

What is mediation, anyway?

BUSINESS IS PERSONAL

by Julie McLaughlin and Dee Duggan
from Solutions Ltd

One of the services Solutions Ltd. offers workplaces, families and communities is dispute mediation. As this is a relatively new service in the Cayman Islands, we've noticed some confusion around what mediation is, how it differs from other services such as counselling, and ultimately what it can do for you. So we'd like to clear the air once and for all by explaining in a bit more detail what we mean when we talk about our "exciting new offering."

First of all, what is mediation? A formal definition of mediation is that it is a voluntary process in which an impartial third party assists two or more parties involved in a dispute to create and agree upon their own terms of settlement. More simply put, mediation is as a way to settle disputes and resolve problems amicably.

Now, what does that mean to you, your family or your workplace? Several benefits of resolving issues through mediation exist. Here are a few at the top of the list:

1. **It's fast.** Through mediation, most issues can be resolved successfully in a few hours. Additionally, when a dispute is mediated shortly after it arises, the chance of optimal resolution is much greater than if the issue is dragged out through a more time consuming process.
2. **It's economical.** Mediation is significantly less expensive than other forms of dispute resolution in terms of dollars spent, relationships destroyed and time and energy lost.
3. **It's confidential.** What happens in mediation, stays in mediation. This means that parties can speak openly and candidly about the strengths and weaknesses of their argument without concern that the information will be used later should they not reach a mediated agreement. This also means that companies don't have to worry that issues discussed in mediation will tarnish the image of the company publicly, and families don't have to worry that their darkest secrets will be talked about at dinner parties or the supermarket. By law, everything communicated between parties during the mediation process is con-

fidential and privileged.

4. **It saves relationships.** Since mediation gives people a way to resolve their disputes together, opposing parties often start to envisage themselves on the same side of the table, attacking the problem, not each other.

In addition to better explaining the benefits of mediation, we'd also like to clear up some confusion we've noticed regarding the role of a mediator as opposed to the role of a counsellor. Though both mediators and counsellors help their clients resolve problems through increased communication and understanding, we'd like to highlight several important distinctions between the two:

- A counsellor aims to assist the client gain a better self-understanding of his or her individual behaviour. A mediator aims to assist parties reach a clear and specific agreement as to how they will deal with identified issues.
- A counsellor is fundamentally concerned with how the client feels about a range of relevant experiences. A mediator, while acknowledging a person's feelings, does not explore them

in any depth.

- A counsellor may explore a variety of aspects of an individual's life in order to gain a more comprehensive understanding of the person's beliefs and behaviours. A mediator focuses on the problem at hand to come up with specific resolutions for the future.
- Counselling tends to be an ongoing process and fosters a continued relationship between the counsellor and the client. Mediation is a structured process that is usually restricted to one or a few sessions.

Lastly, we'd like to clarify when mediation is appropriate. We would argue that mediation is appropriate anytime two or more individuals are in dispute and both parties are in a position to speak for himself or herself. Whether a couple is in the process of going through a divorce, an employee is having difficulty getting along with his co-workers or team, an individual feels that he or she has been wrongfully dismissed or neighbours are arguing over late-night partying; mediation may be effective in resolving the problem at hand while at the same time improving the relationship of those involved.