

# Harmony in Co-Parenting: A Comprehensive Guide to Mediating Custody (care) and Visitation (contact) Disputes



dignified • dynamic • diverse

**dispute  
resolution**

[www.disputeresolution.org.za](http://www.disputeresolution.org.za)



Written by Eugene Opperman B.Proc. LL.B. (LSSA L.E.A.D., ADR Network, FAMAC)

## Contents

Dignified Dispute Resolution (DDR): our commitment to mediators and the public .....	4
Who we are and what we stand for in our commitment to mediators and the public .....	4
Introduction of DDR .....	4
Ethical foundation .....	4
Expert panel and geographic flexibility.....	4
Tailored and unique mediation approach.....	5
Referral to suitable mediators .....	5
Alternative to litigation.....	5
Client education and empowerment .....	5
Continuous improvement and innovation .....	5
Corporate and community training, presentations, and workshops .....	5
Introduction .....	7
Legal and social context of care and contact .....	7
Importance of mediation in fostering effective communication and collaboration .....	8
Chapter 1: Common issues addressed in family mediation.....	10
Chapter 2: Clarifying custody (care) and visitation (contact) disputes .....	11
Definition and principles of custody (care) and visitation (contact) mediation .....	11
Distinction from traditional legal processes .....	12
Chapter 3: Benefits of choosing mediation for family or care and contact disputes.....	14
Chapter 4: The mediation process explained.....	15
Overview of the typical mediation timeline .....	15
Pre-mediation preparation and individual sessions .....	16
Joint sessions and negotiation techniques .....	17
Drafting and finalising agreements .....	18
Chapter 5: Legal aspects and documentation .....	20
Understanding the legal implications of mediated agreements.....	20
Role of attorneys in the mediation process.....	20
Role of the office of the Family Advocate.....	21
Chapter 6: Choosing the right mediator.....	23
Chapter 7: Child inclusive mediation .....	25
Overview of child inclusive mediation.....	25
The role of children in child inclusive mediation .....	25
What questions will the mediator ask the children? .....	26
Respecting parental authority and consent .....	26

Chapter 8: Some practical issues that we frequently deal with .....	27
Preparing your child for child inclusive mediation.....	27
What to do if your child refuses contact with the other parent .....	27
What makes a child not want to spend time with a parent? .....	28
At what age can a child refuse to see a parent? .....	29
Can you refuse access / visitation to another parent without a good reason? .....	29
Conclusion.....	31
Summary of this eBook.....	32

### Something about the author of this eBook:

Eugene Opperman, a dedicated family law practitioner with an extensive 23-year career and co-founder of DDR, stands as an experienced family law mediator accredited by reputable training institutions. His passion lies in guiding parents through the intricate process of resolving custody (care) and visitation (contact) disagreements, driven by a profound understanding of the transformative value of mediation as an alternative dispute resolution in Children's Court, steering away from adversarial litigation.

Throughout his private practice as an attorney, Eugene realised the profound impact mediation can have on preserving family dynamics. His commitment extends beyond the legal realm, actively engaging with the community through workshops and presentations on various legal issues. Eugene's expertise includes being a skilled trainer in mediation and neuro-linguistic programming (NLP), where he employs his NLP skills to assist participants in navigating mediation matters with empathy and precision.

As a respected figure in the legal community, Eugene is well-published and highly regarded by his peers for his advocacy of justice and dignified, ethical mediation. His firm understanding of family law, the Children's Act, and matters dealing with the care and contact of children further solidifies his reputation as an authority in the complex and sensitive realm of family law.

In essence, Eugene Opperman is not just a legal professional but a compassionate guide, utilising his extensive experience, training, and commitment to uphold justice and ethical mediation principles in the delicate matters of family law and children's welfare.



021-2000 470 (9 lines)  
info@oppermansinc.co.za  
Oppermans Inc.  
83 MILLER STREET · GORDONS BAY  
www.oppermansinc.co.za



# Harmony in Co-Parenting: A Comprehensive Guide to Mediating Custody (care) and Visitation (contact) Disputes

## Dignified Dispute Resolution (DDR): our commitment to mediators and the public

### Who we are and what we stand for in our commitment to mediators and the public

Dignified Dispute Resolution (DDR) is a collaborative community of passionate mediators devoted to maintaining the highest ethical standards in conflict resolution. Unlike conventional companies governed by a select few, DDR comprises a nationwide panel of mediators working collectively to reshape the dynamics of dispute resolution. Every mediator in our community is bound by a stringent code of ethics, ensuring an unwavering commitment to transparency, neutrality, and fairness in every mediation endeavour. DDR stands apart not only for its dedication to ethical mediation practices but also for its emphasis on connecting clients with the most qualified mediator possessing essential skills within their geographical area, whether it is in-person or online facilitation. Operating solely with the commitment of volunteers and our nationwide panel of mediators, DDR is proudly ethical in its mediation approach, striving to deliver a dignified and unparalleled resolution experience for every individual and organization. It is important to note that all DDR mediators are well-versed in trauma-informed mediation practices, ensuring a sensitive and supportive approach to resolving conflicts.

### Introduction of DDR

Dignified Dispute Resolution (DDR) is committed to revolutionising conflict resolution through ethical mediation services. Our unique selling point lies in our unwavering dedication to upholding the highest standards of ethical conduct and rules in all our mediation processes. DDR understands the diverse nature of disputes and operates across various fields, offering a tailored approach to each case. Our primary mission is to provide dignified dispute resolution, fostering an environment where conflicts are addressed with integrity and respect. With a panel of expert, qualified, and accredited mediators, DDR ensures that clients experience the utmost professionalism and competence in every mediation session.

### Ethical foundation

DDR firmly believes that ethical conduct is the cornerstone of successful mediation. All our mediators adhere to a strict code of ethics, emphasising transparency, neutrality, and fairness. By maintaining the highest ethical standards, DDR not only ensures the credibility of our mediation services but also contributes to building trust and confidence among clients. Our commitment to ethical mediation extends beyond the resolution of disputes—it becomes a promise to our clients that their concerns will be handled with the utmost dignity and respect.

### Expert panel and geographic flexibility

DDR boasts a panel of expert mediators, each possessing the necessary qualifications and accreditations to navigate complex disputes effectively. Whether clients prefer in-person mediation within their geographic area or opt for online mediation, DDR provides flexible solutions tailored to individual needs. Our geographic reach allows us to connect clients with local mediators, ensuring a nuanced understanding of regional dynamics and legal nuances.

### Tailored and unique mediation approach

Recognising that each dispute is unique, DDR adopts a personalised approach to mediation. Our mediators carefully analyse the specifics of each case, identifying underlying issues and crafting solutions that align with the parties' interests. By tailoring our mediation process, DDR not only ensures effectiveness but also cultivates a sense of empowerment and collaboration among the disputing parties.

### Referral to suitable mediators

In the rare instance that a mediation cannot be conducted by one of DDR's panel of mediators, our commitment to client satisfaction remains unwavering. DDR takes the responsibility to refer clients to suitable and reputable mediators outside our panel. This commitment to finding the right mediator showcases DDR's dedication to prioritising client needs above all, even if it means recommending external professionals.

### Alternative to litigation

DDR is passionate about presenting mediation as a viable alternative to litigation. Litigation is often time-consuming, emotionally draining, and financially burdensome. DDR aims to shift the paradigm by offering a dignified and efficient resolution method that minimises the adversarial nature of disputes. Through skilful mediation, DDR empowers parties to actively participate in crafting their own solutions, fostering a sense of ownership and satisfaction in the resolution process.

### Client education and empowerment

DDR recognises the importance of educating clients about the mediation process and their role within it. We provide comprehensive information, ensuring clients understand the benefits and intricacies of mediation. By empowering clients with knowledge, DDR aims to create a collaborative atmosphere where parties are actively engaged in resolving their disputes. This educational component contributes to DDR's mission of promoting ethical and dignified dispute resolution.

### Continuous improvement and innovation

DDR is committed to continuous improvement and innovation in the field of mediation. We regularly assess and enhance our mediation processes, staying abreast of industry best practices and emerging trends. This commitment to innovation ensures that DDR remains at the forefront of ethical mediation services, offering clients cutting-edge solutions and an unparalleled experience in dispute resolution.

### Corporate and community training, presentations, and workshops

Beyond individual dispute resolution services, Dignified Dispute Resolution (DDR) recognises the importance of preventive measures and proactive conflict management within corporate and community settings. DDR offers tailor-made training, presentations, and workshops designed to equip businesses and communities with the tools necessary to navigate conflicts effectively. Our team of expert mediators, well-versed in various industries, provides insightful and industry-specific guidance to address potential challenges before they escalate. Corporate training sessions focus on conflict resolution within the workplace, emphasising the creation of a harmonious and productive environment. DDR's community workshops extend this ethos to address conflicts within local communities, fostering a sense of cohesion and understanding. Through these initiatives, DDR aims to empower organisations and communities to proactively manage disputes, embracing a culture of open communication and resolution. The bespoke nature of our programs ensures that they align seamlessly with the unique dynamics and challenges of each industry, maximising their impact and relevance. DDR's commitment to

promoting ethical conflict resolution extends beyond individual cases, aiming to create a ripple effect of positive and constructive approaches to disputes within both corporate and community settings.

In conclusion, Dignified Dispute Resolution (DDR) stands as a beacon of ethical mediation services, driven by a passion for resolving challenges with dignity and respect. With a commitment to ethical conduct, a panel of expert mediators, and a personalised approach, DDR positions itself as a leader in the alternative dispute resolution space. By embracing innovation, geographic flexibility, and a dedication to client education, DDR seeks to redefine conflict resolution, promoting a culture of collaboration, empowerment and support in every mediation process.



**Contact details:**

Our website: [www.disputeresolutions.org.za](http://www.disputeresolutions.org.za)

Our Facebook page: <https://web.facebook.com/dignifieddisputeresolution>

Our LinkedIn page: <https://www.linkedin.com/company/dignified-dispute-resolution>

Our email address: [info@disputeresolutions.org.za](mailto:info@disputeresolutions.org.za)

Our telephone number: (nationwide) 087 1332 397

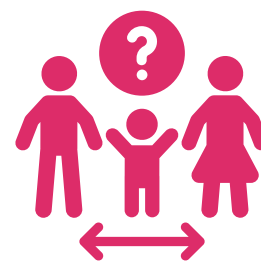
Our whatsapp line: 0764950622

QR code to our website and an invitation for trained and accredited mediators to join the panel of nationwide mediators:



## Introduction

Navigating through the complexities of visitation (care) and custody (care) disputes can be an emotionally charged journey, often fraught with tension, uncertainty, and a myriad of conflicting emotions. In the delicate realm of co-parenting, where the well-being of children hangs in the balance, finding amicable and lasting solutions is paramount.



The process requires a delicate touch, open communication, and a commitment to understanding each party's concerns and interests. This eBook aims to provide a comprehensive framework for mediating care and contact disputes, offering practical guidance on fostering collaboration, effective communication, and ultimately crafting agreements that prioritise the best interests of the child. This approach uses the skill of mediation to try to change the sometimes hostile environment of care battles into a cooperative setting where parents can negotiate the difficult terrain of co-parenting with compassion, decency, and a shared dedication to their kids' welfare.

Care and contact disputes are very common and complex issues that affect many families in South Africa.

In this eBook the wording of custody means “guardianship” in terms of section 18 of the Childrens Act 38/2005 and visitation means “access” or “care”. These are used interchangeably. In addition to the meaning assigned to the terms 'custody' and 'access' in any law, and the common law, the terms 'custody' and 'access' in any law must be construed to also mean 'care' and 'contact' as defined in this Act.

## Legal and social context of care and contact

The legal and social context of care and contact disputes in South Africa is influenced by various factors, such as the Constitution, the Children's Act, the Divorce Act, the Domestic Violence Act, the Maintenance Act, the Customary Law, and the religious and cultural diversity of the country. These factors create different rights and obligations for the parents and the children, and may also create conflicts and confusion among them.



In any custody or visitation (care and contact) disagreement, the kid's best interests are the most important factor to take into account, but figuring out what's best for the child is not always simple or obvious. The child's age, maturity, perspectives, requirements, preferences, attachment, growth, safety, health, education, and other variables are among the many that the court must take into account. The parents' rights and interests, including their relationship with the kid, their availability and appropriateness, their financial and emotional capability, and their parental obligations and rights, must also be balanced by the court.

The care and contact arrangements can take different forms, such as sole care, joint care, shared care, primary residence, alternate residence, contact, supervised contact, etc. The parties can agree on these arrangements through mediation, negotiation, or parenting plans, or the court can decide on them through orders or judgments. However, these arrangements are not always stable or satisfactory, and may change over time due to various circumstances, such as the child's growth, the parents' relocation, the parents' remarriage, the parents' conflict, etc.

The enforcement and compliance of the custody (care) and visitation (contact) arrangements can also pose challenges, especially when the parties do not cooperate or respect each other's rights and roles. Some of the common problems that may occur are the denial or interference of contact, the failure or delay of payment of maintenance, the abduction or relocation of the child, the breach or variation of the court order or agreement, etc. These problems may require further legal action or intervention, such as appeals, reviews, contempt of court, interdicts, warrants of arrest, etc.



### Importance of mediation in fostering effective communication and collaboration

Mediation is an important process for fostering effective communication and collaboration between parents in contact and care disputes.

#### Some of the reasons why mediation is important are:

- ❖ Mediation gives the parents more **control** over the decisions that affect their children, rather than relying on the courts to decide for them.
- ❖ Mediation provides a **less stressful** and more respectful way of dealing with sensitive matters, as it allows the parents to communicate openly and honestly about their issues and concerns. In a traditional court setting, parents often feel the need to "win" their case, which can lead to increased animosity and tension. In mediation, a neutral third-party mediator helps facilitate a conversation focused on finding a mutually agreeable solution. This collaborative approach can lead to a more amicable and less stressful experience for both parents and children.
- ❖ Mediation **improves communication skills** and the relationship between the parents, which can benefit the children's well-being and adjustment. Mediation encourages open communication between parents, allowing them to express their concerns and desires in a safe and supportive environment. This can be particularly beneficial for parents who struggle with communication, as the mediator can help guide the conversation and keep it focused on the best interests of the child. Improved communication can lead to better co-parenting relationships and a more positive environment for the child.
- ❖ Mediation helps the parents to focus on the **best interests of the child** and to tailor the care and contact arrangements according to the child's specific needs and preferences. At the heart of mediation is a focus on the best interests of the child. Mediators are trained to help parents set aside their personal differences and focus on developing a care arrangement that will benefit their child. This child-centered approach ensures that the child's needs are prioritised and that both parents are actively involved in their upbringing. According to research children whose parents resolve care disputes through mediation have better emotional and behavioural outcomes than those whose parents litigate.





- ❖ Mediation **reduces the costs and delays of litigation** or family court proceedings, which can be expensive, time-consuming, and unpredictable. Court battles can be expensive and time-consuming, with some cases taking months or even years to resolve. In contrast, mediation sessions can be scheduled at the convenience of the parents and typically take less time to reach a resolution. This not only saves parents money in legal fees but also allows them to move forward with their lives more quickly.



- ❖ Mediation is **confidential and flexible**, ensuring that the privacy and the rights of the parents and the child are protected.
- ❖ There's a **higher likelihood of compliance** in mediation compared to traditional litigation. In the conventional legal process, one party may walk away dissatisfied, perhaps because their requests were overlooked by the judge. Whatever the cause of their discontent, this could lead a parent to consider challenging the litigation outcome to achieve their desired outcome. Not only is this time-consuming, but it can also add additional stress to your children.

In contrast, mediation ensures that both parties actively participate in the decision-making process. When both parents are content with the jointly crafted plan, they are more inclined to follow through and achieve success. Through collaborative efforts in reaching an agreement, parents exiting mediation are less prone to engage in future conflicts, promoting a more harmonious co-parenting environment.

## Chapter 1: Common issues addressed in family mediation

Child care mediation addresses a range of key issues to help parents create a comprehensive and workable parenting plan.

### ■ Custody (care) arrangements:

Determining legal care (decision-making authority) and establishing physical care (residential arrangements). This involves deciding where the child will live, how often and when the child will spend time with each parent, and how the parents will communicate and coordinate their parenting responsibilities



### ■ Visitation and parenting time (contact):

Creating a visitation schedule that accommodates the child's needs such as defining holidays, vacations, and special occasions.

### ■ Communication between parents:

Establishing guidelines for effective and respectful communication between the parents and developing a protocol for sharing information about the child's well-being.

### ■ Child's education and extracurricular activities:

Deciding on school choices and educational decisions and addressing participation in extracurricular activities and how related costs are handled.

### ■ Medical and healthcare decisions:

Determining how medical and healthcare decisions will be made by outlining procedures for sharing medical information and expenses.

### ■ Relocation and travel:

Addressing potential relocation issues and how they will be handled and setting guidelines for travel with the child, especially if one parent resides in a different location.

### ■ Financial responsibilities:

Determining child maintenance arrangements and clarifying how additional expenses, such as healthcare or education costs, will be shared.

### ■ Dispute resolution mechanisms:

Establishing a process for resolving disagreements that may arise post-mediation and outlining the role of the mediator in future disputes.

### ■ Consistency and stability:

Focusing on creating a stable and consistent environment for the child by addressing concerns about disruptions or changes that may impact the child's well-being.

### ■ Cultural and religious considerations:

Discussing how cultural and religious practices will be respected and incorporated by ensuring that both parents have the opportunity to share their values with the child.

## Chapter 2: Clarifying custody (care) and visitation (contact) disputes

### Definition and principles of custody (care) and visitation (contact) mediation

#### Definition of custody / care / guardianship:

Guardianship or care in terms of the Children's Act in South Africa refers to the legal rights and responsibilities that a person has over a child who is not their biological or adoptive child. A guardian can be appointed by the court or by the parents of the child, depending on the circumstances and best interests of the child. A guardian must safeguard the child's property and assist the child in any legal, administrative or contractual matters. A guardian can also give or refuse consent required by law in respect of a child.

The Children's Act regulates the legal guardianship of children in South Africa and details the responsibilities and rights that guardians have in respect of the child that is in their care. The Children's Act also empowers Children's Courts to adjudicate matters of guardianship, which were previously within the purview of the High Court. The Children's Act aims to protect and promote the best interests of children and ensure that they are treated with dignity and respect.

#### Definition of visitation / access / contact:

Visitation / access / contact in terms of the Children's Act of South Africa refers to the legal rights and responsibilities that a person has over a child who does not live with them. A person can be a parent, a guardian, a relative, or anyone else who has a relationship with the child. A person can maintain contact with the child by seeing, spending time with (visit or be visited) or communicating (through post, by telephone or any form of electronic communication) with the child. Contact is defined as "maintaining a personal relationship with the child" and applies even when a parent does not live with the child.

#### Principles of custody (care) and visitation (contact) mediation:



Care and contact mediation is a voluntary and confidential process that aims to assist families in resolving disputes and conflicts in a constructive and collaborative manner. At its core, care and contact mediation involves the intervention of a neutral and impartial third party, known as the mediator, who facilitates communication and negotiation between parents.

The fundamental principles of care and contact mediation include:

**Voluntariness:** Participation in care and contact mediation is entirely voluntary, with all parties choosing to engage in the process willingly. This ensures that individuals are actively invested in finding resolutions and are more likely to adhere to the agreements reached.

**Impartiality:** The mediator remains impartial and unbiased throughout the process, refraining from taking sides or favouring any particular party. This neutrality is crucial for establishing trust and creating an environment where all care and contact participants feel heard and respected.

**Confidentiality:** Care and contact mediation is conducted in a confidential setting, meaning that discussions that take place during the sessions are not disclosed outside of the mediation process. This confidentiality encourages open and honest communication, as participants can freely express their thoughts and concerns without fear of repercussions.

**Collaboration:** Unlike adversarial legal processes, care and contact mediation emphasises collaboration and cooperation. The mediator facilitates a problem-solving approach, encouraging care and contact participants to work together to find mutually acceptable solutions. This collaborative mindset promotes a sense of ownership over the outcomes.

**Client empowerment:** Care and contact mediation empowers individuals to actively participate in the decision-making process. Rather than having solutions imposed by a third party, care and contact participants are encouraged to voice their needs, concerns, and preferences, fostering a sense of control and self-determination.

**Child-centered approach:** mediation prioritises the best interests of the children. The mediator helps parents create parenting plans and care arrangements that consider the well-being and needs of the children involved.

**Flexibility:** Care and contact mediation is a flexible process that can be tailored to the unique circumstances of each care and contact dispute that might be unique to every family unit. The mediator adapts the process to address specific issues, timelines, and communication styles, making it a versatile and personalised approach.



**Focus on future relationships:** Care and contact mediation is forward-looking, with an emphasis on building or maintaining positive relationships within the care and contact. There is no regurgitating the wrongs or indifferences of the past, but the focus is rather to establish a blueprint on how to move forward. The process encourages care and contact participants to consider the long-term implications of their decisions and how they can collaborate effectively moving forward.

**Informality:** Unlike formal legal proceedings, care and contact mediation could be relatively informal when the courts are not involved in the process. This informality creates a comfortable and less intimidating environment, allowing care and contact participants to communicate more openly and honestly.

**Sustainability:** Care and contact mediation aims to create sustainable and enduring agreements. By involving care and contact participants directly in the resolution process, the hope is that the agreements reached will be more durable and adaptable to changing circumstances over time.

These principles collectively contribute to the effectiveness of care and contact mediation as a means of resolving conflicts in a manner that is both sensitive to the unique dynamics of each family and focused on fostering positive relationships moving forward.

## Distinction from traditional legal processes

Care and contact mediation stands in stark contrast to traditional legal processes in its approach to resolving conflicts within families. Unlike the adversarial nature of litigation (Childrens Court), where each party may hire an attorney to represent their interests in court, mediation is a collaborative and non-confrontational method. In family mediation, the emphasis is on open

communication, cooperation, and finding mutually agreeable solutions. The mediator, a neutral third party, facilitates dialogue rather than making decisions for the family.



This process is voluntary, confidential, and encourages family participants to actively participate in crafting their own resolutions. While traditional legal processes often heighten animosity and can be lengthy and costly, Care and contact mediation seeks to promote understanding, maintain relationships, and offer a more efficient and cost-effective alternative to resolving family disputes.

## Chapter 3: Benefits of choosing mediation for family or care and contact disputes

- ❖ **Open communication:** mediation fosters open and constructive dialogue among family participants, promoting better understanding and collaboration.
- ❖ **Voluntary participation:** participants willingly engage in the process, fostering a sense of commitment and investment in finding resolutions.
- ❖ **Neutrality:** mediators remain impartial, ensuring a balanced approach to decision-making and mitigating power imbalances.
- ❖ **Cost-effective:** mediation is often more economical than traditional litigation, saving families time and money.
- ❖ **Time efficiency:** the process is generally quicker than legal proceedings, reducing the duration of conflict and stress.
- ❖ **Confidentiality:** mediation ensures that discussions remain private, allowing for more candid conversations without fear of public exposure.
- ❖ **Empowerment:** family participants actively participate in decision-making, contributing to a sense of ownership over the outcomes.
- ❖ **Tailor-made solutions:** mediation focuses on creating personalised and sustainable solutions that address the unique needs of the family.
- ❖ **Preservation of relationships:** unlike adversarial processes, mediation seeks to maintain or restore relationships within the family, fostering a more positive post-resolution environment.
- ❖ **Flexibility:** the process can be adapted to suit the specific needs, issues, and communication styles of the family participants involved.

## Chapter 4: The mediation process explained

### Overview of the typical mediation timeline

Here is an overview of the key stages:



#### ■ Step 1: Introduction and opening statements:

- The mediator introduces themselves and explains their role in facilitating the process.
- Participants are invited to share their perspectives and expectations.
- Ground rules, including principles of confidentiality, neutrality, and voluntary participation, are established.

#### ■ Step 2: Issue identification and agenda setting:

- Participants identify and prioritise the issues they wish to address.
- The mediator helps refine and structure the agenda for the sessions.

#### ■ Step 3: Joint sessions and private caucuses:

- Joint sessions involve all participants discussing issues and working towards resolutions.
- Private caucuses allow the mediator to meet individually with each party to explore concerns confidentially.

#### ■ Step 4: Information gathering and exploration:

- Participants share relevant information, viewpoints, and concerns.
- The mediator facilitates a deeper exploration of the underlying interests and needs driving the conflict.

#### ■ Step 5: Generating options and brainstorming:

- Collaborative brainstorming sessions lead to the generation of multiple potential solutions for each issue.
- Participants are encouraged to think creatively and explore mutually agreeable alternatives.

#### ■ Step 6: Negotiation and reality testing:

- Participants engage in negotiation, refining and testing proposed solutions.
- The mediator assists in evaluating the practicality and consequences of various options.

#### ■ Step 7: Agreement formulation:

- As consensus is reached, the mediator helps formalise the agreements.
- The terms are documented, ensuring clarity and understanding by all parties.

#### ■ Step 8: Review and finalisation:

- Participants review the drafted agreements for accuracy and completeness.
- Any necessary adjustments are made, and final agreement documents are prepared.

## ■ Step 9: Closure and follow-up:

- The mediator summarises the achievements and ensures everyone is clear on the agreed-upon terms.
- Follow-up plans are discussed, and participants may be encouraged to seek legal advice before finalising the agreements.

## Pre-mediation preparation and individual sessions

Pre-mediation preparation and individual sessions are crucial components of the family mediation process, providing a foundation for effective communication and collaborative problem-solving.

Before your first joint mediation session, the mediator will get in touch with you and the other participant to confirm some details. This is usually sent via email, and includes information regarding:

- The date and time of your first mediation session
- The first steps in the process
- What you need to do in preparation for the meeting
- An estimate of the overall cost of mediation and payment details

An "Agreement to Mediate" document with the suggested ground rules and guiding principles for the mediation will be emailed to you before the mediation session. It will include information on the complaints system and the confidentiality of mediation.



Before participating in the process, the mediator will ask you to sign this agreement and indicate that you have read the conditions.

Examining what the mediator stated in their email can give you a better idea of the process and ensure you're ready for your first appointment. If you have any questions concerning the Agreement to Mediate or the procedure in general, your mediator will gladly address them.

### Here's a birds-eye overview of what to expect:

- **Initial contact and information gathering:** the process begins with the mediator making initial contact with the participants. Information about the mediation process, its principles, and the voluntary nature of participation is shared. Basic details about the issues to be addressed are gathered.
- **Individual consultations:** The mediator frequently has one-on-one meetings with each participant prior to the start of combined sessions. The mediator can learn more about each person's aims, issues, and points of view during these private sessions. It facilitates rapport-building, identifies possible obstacles, and customises the mediation procedure to meet the particular requirements of each party.
- **Goal setting:** individual sessions also provide an opportunity for participants to articulate their goals and desired outcomes for the mediation process. This helps set a positive and collaborative tone for the joint sessions.



- **Managing expectations:** the mediator clarifies the mediation process, explaining its structure, principles, and what participants can expect. This includes emphasising the voluntary nature of mediation, confidentiality, and the mediator's role as a neutral facilitator.
- **Taking care of emotional dynamics:** Emotional complexity is a common factor in family disputes. In private sessions, the mediator can talk about feelings, control expectations, and support participants in adopting a positive outlook on the mediation.
- **Identifying common ground:** through individual sessions, the mediator can identify potential areas of agreement or common ground, laying the groundwork for collaborative problem-solving during joint sessions.
- **Building trust:** establishing trust between the mediator and participants is essential. Individual sessions provide a private space for participants to express themselves openly, fostering trust in the mediation process.
- **Providing information:** the mediator may provide relevant legal and procedural information, ensuring that participants are well-informed about their rights, responsibilities, and the potential implications of decisions made during mediation.

## Joint sessions and negotiation techniques

Mediation is all about communication, not confrontation. Throughout the session, the mediator will give both participants the chance to provide their hopes and concerns, perspectives and wishes – this is often understood as one of the main benefits of mediation.



In family mediation, joint sessions serve as a focal point for good communication, negotiating and collaborative problem-solving. The mediator encourages an open dialogue by encouraging parties to express their thoughts and concerns. To ensure that everyone feels heard and understood, active listening practices are used. The mediator explains concerns, allowing for a shared understanding of the issues at hand. Participants engage in brainstorming sessions to produce a wide range of resolution alternatives. Throughout the process, the mediator employs reality testing, guiding participants to evaluate the practicality and consequences of proposed solutions. Prioritising concerns helps streamline the negotiation process, while consensus-building discussions lead to agreements that accommodate the needs of all involved. Emotions are managed constructively, and deadlocks are addressed through reframing and exploring alternative solutions. The joint sessions conclude with the mediator summarising and finalising agreements, creating a framework that reflects the collaborative efforts of the participants. Through these techniques, family mediation fosters a cooperative and solution-oriented approach to resolving conflicts within the family dynamic.

Here's an overview of joint sessions and negotiation techniques employed by mediators:

**Facilitating dialogue:** The mediator encourages an open communication environment by enabling individuals to communicate their opinions, concerns, and needs. This discourse is critical for identifying the underlying difficulties and reaching mutually beneficial solutions.

Active listening: mediators employ active listening techniques, ensuring that participants feel heard and validated. This involves paraphrasing, summarising, and reflecting back the emotions and content expressed by each participant.

Clarifying issues: the mediator clarifies misconceptions and ensures that all participants understand the problems at hand. This encourages more informed and effective cooperation.

Options generation: mediators assist participants in thinking and developing a variety of solutions to each issue. This fosters innovation and broadens the variety of possible solutions.

Reality testing: mediators may assist participants in evaluating the practicality and feasibility of proposed solutions. This involves exploring the potential consequences and implications of different options.

Prioritising concerns: participants agree to prioritise their concerns and select the most pressing topics to solve. This helps to expedite the negotiation process and focus on the most important issues.

Building consensus: mediators facilitate discussions aimed at building consensus. Through constructive dialogue and negotiation, participants work towards agreements that are acceptable and beneficial to all parties involved.

Managing emotions: emotional dynamics are addressed during the combined sessions. Mediators assist participants in managing and constructively expressing their emotions, ensuring that emotions do not impede the negotiating process.

Breaking deadlocks: in cases where parties reach impasses or deadlocks, mediators employ techniques to break the stalemate. This may involve reframing issues, exploring alternative solutions, or taking a brief break to allow emotions to settle.

Closure and agreement: once agreements are reached, the mediator assists in summarising the terms and conditions. Participants have the opportunity to review and finalise the agreement, ensuring clarity and mutual understanding.

## Drafting and finalising agreements

Once agreements are reached through the mediation process, the next step involves drafting and finalising the agreements. During this stage, the parties' cooperative efforts, under the mediator's direction, come to fruition in the form of a formalised document outlining the terms and conditions negotiated upon. In order to ensure that the agreements are thorough, understandable, and accurately represent the goals of the parties, the mediator has the role of capturing the main points of the conversations. Careful attention to detail is required throughout the writing process, which covers every topic covered in the joint sessions.



The participants are given the document by the mediator to peruse, ask questions about, and suggest any changes that should be made. This procedure is repeated until the conditions are accepted by all parties. After all parties have agreed upon the final text, the mediation procedure

comes to an end when signatures are placed on the agreements. The final product serves as a concrete depiction of the parties' cooperative efforts and offers a well-defined structure for advancing and executing the agreements made during family mediation.

## Chapter 5: Legal aspects and documentation

### Understanding the legal implications of mediated agreements

While the mediator facilitates discussions and helps parties reach mutual agreements, it's important to recognise that the mediator is not a legal advisor. Therefore, seeking independent legal advice is often recommended to fully comprehend the legal implications of the agreements reached during mediation.

Mediated agreements, once finalised and signed by the participants, may have legal consequences. They can be considered legally binding contracts, and compliance with the agreed-upon terms is generally expected. However, the legal enforceability of mediated agreements may vary based on jurisdiction and the specific nature of the issues addressed. However, making an agreement an order of court is not mandatory, and it depends on the consent of both parties. The parties can also choose to keep their agreement confidential and non-binding, or to use it as a basis for further negotiations or litigation. The mediator will assist the parties to draft a settlement agreement that reflects their mutual interests and needs, and that is consistent with the law and public policy.



Legal experts can help participants understand the significance of the agreements in the context of family law, ensuring that they are aware of their rights and duties. They can also analyse the legal enforceability of the agreements and advise on any necessary legal processes for execution or amendment.

By seeking legal advice, participants can make informed decisions, understanding how the mediated agreements align with legal frameworks and whether they require further legal steps for formalisation or enforcement. This step enhances the participants' confidence in the legal validity of the agreements and contributes to a smoother transition from mediation to the implementation of the agreed-upon resolutions.

### Role of attorneys in the mediation process

Attorneys play a multifaceted and vital role in the family mediation process, acting as legal advisors and advocates to ensure that their clients' interests are effectively represented. Throughout the mediation journey, attorneys provide essential legal guidance, explaining the implications of various decisions and offering insights into the relevant family law principles. They actively participate in the review of mediated agreements, meticulously assessing their legality, fairness, and alignment with their clients' goals. Attorneys act as a source of empowerment, educating clients on their rights and obligations while fostering an understanding of the potential legal outcomes in court.

In addition to their legal expertise, attorneys serve as advocates for their clients during the mediation sessions, ensuring that their concerns and preferences are communicated effectively. While the mediator maintains a neutral stance, attorneys provide a necessary voice for their clients, ensuring that the negotiated resolutions are fair and protective. Beyond legal matters, attorneys offer valuable support, helping clients manage the emotional and practical aspects of family conflicts.



Furthermore, attorneys play a crucial role in the post-mediation phase by assisting in the formalisation of agreements. They guide clients through the legal processes necessary for implementing mediated resolutions, whether through court approval, documentation filing, or additional legal steps. This collaborative approach, combining the legal acumen of attorneys with the facilitative role of the mediator, creates a comprehensive framework for resolving family disputes that is both legally sound and reflective of the participants' unique needs and circumstances.

Some of the key roles that attorneys can play:

**Legal guidance:** attorneys provide legal advice to their clients throughout the mediation process. They help participants understand their rights, obligations, and the legal implications of potential agreements, ensuring informed decision-making.

**Reviewing agreements:** attorneys carefully review the mediated agreements drafted by the mediator. This ensures that the agreements align with legal requirements and protect their clients' interests. Any necessary revisions or clarifications are addressed during this phase.

**Educating clients:** attorneys educate their clients on the legal landscape relevant to their specific issues. This includes explaining family law principles, potential outcomes in court, and the consequences of various decisions.

**Assessing fairness:** attorneys help clients evaluate the fairness of proposed agreements. They ensure that their clients are not agreeing to terms that may be disadvantageous and that the final agreements align with their clients' goals and priorities.

**Legal formalisation:** while the mediator facilitates discussions and drafts agreements, attorneys guide clients through the legal formalisation process. They may assist in filing necessary legal documents, obtaining court approval, or taking additional steps required for implementation.

**Advocacy:** attorneys advocate for their clients' interests during the mediation process. While the mediator remains neutral, attorneys provide a voice for their clients, ensuring that their concerns are addressed and preferences are considered in the negotiation.

**Supporting emotional and practical needs:** beyond legal aspects, attorneys offer support for the emotional and practical aspects of the mediation process. They help clients navigate the complexities of family dynamics and provide guidance on managing expectations.

**Court representation:** in some cases, mediated agreements may require court approval or further legal proceedings. Attorneys represent their clients in court, presenting agreements and advocating for their approval.

## Role of the office of the Family Advocate

Very often the office of the Family Advocate gets involved in care and contact matters, especially during a divorce process where the parties are negotiating a settlement. The primary task of the Family Advocate is to see that (during divorce proceedings) the needs of the children are catered

for and they will need to endorse the reached settlement agreement before a court will grant a Decree of Divorce. In South Africa, the role of the Family Advocate in care and contact proceedings is to help the parties in reaching an agreement on contentious issues like as care, access, and guardianship. The Family Advocate is an unbiased family law professional who advises the court in matters of care and parental rights dispute. In addition, the office writes parenting plans, conducts child psychological examinations in collaboration with social workers, and mediates between families when a child's welfare is at issue.



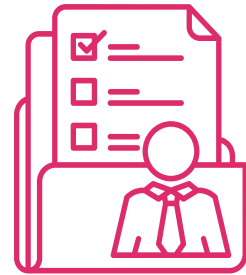
If the parties are unable to reach an agreement, the Family Advocate evaluates the parties' circumstances in light of the best interests of the child and makes a recommendation to the court with regard to care, access or guardianship. The recommendation of the Family Advocate is intended to assist the court in adjudicating a matter and arriving at a particular order. The recommendation itself is not enforceable unless incorporated in a court order. The Family Advocate is a neutral institution and cannot act as the legal representative for either litigant, in a matter.

The services of the Family Advocate are rendered to the public free of charge.

## Chapter 6: Choosing the right mediator

The following criteria can guide the selection of an effective mediator:

■ **Training and certification:** A qualified mediator should have completed comprehensive training in mediation techniques, conflict resolution, and related fields. Look for certifications from reputable mediation organisations, indicating that the mediator has met specific professional standards. A seasoned mediator brings a wealth of expertise, having successfully navigated diverse conflicts and facilitated constructive resolutions.



■ **Educational background:** While not the sole determinant, a mediator's educational background can provide insights into their knowledge base. Look for mediators with degrees or advanced training in fields such as law, psychology, social work, or conflict resolution.

■ **Specialised expertise:** Depending on the nature of the dispute, seek a mediator with specialised knowledge in the relevant area. For example, family mediators should have expertise in family law and dynamics, while workplace mediators should be familiar with employment laws and organisational dynamics.

■ **Professional membership:** Membership in professional mediation associations or organisations is an indicator of a mediator's commitment to ethical standards and ongoing professional development. Check for affiliations with recognised mediation bodies.

■ **Neutrality and impartiality:** A qualified mediator must demonstrate neutrality and impartiality throughout the process. The mediator should not have any conflicts of interest or biases that could compromise their ability to facilitate fair and unbiased discussions.

■ **Communication skills:** Effective communication is central to successful mediation. A skilled mediator should be an active listener, capable of fostering open dialogue, clarifying issues, and facilitating effective communication between parties.



■ **Empathy and cultural sensitivity:** Mediators must be empathetic and culturally sensitive, recognising and respecting diverse perspectives and cultural nuances. This is particularly important when dealing with cases involving different cultural backgrounds or identities.

■ **Problem-solving skills:** A proficient mediator should possess strong problem-solving skills, guiding parties through the identification of issues, brainstorming of solutions, and negotiation of mutually agreeable outcomes.

■ **Ethical standards:** Assess the mediator's adherence to ethical standards and professional conduct. Look for mediators who uphold principles of confidentiality, informed consent, and the highest ethical practices.

■ **Feedback and references:** Seek feedback from previous clients or references. Testimonials and references provide valuable insights into a mediator's effectiveness, professionalism, and the outcomes achieved in past cases.

■ **Cost and accessibility:** Consider the mediator's fees and accessibility. Ensure that the cost aligns with your budget, and the mediator is available for sessions at convenient times for all parties involved.



## Chapter 7: Child inclusive mediation

### Overview of child inclusive mediation



Child inclusive mediation is a form of alternative dispute resolution that allows children to have a voice in the process of their parents' separation. The child's views are shared through a professional that attends the mediation, such as a mediator, a counsellor, or a lawyer. The mediator helps the parents to communicate effectively and respectfully, and to explore their options and interests in relation to their children's best interests.

Child inclusive mediation is based on the principle that children have the right to participate in any matter concerning them, as stated in Section 10 of the Children's Act. This means that children should be involved in decisions about their living arrangements, contact with each parent, education, health care, and other aspects of their lives. Child inclusive mediation aims to empower children to express their opinions and preferences, and to respect their wishes and feelings.

Child inclusive mediation can benefit both children and parents by providing them with an opportunity to resolve their conflict in a constructive and cooperative way. It can also help them to maintain or improve their relationship with each other, and to reduce the negative impact of separation on their well-being.

Child inclusive mediation is encouraged by the law and by some courts. However, it is not suitable for every case or every child. Some factors that may affect the suitability of child inclusive mediation include:

- The age, maturity, and stage of development of the child
- The willingness and ability of the child to participate
- The nature and complexity of the dispute
- The availability and quality of support services for the child

### The role of children in child inclusive mediation

Child-inclusive mediation recognises the invaluable role that children play in the decisions that directly affect their lives. In this approach, the well-being and perspectives of the children involved in a care dispute are given a central place in the mediation process. While children are not active participants in the mediation sessions, their voices are represented through the mediator's engagement with them in a separate, child-focused setting.

The mediator interacts with the children to hear their feelings, desires, and concerns about the care arrangements. The mediator has been educated to speak with children in an age-appropriate and sympathetic manner. This knowledge is then used to the mediation conversations, helping the parents to get a better understanding of their children's needs and desires. The mediation process becomes more comprehensive and responsive to the family dynamics by including the children's opinions.



The role of children in child-inclusive mediation goes beyond mere consultation; it is a means of empowering children to have a say in decisions that impact their lives. The mediator acts as a bridge, ensuring that the children's voices are heard while still maintaining a protective and supportive environment. Ultimately, child-inclusive mediation strives to create parenting plans that not only meet the legal requirements but also reflect a genuine understanding of the family dynamics and the unique needs of the children involved. This approach fosters a sense of inclusion and validation for the children, contributing to more sustainable and child-centric care agreements.

### What questions will the mediator ask the children?

The mediator will approach the child's age, maturity, and communication abilities with sensitivity, tailoring their questions accordingly. It is probable that the mediator will engage in a conversation with your child, aiming to comprehend their daily routine, hobbies, interests, and the nature of their relationship with each parent.

The mediator will assist the child in articulating what holds significance to them and collaboratively decide whether there are any messages they wish the mediator to convey to their parents.

It is essential to recognise that the mediator's role does not involve pressuring or convincing the child to adopt a specific stance. Instead, the mediator is present to facilitate an environment where the child feels at ease expressing their perspectives, ensuring that their needs factor into the decision-making process.



### Respecting parental authority and consent

It is essential to strike a balance between the child's right to be heard and the parents' right to make choices on their behalf when a mediator engages with children in child-inclusive mediation. In interacting with the kid and including them in the mediation process, the mediator must respect parental authority and get consent.

The mediator can demonstrate respect for parental authority and consent through various measures:

- Obtaining explicit consent
- Discussing and establishing boundaries
- Prioritising the child's best interests
- Providing constructive feedback
- Safeguarding confidentiality

## Chapter 8: Some practical issues that we frequently deal with

### Preparing your child for child inclusive mediation

If you're preparing your child for a child-inclusive mediation session, consider the following guidance:

- Clarify the purpose of mediation to your child in simple, age-appropriate language, emphasising it as a constructive process. Avoid framing it as a conflict or punishment. Utilise books, videos, or games to aid their understanding.
- Actively involve your child in decision-making. Seek their thoughts on the situation, their desires from both parents, and their feelings about it. Listen without judgment, respecting their opinions and preferences, even if different from your own.
- Reassure your child of unconditional love and constant support. Communicate that despite challenges, you and the other parent are collaboratively working to improve the situation. Emphasise that mediation aims for solutions, not blame or harm.
- Prepare for mediation by reviewing relevant records and identifying your child's challenges, needs, and future goals. Consider available support services or resources post-separation.
- Select an experienced mediator with a positive rapport with both parents, ensuring neutrality, impartiality, confidentiality, and respect. Seek feedback from parents who have previously used mediation services.
- Maintain an open mind and flexibility during the session. Listen actively and empathetically without interrupting or blaming. Focus on common ground and shared interests rather than conflicts.
- Be honest and realistic about achievable outcomes, avoiding commitments that may harm your child. Only agree to actions aligned with your values and beliefs if it serves your child's best interests.
- Support each other post-mediation, ensuring follow-up on agreed actions with both parents' consent. Regularly communicate about your child's well-being and seek professional help if necessary.

### What to do if your child refuses contact with the other parent

When child refuses contact with the other parent, it's a delicate situation that requires careful consideration and proactive steps.

**Here are some guidelines on what to do:**

Open communication: foster an open and non-judgmental line of communication with your child. Encourage them to express their feelings and concerns about spending time with the other parent.

Understand the root cause: try to understand the underlying reasons for the refusal. It could be related to a specific issue, a change in the child's routine, or emotional distress.

Seek professional guidance: consider involving a child psychologist, counsellor, or therapist to help identify and address any emotional or psychological factors contributing to the refusal.

Evaluate the parenting plan: review the existing parenting plan to ensure it is still suitable for the child's needs. Consider modifications that may better accommodate the child's preferences and comfort.

Mediation: explore the option of mediation to facilitate a constructive dialogue between parents. A neutral mediator can assist in finding common ground and addressing the child's concerns in a cooperative manner. In situations where a child is refusing to see a parent, child inclusive mediation can be a valuable tool. This process allows the child to express their feelings, fears, or concerns in a safe environment, under the guidance of a trained professional. It acknowledges the child as a participant in the family system and values their perspectives.

Gradual reintroduction: if feasible, work with the other parent to implement a gradual reintroduction plan. This may involve short and supervised visits initially, gradually progressing to longer and unsupervised visits as trust is rebuilt.

Consistency between households: strive for consistency in rules and routines between both households. A unified approach can provide stability and make transitions smoother for the child.

Legal consultation: if efforts to resolve the issue amicably are unsuccessful, consult with a family law attorney to understand your legal options and obligations.

Child specialist involvement: consider involving a child specialist in the mediation process who can provide insights into the child's perspective and contribute to a more child-centric resolution.

Court intervention as a last resort: while court intervention is generally a last resort, if all attempts at resolution fail and the child's well-being is at stake, it may be necessary to seek legal remedies. However, court involvement is often less conducive to fostering a positive parent-child relationship.

In child inclusive mediation, a specially trained family mediator talks with the child separately from the parents. This is a confidential meeting, but with the agreement of the child the mediator can share messages with the parents in a mediation session. This way, the child's voice is integrated into the discussion without placing them in the middle of the conflict.

## What makes a child not want to spend time with a parent?

There are a number of varied reasons why children may be reluctant to spend time with their parents, all of which require careful consideration. A major initiator is an ongoing disagreement or strain between parents, which creates an atmosphere that makes a kid uneasy and makes them choose not to interact with one parent over the other. Furthermore, when one parent purposefully breaks the child's bond with the other, it can foster alienation and increase the child's resistance. This is known as intentional parental alienation.

Significant changes in the child's routine or living circumstances, such as relocating to a new home or school, can amplify stress levels, prompting a hesitancy to spend time away from the

primary caregiver. Communication breakdowns between parents introduce a layer of complexity, as misunderstandings may shape the child's perception of the other parent negatively. Unresolved issues or prior traumatic experiences involving the child and the parent can instil fear, anxiety, or negative associations, fostering a sense of avoidance.



The way parents behave is crucial; inconsistent parenting, a lack of emotional support, or unsuitable discipline can all have an impact on a child's decision to spend more time with one parent than the other. A child's reluctance is also influenced by developmental variables, such as age-appropriate preferences, a lack of emotional attachment, and shared quality time. It is essential to approach the problem with empathy and enlist the help of specialists, such as mediators or therapists, in order to resolve these complex difficulties. This collaborative effort aims to identify and unravel the underlying causes, paving the way for the cultivation of a healthier, more secure parent-child relationship.

### At what age can a child refuse to see a parent?

The legal age at which a child can refuse to see a parent varies depending on a number of factors. There is no specific age at which a child's preference becomes legally binding. Instead, the court typically considers the child's maturity, understanding, and capacity to make such decisions.

In family law, the term "best interests of the child" is commonly used as a guiding principle. Courts aim to prioritise the child's well-being, taking into account factors such as the child's age, physical and emotional needs, the stability of each parent's home, and the relationship between the child and each parent.

While some older children, often teenagers, may be given more weight in expressing their preferences, it's essential to note that even younger children's wishes may be considered in the broader context of their well-being.

### Can you refuse access / visitation to another parent without a good reason?

The simple answer is, no, not without a very valid reason. Section 35 of the Childrens Act 38/2005 deals with refusal of access or refusal to exercise parental responsibilities and rights and states that:

“(1) Any person having care or custody of a child who, contrary to an order of any court or to a parental responsibilities and rights agreement that has taken effect as contemplated in section 22 (4), refuses another person who has access to that child or who holds parental responsibilities and rights in respect of that child in terms of that order or agreement to exercise such access or such responsibilities and rights or who prevents that person from exercising such access or such responsibilities and rights is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

(2) (a) A person having care or custody of a child whereby another person has access to that child or holds parental responsibilities and rights in respect of that child in terms of an order of any court or a parental responsibilities and rights agreement as contemplated in subsection (1) must upon any change in his or her residential address forthwith in writing notify such other person of such change.

(b) A person who fails to comply with paragraph (a) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.”

## Conclusion



In conclusion, the mediation of care and contact disputes stands as a transformative pathway towards fostering the well-being of children caught in the midst of familial complexities. By embracing mediation, parents embark on a collaborative journey that prioritises open communication, understanding, and the creation of parenting plans tailored to the unique needs of their children.

The emphasis on the child's best interests serves as a guiding principle, ensuring that decisions are made with a focus on long-term stability and emotional security. Mediation offers not only a constructive alternative to adversarial litigation but also a chance for parents to rise above conflict, demonstrating a shared commitment to the positive growth and development of their children.

It is a call to action, encouraging parents to choose mediation as a proactive and empathetic approach, ultimately forging a path toward a more harmonious co-parenting future for the sake of their children's enduring well-being.

## Summary of this eBook

This document discusses the importance of mediation in fostering effective communication and collaboration between parents in contact and care disputes. It emphasises the significance of improved communication in co-parenting relationships and creating a positive environment for the child. The legal and social context of care and contact disputes in South Africa is influenced by various factors, including the Constitution, the Children's Act, the Divorce Act, the Domestic Violence Act, the Maintenance Act, customary laws, and religious and cultural diversity.

The document explores common issues addressed in family mediation and clarifies care and contact disputes. It explains the principles of care and contact mediation, highlighting the distinction from traditional legal processes. The benefits of choosing mediation for family or care and contact disputes are discussed, emphasising the potential for better co-parenting relationships and a more positive environment for the child.

The mediation process is explained in detail, including an overview of the typical timeline, pre-mediation preparation, individual and joint sessions, negotiation techniques, and the drafting and finalising of agreements. The legal aspects and documentation of mediated agreements are also addressed, along with the role of attorneys and the Office of the Family Advocate in the mediation process.

Choosing the right mediator is explored as an important consideration in ensuring successful mediation. The document also discusses child inclusive mediation, providing an overview of the process and the role of children in the mediation.

The legal and social context of care and contact disputes are further elaborated, with considerations for visitation and parenting time, relocation and travel, consistency and stability, financial responsibilities, dispute resolution mechanisms, child's education and extracurricular activities, care arrangements, and communication between parents.

The document emphasises that mediation allows parents to have more control over decisions affecting their children, compared to relying solely on the courts. It also addresses the importance of maintaining confidentiality and flexibility in mediation, protecting the privacy and rights of parents and the child. Various challenges that may arise in care and contact disputes are discussed, such as denial or interference of contact, non-payment of maintenance, child abduction or relocation, and breach or variation of court order or agreement.

Overall, the document highlights the benefits and processes of mediation in improving communication and collaboration between parents, ultimately benefiting the well-being and adjustment of the children involved in care and contact disputes.

This summary was created using [www.anysummary.app](http://www.anysummary.app)

Date: 01-01-2024



**Disclaimer:**

This eBook is intended for educational purposes only and is not to be construed as legal advice. The information contained within is provided on an "as is" basis and while we strive to keep the information accurate and up-to-date, we make no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability, or availability of the content in this eBook for any purpose. Any reliance you place on such information is therefore strictly at your own risk. In case of uncertainty, it is highly recommended that you consult with a qualified legal practitioner or mediator for expert advice and guidance. The application and impact of laws can vary widely based on the specific facts involved. Given the changing nature of laws, rules, and regulations, there may be omissions or inaccuracies in the information contained in this eBook.

Accordingly, the information in this eBook is provided with the understanding that the author is not herein engaged in rendering legal, financial, accounting, tax, or other professional advice and services. As such, it should not be used as a substitute for consultation with professional accounting, tax, legal, or other competent advisers.