

Community Mediation Services Mediation Guide

What is mediation?

Mediation is a collaborative problem solving process facilitated by impartial third parties (mediators). The mediators essentially guide people in conflict through a structured conversation. The mediators' role is to keep the conversation respectful and moving in a positive, constructive direction. The goal is to help the people in conflict to better understand one another and develop their own solutions to the problem.

What kinds of situations does CMS mediate?

- ✔ **Neighbourhoods**
Disputes between neighbours can erupt over snow clearing, trees and yard care, construction projects, pets, fences, noise, boundaries, and many other issues.
- ✔ **Families**
Family conflict can be complex and painful. CMS has helped families deal with: inheritance, house rules, elder care, child care, division of assets after separation.
- ✔ **Workplaces and Organizations**
CMS has dealt with issues in business, non-profits, places of worship and voluntary organizations, involving employees, management, board and volunteers.
- ✔ **Commercial Issues**
CMS has used mediation to help people resolve disputes over the provision of goods and services, as well as contract disputes.
- ✔ **Crime** (see *Victim Offender Mediation Guide*)
In situations where one person has harmed another through crime, CMS uses a unique process called *victim offender mediation*.
- ✔ **Other situations**
Some situations don't fit any category. Call us for a free, confidential consultation to help you decide if mediation might be helpful to you.

Who does the mediation?

Community Mediation Services has a roster of about 20 highly skilled mediators. They have over 50 hours of training, and go through a screening and apprenticeship process. They come from a wide range of vocational and educational backgrounds, including: social workers, psychologists, educators, counsellors, lawyers, small business owners and human resource professionals. CMS mediators generally work in teams of two.

Why are there two mediators?

CMS generally uses the co-mediation model, where mediators work in teams of two. Working in a team reduces the chances of mediator bias, can provide a balance of age and gender and allows the mediators to more fully attend to the participants and the process at the same time.



Community Mediation Services (CMS) is a charitable organization based in St. John's. CMS promotes collaborative conflict resolution and restorative justice in Newfoundland and Labrador. Using mediation, training and public education, CMS equips people with skills, attitudes and processes to build safe, respectful communities.

Benefits of Mediation

✔ Saves Time

Mediations can usually be scheduled and completed within a matter of weeks. Resorting to more formal processes almost always means several months of waiting for someone else to decide your fate.

✔ Saves Money

Mediation can be far more cost effective than other options such as legal action or arbitration. CMS rates are competitive, and no one will be denied services based on ability to pay.

✔ Control of the Outcomes

The purpose of mediation is to provide a setting where the people in conflict decide what the solution will be. CMS mediators do not act as judges or arbitrators, nor will they tell participants what to do. Why give someone else the power to decide what is best for you?

✔ High Success Rate

When people develop their own solutions, they are more likely to follow through on making them happen. Mediation also looks at the whole problem, and the underlying causes, not just the "evidence". When you get to the heart of the matter, things get resolved for good – not simply until the next issue arises.

A Real Life Mediation Success Story



Lachlan, Kate and Simon Story

*In 2007, **CBC TV Here and Now** did a feature piece on a family that used Community Mediation Services. The Story family of St. John's (pictured left) agreed to do an interview with reporter Glenn Payette. They recounted how mediation with CMS had helped them resolve a dispute over inheritance issues in the wake of the loss of their mother.*

Here is what they had to say about their experience with mediation:

"It was so smooth...really quick and efficient – you could tell they had experience."

"We had all heard stories about people dealing with inheritance that we found quite frightening, so it was immense relief to go into a room with people who knew what they were doing. They kept everything even, recorded things and even offered us helpful advice when we needed it."

"It was a stressful situation, so it was very hard to make decisions. It was really nice to have somebody there to help us through the gaps."

"It was absolutely fantastic."

The Mediation Process

How do people get referred to mediation?

Anyone can call CMS to inquire about mediation services. No formal referral is required. People find out about CMS through word of mouth, on the news, in community publications. They may also be referred by police, government workers, elected officials or social service workers (referrals are confidential).

How does the process start?

The first step is to be in contact with the CMS case development worker, who will ask questions about the conflict situation (what is it about, how long has it been going on, what would you like to see change, etc.). This conversation is free of charge, and the goal is to help you determine if mediation is right for you. Mediation is always voluntary, and all the people involved in the conflict must consent before mediation can go ahead.

What does a mediation look like?

Mediation can take place in any number of settings, from community centres, to hotel rooms. A private, comfortable space with chairs and a low table is all that is required. A somewhat circular seating arrangement is generally preferred, with minimal barriers between people, but a comfortable distance and orientation to one another.

What happens in a mediation?

The mediation process has *four stages*, and these generally flow fairly naturally. The mediators will not necessarily announce "We're now in stage 3!" , but they will guide the process to keep things on track.

- **Stage 1:** The mediators welcome the parties, set ground rules and take care of confidentiality forms (see below)
- **Stage 2:** Each participant gets a chance to tell their perspective and the mediators then identify key issues that need to be addressed (in some historical conflicts, mediators identify issues before the mediation)
- **Stage 3:** The mediators guide the participants through each issue to develop understanding and begin developing potential solutions
- **Stage 4:** The mediation session is concluded. Ideally, new understandings and solutions are finalized in a written agreement, copied for all present

In some cases the mediators will call each party aside for a **separate meeting**. Also, although it is hoped that an agreement can be reached in one mediation session, sometimes **additional sessions** are required and scheduled with the consent of all people involved.



Safety in the Mediation Process

The safety of all people in the mediation process is the paramount concern for Community Mediation Services. CMS has developed many safeguards:

Confidentiality Policy

CMS has a confidentiality policy which binds all CMS personnel (mediators and staff). Mediators are also bound by our *Code of Ethical Conduct*, which outlines their duties in terms of confidentiality, impartiality and competence.

Confidentiality Agreement

At the beginning of a mediation session, all participants must read and sign a Confidentiality Agreement. This has 3 purposes:

- It binds everyone involved to keep the discussion in mediation confidential.
- It forms an agreement on the part of all involved not to call CMS personnel as witnesses in any other formal proceedings (like court, a grievance process, etc.) This ensures that the mediation is seen as a safe place where there can be open, honest communication.
- It outlines the limitations of confidentiality for CMS personnel (i.e. if they learn of a threat to harm yourself or others, they are bound to report this)

Personal Safety

CMS will not allow its mediation process to be used as an opportunity for bullying, extortion, or mental, emotional or physical abuse. Careful screening is done by an experienced case worker to ensure that issues such as power imbalance are addressed. If the caseworker is not satisfied that the mediation can be made safe for the people involved, it will not go ahead. Likewise, in the mediation session itself, the mediators will be on the alert for the safety of participants and address situations appropriately, up to and including termination of the session. Participants are also free to call an end to the session at any point (before or during) if they do not feel safe.

Support people

Participants in mediation are welcome to involve support people in mediation sessions if they feel this will be helpful to them. All participants must consent to the involvement of the support person. Such support people may play a range of roles, including providing expert advice, moral support, or professional care. Examples of support people include lawyers, social workers, family or friends. Support people do not generally take an active role in the mediation, as the focus is on the people directly involved to communicate for themselves. Support people will receive coaching on their role from the case worker.

Accessibility

CMS seeks to ensure that everyone can fully participate in the mediation process with dignity and discretion. If you have any issues around mobility (stairs, transportation, etc) or communication (literacy, sight, hearing, interpreter, etc.) please let the case worker know so that all efforts can be made to accommodate you.

