



# TIPS FOR PRACTITIONERS: MAKING REFERRALS TO OLDER PERSON MEDIATION SERVICES



**UNSW**  
SYDNEY



UNSW Ageing  
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**Seniors Rights  
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## HOW COULD MEDIATION HELP?

Disputes are a part of life and sometimes professional assistance can help. Mediation is one approach to help resolve disputes. This resource aims to help New South Wales practitioners to understand the mediation process, assess whether an older person's needs might be relevant for mediation and refer to mediation services. This includes those mediation services specifically aimed to assist older people (sometimes termed 'elder mediation' or 'older-person-centred mediation').

Mediation is a form of dispute resolution. Older-person-centred mediation is a voluntary, collaborative, confidential and informal process. An impartial mediator works with two or more parties (either together or separately), to help them communicate respectfully, listen to others, share concerns, clarify issues, create options, consider consequences and plan for the future.

*Adapted from Bagshaw et al. 2015*

## TIPS FOR REFERRING TO MEDIATION SERVICES

The following tips may assist in making appropriate and successful referrals to mediation service providers. Mediation is part of an ongoing process of relationship building with an older person or client.

### 1. IDENTIFYING NEEDS

Older people may require assistance to understand their right to express their views and needs, particularly when disagreeing with a family member or service provider. You may be able to assist the person to understand the nature of their dispute, their rights and where to find further help.

### 2. BE CLEAR

Older people may be unaware that mediation options exist. Understand the process yourself so that you can use practical, familiar language to explain what mediation is and how this may help the older person.

### 3. KNOWING CLIENT NEEDS

Clients from particular communities (e.g. culturally and linguistically diverse, LGBTIQ+ persons), may have particular needs that you can tell the mediation service about.

### 4. NAVIGATING SYSTEMS

Older people may already be interacting with a complex network of services (e.g. Centrelink, National Disability Insurance Scheme, My Aged Care). Understanding these systems will assist in making appropriate referrals.

### 5. KNOW THE OPTIONS FOR MEDIATION

Understanding the available services will enable appropriate referrals. Some provide access to in-language services and some mediation services are subsidised. Some specialise in particular types of dispute. See Further Resources section for more information.

### 6. THINKING ABOUT COSTS

For older people experiencing financial hardship or living in remote areas, public mediation services are subsidised, and may be more accessible.

### 7. SUPPORT AND ADVOCACY

Some people may require a support person or advocate in the mediation process. With the older person's consent, you may be able to provide information on their behalf and/or introduce them to the mediation service provider.

### 8. GETTING TO THE TABLE

The mediation process typically includes 'pre-mediation' meetings (with the mediator) and assessments:

- Clarifying nature of dispute;
- Seeing parties separately as required;
- Understanding specific needs of those involved (e.g. mobility, sensory, cognitive);
- Flagging areas of concern (e.g. power imbalances or other risks) which might impede mediation;
- Assisting with tips and strategies for negotiation and communication.

### 9. FURTHER STEPS

If mediation is not suitable or if agreements cannot be reached, there may be other options (e.g. family therapy, conciliation or arbitration through tribunals or the Courts).



## MAKING MEDIATION ACCESSIBLE

Some groups of older people may experience barriers to accessing mediation. These may include those who:

- Are experiencing financial hardship;
- Are living in a regional or remote location or lacking transport;
- Are members of the lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ+) communities;
- Are from an Aboriginal or Torres Strait Islander community;
- Are from a culturally and/or linguistically diverse community;
- Have difficulty communicating in English;
- Lack access to, or familiarity with, computers or other forms of technology;
- Are living with a physical, cognitive, sensory or other impairment.

## POINTS TO REMEMBER

**A diagnosis of cognitive impairment or dementia does not mean that a person cannot be involved in the mediation process.**

- Communication aids and memory prompts may assist;
- Explaining concepts slowly and clearly, and keeping sessions shorter overall, can assist;
- Support people and advocates can attend pre-mediation and mediation sessions (e.g. someone from the older person's community or a professional advocate);
- Professional assessment of decision-making capacity can be sought;
- As a last resort, a person may participate just in parts of the mediation, or their authorised representative may participate on their behalf if appropriate.

**There are national and international networks and associations overseeing the accreditation of mediation service providers.**

- You can ask a mediation service provider to provide evidence of their training and accreditation.

**A mediation process is a voluntary, confidential and informal process.**

- The desired result is typically a clear understanding of the issues dealt with and a 'goodwill agreement'. Occasionally mediation outcomes include a legally binding agreement.

**It is important that the rights of the older person are upheld throughout the referral, pre-mediation and mediation process. For the referring practitioner this can be promoted through:**

- Consulting with the older person about their specific needs and concerns;
- Maintaining confidentiality;
- Assisting the mediation service to understand and manage potential power imbalances between an older person and other parties to a dispute;
- Providing access to a support person or advocate.

## PROJECT BACKGROUND

This project was undertaken through a partnership between University of New South Wales, UNSW Ageing Futures Institute, Australian Human Rights Institute and Seniors Rights Service. The authors acknowledge funding support from UNSW Ageing Futures Institute. For further information or copies of this resource, contact UNSW Ageing Futures Institute ([ageingfutures@unsw.edu.au](mailto:ageingfutures@unsw.edu.au)), or Seniors Rights Service.

## FURTHER RESOURCES

The following organisations can assist and provide advice in understanding available mediation services and the referral process, or offer further information about the abuse of older people:

- NSW Ageing and Disability Commission - 1800 628 221;
- Relationships Australia NSW - 1300 364 277;
- Community Justice Centre - 1800 990 777;
- Seniors Rights Service - 1800 424 079;
- Elder Mediation Australasian Network - [www.elder-mediation.com.au](http://www.elder-mediation.com.au).

## REFERENCES

Bagshaw D, Adams V, Zannettino L, Wendt S. Elder Mediation and the Financial Abuse of Older People by a Family Member. *Conflict Resolution Quarterly*. 2015;32(4):443-80.



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