

## PREPARING FOR MEDIATION

### Key issues:

- Mediation bundle
- Written position statement
- Preparing your opening statement
- Pre-mediation conversations with the mediator

Preparation is the key to a successful mediation. The better prepared you are the more likely there is to be a successful resolution to your dispute.

### A. Mediation bundle

If there are documents which will help the mediator to understand the key issues, these should be included in an agreed mediation bundle. It is important to remember that this is not a trial bundle and it should only contain those documents which the parties consider to be essential to enable the mediator to understand the dispute.

In some cases, there will be no key documents and therefore no mediation bundle.

### B. Written position statement

Parties sometimes choose to provide a written position statement which they share with the mediator and the other party before the mediation. However we do not insist upon written position statements.

If you wish to share confidential or sensitive information with the mediator, you may do so in a separate confidential document.

## **C. Preparing your opening statement**

Most mediations will start with a joint session with the parties together in the same room. Each party is then invited to give a short opening statement.

The opening statement is an opportunity for each party to present their case and to explain their position. Careful preparation will ensure that your key messages are communicated clearly and effectively to the other party. Generally, short and succinct opening statements have greater impact on the other party than lengthy speeches.

## **D. Pre-mediation discussions**

We want to ensure that there are no surprises on the day of the mediation. Therefore, whenever possible, the mediator will telephone the parties or their lawyers before the mediation day to:

- introduce themselves to the parties
- ensure that all arrangements are in place for the mediation
- discuss how the parties wish to deal with any joint meeting at the start of the mediation
- answer any questions from the parties or their lawyers
- ask any question arising from the mediation papers

As with the mediation itself, these pre-mediation discussions are private and confidential and are covered by the terms of the mediation agreement.

**HG Consulting**