discussions.
- ✦ Remind everyone of the Mediator's role as the impartial facilitator, neither judging nor advising anyone.
- ✦ Cover the role of mediation – as voluntary, face to face discussions, creating an understanding of the past and your needs / interests for the future.
- ✦ You decide what happens and how.

The format for the discussions...

- ✦ This is normally to stay together while the discussions are constructive, taking time out as needed to reflect in private about new information or to consider solutions in more detail.

And the likely meeting outcome ...

- ✦ Prepare the Agreement document covering what actions must be taken, who, when and how in detail to give certainty.
- ✦ Arrange another meeting if some details need time to be finalised.



At The Joint Meeting.....



Then you give your opening statement

- ✦ A 5 minute summary of your understanding of the problems and what you hope the mediation will achieve.
- ✦ You and the other party speak in turn, with no interruptions, so everyone has the chance to be heard.

- ✦ When you have both finished the mediator will ask if anyone would like to respond to anything they have just heard or to start with the Issues Agenda.
- ✦ If it's the Agenda, which topic should be first?

Then your joint discussions can begin

- ✦ The mediator then facilitates your discussions.
- ✦ Stories of the past are useful examples of key issues – what hasn't worked and needs improving - but not as points to pick over endlessly.
- ✦ You may want time in private to consider what you have heard and how it affects your view of the other person and your future.
- ✦ As your understanding about what happened grows, you will see more ways to stop repeating those mistakes in the future.



At The Joint Meeting.....

Creating solutions



- ✦ When it seems right, the Mediator will ask which issue you want to start developing detailed options for. The easier solutions can be developed in a joint meeting, with the mediator asking details about each – who does it, how, when, etc. to ensure you know how it will work.

- ✦ On the harder issues, the mediator may suggest you talk through each one initially together, identifying possible solutions, then think through the details in private and use the mediator to take ideas to the other party to try them out.

Drafting an Agreement

- ✦ Assuming there is still a valuable relationship between you, the mediation agreement can become a new contract with new clauses to cover the new approaches you have agreed.
- ✦ Your lawyers can draft this or the mediator will give you a template to follow.

Follow Up

- ✦ Sometimes a date in a few weeks can be agreed to meet with the mediator and go through any last points or revise any solutions which aren't quite working as planned.



To answer some concerns

“They’ll shout at me”



- ✦ No they won't.
- ✦ The mediator will be very careful to ensure the language is respectful.
- ✦ Emotion about something is OK, it tells everyone the topic is important, but no shouting or swearing or “funny looks” .

“They’ll lie about me”



- ✦ They may try.
- ✦ We know people in conflict try to bias mediators against the “other”.
- ✦ But we're not affected by what they say you've done, or what you say they've done. The key point is what you *commit to each other* you will do differently *in the future* to avoid the conflict again.

“They’ll say they’ll change but they won’t”



- ✦ They will if they see the change benefits them.
- ✦ Most people don't like being in conflict, it's too stressful.
- ✦ But when people see that behaving differently in the future could reduce or remove that stress, they are motivated to make the changes, with a nudge from time to time, because they are better off.



And finally

- ☀ Was this useful for you?
- ☀ Are there some questions we haven't answered?
- ☀ What else might we be able to do to help?
- ☀ Please let us know



Thank you for your time.

A handwritten signature in black ink that reads "Jeremy Scuse".

Jeremy Scuse

