

Frequently Asked Questions (FAQs) about mediation

These FAQs provide a clear and concise overview of the mediation process, ensuring that parties understand it well before participating.

1. **What is mediation?**

Mediation is an informal, private, and confidential process where parties discuss their dispute with the help of a mediator. The goal is to find a mutually agreeable solution to the dispute.

2. **What are the benefits of choosing mediation?**

Mediation is quicker than formal investigation and adjudication processes. It saves time and effort and helps maintain privacy and confidentiality.

3. **Who appoints the mediator?**

The mediator is appointed by the Office of the Arbiter for Financial Services.

4. **Is participation in mediation mandatory?**

No, participation in mediation is voluntary. Both parties must agree to participate and can withdraw from the process at any time.

5. **Will my rights be affected if I decide not to participate in mediation?**

No, choosing not to participate in mediation will not adversely impact your legal rights or options. Mediation is a voluntary process designed to help parties resolve disputes amicably with the assistance of a neutral third party, the mediator. If you decide not to engage in mediation, or if mediation does not lead to a resolution, your right to pursue or continue the process before the Arbiter remains intact.

6. **Are the mediator and the Arbiter the same person?**

No, the mediator and the Arbiter are distinct individuals with separate roles in the dispute resolution process. The

mediator facilitates discussions between the parties to help them reach a mutually agreeable solution. On the other hand, the Arbiter is involved in the formal adjudication process if mediation does not resolve the dispute. Additionally, the mediator operates independently and does not report the details of the mediation sessions to the Arbiter.

7. **What languages are used during mediation?**

Mediation sessions are conducted in English or Maltese. If you are not fluent in either of these languages, you are welcome to bring a trusted person to assist you with translation. Please note that any costs associated with this assistance will be your responsibility.

8. **Do I need to be assisted by a lawyer during mediation?**

It is entirely your choice whether to be assisted by a lawyer or a friend you trust during the mediation process. While legal representation is not required, you may find it helpful to have professional guidance or support from someone you trust.

9. **How is mediation conducted?**

Mediation typically involves a single session where the parties meet to discuss the dispute. Mediation sessions are conducted online using video conferencing tools like Zoom or Microsoft Teams. No minutes are held of the discussions occurring during such sessions. However, any agreement reached between the parties is formalised accordingly.

10. **What if I prefer to attend the mediation session in person?**

If you or the other party prefer to attend the mediation session in person, this can be arranged. Please inform the mediator in advance so that the necessary logistical arrangements can be made. Our mediation sessions are conducted at our offices in Msida. For directions and more

details about our location, please visit the [contact page](#) on our website.

11. Do I need to agree to any offer made during mediation?

No, you are not obliged to accept any offer made during mediation immediately. If the provider makes an offer, you have the option to accept it, reject it, or request additional time to consider it. It's important to take the time you need to make a decision that you feel is in your best interest.

12. Can I produce new evidence, documents, or witnesses during mediation?

No, you cannot introduce new evidence, documents, or witnesses in the traditional sense during mediation. Mediation is primarily a facilitated negotiation process, not a formal court proceeding. It focuses on discussion and negotiation rather than the presentation of evidence. The mediator's role is to help both parties find a mutually agreeable solution, not to judge the evidence or make legal rulings.

13. How does mediation conclude?

Mediation concludes either by reaching an agreement, which becomes legally binding once formalised, or by termination of the process if no agreement is reached or if a party withdraws.

14. What if no agreement is reached in mediation?

If no agreement is reached, the complaint can be escalated for investigation and adjudication by the Arbiter.

15. What happens if we reach an agreement during mediation?

If both parties agree on a solution during mediation, the agreement will be documented and sent to the Arbiter for Financial Services. Once signed by both parties and accepted by the Arbiter, the agreement becomes legally binding and the complaint fee of €25 is refunded to the complainant.

16. Can the mediator decide the outcome of the dispute?

No, the mediator does not decide the outcome or impose a solution. The mediator's role is to facilitate discussion and help both parties reach an agreement.

17. Is what we say during mediation confidential?

Yes, everything discussed during mediation is confidential and cannot be used in any subsequent proceedings, including those before the Arbiter. Additionally, if the case is later brought before the Arbiter, the parties are free to raise the same arguments, but they cannot refer to any observations or comments made during the mediation by either party. This ensures that the confidentiality of the mediation process is maintained throughout subsequent proceedings, if applicable.

18. What happens if I withdraw a complaint following mediation?

If the complainant withdraws their complaint, they must inform the Arbiter in writing, and the complaint fee of €25 will be reimbursed to the complainant.

19. Is there an appeal process after mediation?

No, there is no appeal process from mediation. If mediation does not resolve the dispute, the complaint will proceed to the Arbiter for hearing and adjudication.

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