

Management of a Successful ADR Practice

Michael Emerson

PARTNER

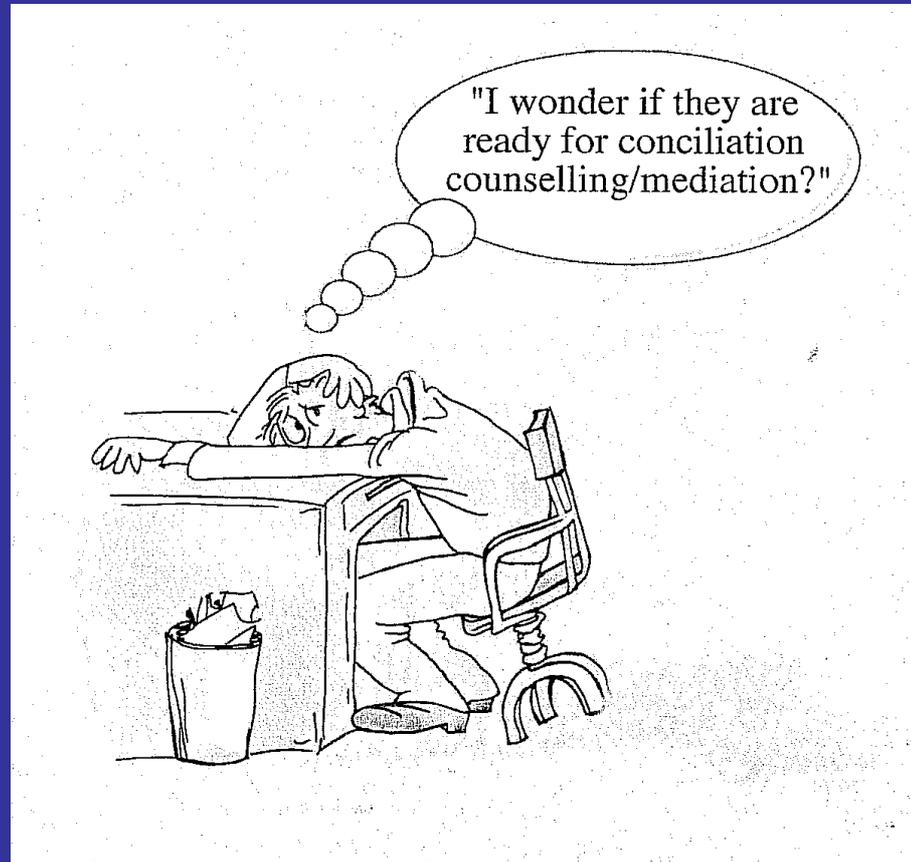
Brisbane Mediations



Denise Britton

PARTNER

Brisbane Mediations



"Discourage litigation. Persuade your neighbours to compromise whenever you can. Point out to them how the nominal winner is often a real loser: in fees, expenses and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good person."

ABRAHAM LINCOLN

PREAMBLE

Well known US mediator and peacemaker Forrest Mosten who had a background as a lawyer, provides the following sobering insight into his journey to a day job in mediation and the difficulties of establishing a mediation practice:

“It took me from 1979, when I started practicing mediation, until 1986 before the income from my mediation work exceeded my expenses on an annual basis. During those seven years, I invested major capital and time (lost opportunity costs). Fifteen years later, in 1984, I was still investing over \$15,000 in out-of-pocket costs and over a thousand hours per year to build my mediation practice.”

(Forrest S. Mosten “Mediation Career Guide – A Strategic Approach to Building A Successful Practice” at P.5)

Forrest was a pioneer of the mediation industry and is widely recognised for what he has achieved. Much has changed since he set out to establish his practice. Mediation now has a far broader acceptance and today Forrest may have found his early challenges less confronting.

Nevertheless the task of establishing a stand alone mediation practice is still formidable and not for the fainthearted.

In recent years we decided to combine in establishing a Mediation Practice quite separate from our individual businesses of Emerson Family Law (Mike) and Britton Psychological Services (Denise).

This paper provides an insight into our journey in establishing a stand alone practice at Brisbane Mediations and some tips for the challenges entailed.

A BLUEPRINT FOR BRISBANE MEDIATIONS

Aims

The aims of this plan include the following:

- 1) To develop an independent, stand alone and fully self supporting mediation practice;
- 2) To further the goal of mediation as a means of resolving conflict in a wide range of dispute settings;
- 3) To further the opportunities of both proprietors and panelists to develop their skills and interest in mediation in order to better facilitate efficient and cost effective dispute resolution;
- 4) To foster client self fulfillment and balance by assisting people to resolve conflict in a less destructive way;
- 5) In parenting disputes, to make a positive difference for children from separated families.
- 6) To succeed in building satisfying and profitable mediation careers for the proprietors and panel members.

PREMISES

One of the first issues you must deal with in establishing a mediation practice is how you will operate. Will you develop your practice as part of or an adjunct to your existing professional practice or will you go it alone and establish a separate stand alone practice? If you choose the latter approach, then we would strongly caution you against abandoning your existing practice as it will be of enormous assistance

during the incubation phase of the new business and will provide the income to assist you through the hard times and actually subsidize the new business until it becomes self-supporting.

A second issue is whether you will operate your new business out of your existing office or establish new premises and if so, whether you will rent or purchase premises.

Again, we would caution against purchasing new premises until you are up and running, unless there are financial advantages in so doing and you have the opportunity to lease the premises to another business if you don't achieve the success you are seeking.

In our case, it was decided that the optimum solution was to purchase stand alone premises to service the mediation business but of course neither of us abandoned our existing professional practices and in fact they became even more important.

<u>Advantages</u>	<u>Disadvantages</u>
<ul style="list-style-type: none"> • Would give the mediation practice a home • Would Provide a clear identity and focal point for the mediation practice • Would differentiate the business from the existing practices of the proprietors (Emerson Family Law and Britton Psychological Services) • Would assist in developing a unique profile for the business • Would offer potential for significant capital gains over time 	<ul style="list-style-type: none"> • Substantially increased the capital outlay in establishing the new business • Difficulty in locating suitable premises at the right cost • Risk involved in purchasing as opposed to renting premises and in establishing a new stand alone business as distinct from an add on to existing professional practice/s • Additional cost of fitting out the new premises as distinct from leasing suitably fitted out existing premises • Additional ongoing costs

<ul style="list-style-type: none">• Would offer income tax advantages, dependent on borrowings undertaken and ability to service loan/s	associated with running and maintaining separate premises
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Outcome

- After considerable searching and not a little good luck we were able to locate and negotiate the purchase of suitable premises at our current location (Level 8, Watkins Medical Centre, 255 Wickham Terrace, Brisbane).
- The purchase was effected in the name of a self-managed super fund and leased to Brisbane Mediations. A formal lease arrangement was entered into between the business and the super fund at a commercial rent.

Advantages

The premises at Level 8, Watkins Medical Centre offered the following advantages:

- 1) The price was competitive and within budget;
- 2) The fit out although involving further outlay was reasonably straightforward and required little structural alteration;
- 3) The premises although clearly distinct, adjoined one of Denise's existing psychology practices, providing opportunity for future expansion (through possible relocation of the psychology practice).
- 4) Proximity to Denise's practice offered other advantages including:
 - a. Ease of mobility for staff between the two businesses when necessary;
 - b. Ability of Denise to access the mediation practice with minimum disruption to her existing practice;
 - c. Availability of Denise to consult with staff at mediation practice at short notice if required;
 - d. Cost savings through close proximity of the two businesses e.g. assistance with banking, deliveries ...

- e. Ability of each practice to provide overflow accommodation for the other at short notice and at nominal or no cost.
- 5) Various advantages offered by the location and building are:
- i. Centrality;
 - ii. Excellent facilities available including two coffee shops and pharmacy downstairs;
 - iii. Proximity to Central Railway Station;
 - iv. Availability of parking;
 - v. Park nearby;
 - vi. Reasonable proximity to Mike's legal practice (5 – 10 minutes by cab).
 - vii. Deliberately removed to some extent from the court precinct to further reinforce distinctions between mediation and litigation.
- 6) As a commercial lease was drawn between the partnership trading as Brisbane Mediations and a self managed Super Fund, weekly income was provided to the Super Fund;
- 7) Super Fund pays Capital Gains Tax at a lower rate;
- 8) Interest on borrowings tax deductible;
- 9) Permanency of tenure with associated security for the business;
- 10) Fit out could be structured in tax effective way.

DEVELOPMENT OF CONCEPT

Branding and Marketing

It was considered vital to secure a suitable business name which would:

- 1) Clearly reflect the identity of the business;
- 2) Unambiguously identify the nature and purpose of the business;
- 3) Provide a geographical context for the business;
- 4) Assist in developing a profile for the business and be sufficiently ambitious to provide for future growth.

Decision

A decision was taken to register a number of business names including *Brisbane Mediations* and *Brisbane Family Mediations*, which have both been adopted although the former has become the name which identifies the business. It is considered that the name meets each of the objectives set out above. It has been readily accepted.

Getting started

Both Denise and I had undertaken mediations through our individual practices and through Legal Aid Queensland over a number of years.

Each had developed individual profiles as mediators and were known in the family law field. Denise had also developed an EAP (Employee Assistance arm to her psychology practice) which provided a network of psychologists across South East Queensland to counsel employees and personnel of many community bodies and private corporations.

Initially, discussion centered on the prospect of providing co-mediations capitalizing on our diverse backgrounds in law and psychology. We still feel that co-mediation is the Rolls Royce of mediation for a host of reasons, but we also offer a single mediator process.

In terms of developing a vision for our business, after witnessing the destruction associated with litigation first hand in our practices over many years, we both liked the idea of:

- Helping people resolve conflict in a more effective and constructive way;
- Making the service readily available and reasonably inexpensive;
- Providing a user friendly service in comfortable surroundings which were as “homely” as possible;
- Providing options such as to have legal representatives present or not;

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- Facilitating better communication between parties;
 - Providing a range of expertise which would give the best opportunity for resolution of issues;
 - Validating clients' pain;
 - Assisting parties in children's matters to achieve better post separation parenting;
 - Supplying the expertise to seek the views of children in matters assessed as suitable;
 - Ultimately assisting clients from all spheres to move on from their dispute and with their lives;
 - Not limiting our services to family law matters, with a view to also conducting mediations in other "relationship" fields such as work place and estate disputes.

The volume of work grew, primarily following three important decisions;

- To acquire unique premises;
- To channel all mediation referrals to each of us (to our existing businesses) through *Brisbane Mediations*;
- To "take the plunge" and engage a fulltime manager.

We enjoyed the challenge of establishing a new business in an area with which we were familiar.

We were both also committed to mediation.

We were also both prepared to go the extra mile in terms of service offered. This involved, for instance, conducting many mediations on Saturdays to meet client needs and a ready willingness on our part to work extended hours if the parties were progressing towards a solution.

Steps in Implementation

1. Arranging dedicated phone lines. (Initially we operated through a dedicated line in Denise's practice which avoided the need for a separate receptionist whilst we got off the ground.)
2. Engagement of graphic designers to develop the concept including a suitable logo, brochures and business cards reflecting the newly registered business names of *Brisbane Mediations* and *Brisbane Family Mediations*.
3. Arranging appropriate fit out of premises to make the rooms as user friendly as possible.
4. Developing further promotional material, protocols, systems and so on – in this we were assisted by a management consultant who also happened to be a friend.
5. Devising a suitable mediation agreement.
6. Designing a website.
7. Arrangement of business entries including White and Yellow Pages.
8. Conducting mail outs to Solicitors and other organizations and individuals.
9. Targeting marketing to specific groups.
10. Availing ourselves of further advertising opportunities subject to budget restraints.

Trade Mark

One issue that arose was the need to protect aspects of our goodwill in terms of business name, logo and intellectual property. Registration of a business name in itself does not provide sufficient protection. Discussion with mentors indicated that registration of our Trade Mark would provide the necessary protection and despite initial apprehension, we were pleased to find that it was a reasonably straightforward and inexpensive process. A firm of solicitors was engaged to register our trade mark and this made the process easier.

ENGAGEMENT OF STAFF AND DEVELOPING THE RIGHT OFFICE ENVIRONMENT

At an early stage we recognised the importance of establishing a mediation friendly and welcoming environment where people felt safe and respected and where privacy and confidentiality were assured.

A number of steps were significant in achieving this, including the following:

- 1) Ensuring the rooms were comfortable and attractively decorated to foster a warm and welcoming atmosphere;
- 2) Providing as much privacy as possible;
- 3) Ensuring the facilities would allow for shuttle mediations;
- 4) Employing a receptionist/office manager who was a warm and engaging person and who would welcome clients and attend to their comfort. Fortunately, in Joanne McDonald, we have found a person who not only relates to clients sensitively and is attentive to their needs, but who also relates exceptionally well to solicitors, mediators and others alike. Nothing is a problem for Joanne and she manages the process and contact with parties from start to finish with finesse and good grace, making mediation as straightforward as possible for parties, their representatives and our mediators. Employment of Joanne was a vital element in getting the business started.
- 5) Ensuring that parties' physical needs were met - including offering services such as tea and coffee, lunch at the expense of the practice and somewhere to work at a lap top computer if desired. Whilst these may seem like minor issues, we can assure you they are not. Denise will tell you that when things start to go off the rails at a mediation, this often coincides with participants, (parties, accompanying practitioners and the mediators) being hungry and having reduced blood sugar levels. By offering hospitality in the form of gourmet sandwiches, morning or afternoon tea, we indicate to participants that we have planned for their

needs as well as our own. In practical terms, we believe this gesture often contributes to successful mediation outcomes.

PUBLIC LIABILITY INSURANCE

In embarking on the Brisbane Mediations venture as a legal practitioner, I considered it prudent to advise Lexon Insurance, the Professional Indemnity Insurer for Emerson Family Law that mediations would henceforth be conducted under the separate umbrella of *Brisbane Mediations*. Shortly thereafter I received correspondence from Lexon Insurance which included the following:

“You may be aware that there was a change in Lexon’s professional indemnity insurance in the 2007/08 year. In the past the insurance covered individual principals and their employees. The policy in the 2007/08 year insures individual legal practices and therefore your policy of insurance covers your firm of Emerson Family Law. From your email it would seem that the practice of Brisbane Mediations is a separate practice and does not form part of your earnings or practice at Emerson Family Law and would therefore not be covered under your current policy of insurance. If your work at Brisbane Mediations does in fact form part of the gross fee income of Emerson Family Law, I would be grateful if you would provide me with further details so that Lexon can further consider the matter.”

Being acutely aware of the cost of Professional Indemnity Insurance, I was more than a little concerned to receive this correspondence.

Fortunately this issue was overcome through discussion with mediator colleagues. It was ascertained that LEADR offered Professional Indemnity Insurance for mediators at very competitive prices. Access to this was gained through membership of LEADR. Initially LEADR only offered Professional Indemnity Insurance to sole practitioners, however, recently a change was made and insurance is now offered to partnerships.

For Denise, her professional indemnity insurance was sufficient provided she informed the insurance company of all work being undertaken as a psychologist – including her work as a mediator with *Brisbane Mediations*.

DEVELOPMENT OF PANEL OF MEDIATORS

From the outset we recognised that if the business was to be a real business (generating passive income), we could not do all the work ourselves or it would simply be an offshoot of our existing practices and we would both be spread too thinly.

A decision was made to invite other mediators to share the workload. Because we have both been part of “the family law scene” in Brisbane for many years, we had a good starting point and issued invitations to qualified mediators with backgrounds in law and social science whom we believed shared our vision to find a better way forward for disputing parties.

We were flattered and surprised that only one of those selected to form the panel refused (nonetheless most graciously) our invitation.

From this starting point we have added mediators with specialized skills, mediators outside Brisbane and several mediators who have contacted us and asked to be part of our venture (after assessing their qualifications and deciding they share our philosophy and have suitable skill levels).

A brief vignette as well as a photograph of each of our panel members can be found on our website. Potential clients can go to the website to select from our panel or, if the referral is simply to *Brisbane Mediations* then Joanne will ascertain availability and assign the mediation to a particular mediator or mediators in the case of a co-mediation according to the mediator/s particular skills and interests.

All our *Brisbane Mediations* mediators are independent contractors engaged by us to undertake assigned mediations and paid at a set hourly rate for both the intake sessions and the mediation itself. We are able to offer a range of mediators with a diversity of experience. At this stage all have a minimum of either or both a law degree and a social science degree, specialist qualifications and experience in

mediation and the appropriate professional indemnity insurance. Many are registered Family Dispute Resolution Practitioners under the Family Law Act.

All lead up organizational tasks for a mediation are undertaken by Joanne, so the mediator simply arrives at the mediation at the appointed time, completes the intake and mediation and Joanne undertakes the follow up work including payment of the mediator for his or her services shortly thereafter.

Operating a panel also helps practice marketing as all the panel members with their varied skills and expertise are seen as part of the business and the services it is able to offer. Further, by marketing themselves and their services in their own practices, the contracting panel members are developing their own profiles and in so doing, adding to the profile of the business.

One of the strengths of our diverse panel membership is that we are easily able to offer the service which was our hallmark at the inception of the business – that of a balanced co-mediation with male-female and social scientist-lawyer combinations which we find to be powerful and effective settlement tools. We offer this service at a rate which is very attractive as both *Brisbane Mediations* and our panel of mediators forgo a portion of the normal fee to encourage parties to select this preferred and most desirable option. The advantages of co-mediation include the following:

- Greater efficiency through shared expertise, blending of styles and having two problem solvers rather than one;
- Impasses less likely;
- Collaboration between mediators provides a model for appropriate problem solving behaviour;
- Sharing the load can reduce the pressure on and increase the effectiveness of mediators;
- Gender balance helps to reduce the perception by parties of power imbalances;

- Having a social scientist and a lawyer team helps protect the needs of children and address underlying emotional agendas of the parties which have the potential to derail settlement.

Setting up the panel and being able to offer a range of mediators with diverse backgrounds and experience has undoubtedly contributed to the success of the venture.

CHANGING CULTURE AND COURT ASSISTED INITIATIVES

Whilst mediation has been accepted as a step in the court process for many years now, more recently there have been initiatives in some jurisdictions to require that it be undertaken before embarking on court proceedings.

In our specialty area of family and intimate personal relationships, Family Dispute Resolution (FDR) is the legal term for services such as mediation that help couples affected by separation and divorce to sort out their disputes.

From 1 July 2008 changes to the Family Law area made FDR a requirement (with some exceptions) before parties can apply to the court for a parenting order. It is mooted that this requirement will be extended soon to property disputes between separating couples.

Even if parties can't reach agreement, FDR may assist in helping improve their communication. If they try FDR but still need to go to court to seek a parenting order, then unless the exceptions apply, they will need a certificate from a registered FDR practitioner (FDRP) stating one of the following:

- They attended and made a genuine effort to resolve the dispute;
- They attended but one or both did not make a genuine effort;
- The other party did not attend, or
- The FDR provider decided the case was not appropriate for FDR.

These changes, together with changes to the legal culture generally and a more ready community, court and individual acceptance of mediation and other forms of

dispute resolution, have undoubtedly contributed significantly to demand for our services and the growth of mediation generally. Clearly this trend will continue and mediation is here to stay as a widely accepted method of dispute resolution and attractive alternative to litigation. This trend alone is likely to encourage more practitioners to develop a mediation practice, if not as a stand alone practice, then as an adjunct to their existing practices.

ENCOURAGING THE INVOLVEMENT OF LAWYERS

One of the hallmarks of the success of our business has been our ready acceptance of lawyers and their involvement in our process.

Whilst we offer mediations without lawyers, we positively encourage parties to bring their lawyers should they so desire. This is in marked contrast to some other recognised public mediation providers and relationship centres where lawyers are not only actively discouraged, but excluded from the process.

We recognize that mediation is not a substitute for independent legal advice.

Lawyers can help their clients understand the law and make informed agreements and write up the final agreement. However, their role extends well beyond that.

Just as mediation has grown in acceptance as a worthwhile method of dispute resolution, so too have lawyers adapted their skills in many instances so as to better represent their clients in mediation and assist them in resolving their disputes at an early stage.

Rather than feeling threatened by mediation, lawyers are increasingly adapting to the new legal culture and finding a role for themselves in the dispute resolution process.

Furthermore, many lawyers entrust their clients to our processes with confidence in our neutrality and independence knowing that we will encourage them to contact and

consult with their lawyers as appropriate at any stage of the process, and knowing that if agreement is reached in principle, then we will forward the terms of the agreement to the lawyers or invite the clients to do so. Lawyers can then formalize the terms in consent orders and ensure that the agreement reached is both understood by the parties and genuinely reflects their wishes before they sign off on the agreed terms.

Involved lawyers realise that satisfied clients are their best marketing tools and lead in many cases to further referrals to the lawyer.

We would not hesitate to say that the involvement of lawyers in our process and their acceptance of our service has been an important aid to the establishment of our business.

FURTHER EXPANSION

Further suggested initiatives, opportunities and ideas to promote and develop the business include:

- Gain national accreditation – Join QLS list of nationally approved mediators. QLS is a recognised mediator accreditation body (RMAB) under the National Mediation Standards 2007. Those standards have been adopted by QLS and replaced the existing requirements for inclusion on the QLS list of approved mediators. For non-lawyers accreditation can be achieved through any other recognised mediator accreditation body;
- Encourage panelists to attend as many further mediation training opportunities as possible to continually upgrade their skills and craft;
- Subscribe to publications such as the ADR Bulletin;
- Encourage panelists to join mediation organizations such as AIFLAM (Australian Institute of Family Law Arbitrators and Mediators) and LEADR;
- Advertise in law journals such as Proctor (Official Journal of Queensland Law Society) which is distributed to almost 7000 solicitors;

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- Journals such as Proctor will also publish articles on topics of interest free of charge providing a further opportunity to reinforce the business and reputation;
 - Subscribe to networking sources such as www.mediatorlocator.com.au to increase referral sources;
 - Put time into developing and updating promotional material (such as brochures which convey information to potential clients and set the tone for the business);
 - Read as widely as possible on mediation;
 - Continually revise and update the business plan and wherever possible incorporate and adopt business models from outside the professions. (Many of the problems encountered have been dealt with time and time before in establishing new businesses and there is no point in wasting time and energy trying to reinvent the wheel. This does not mean that you shouldn't try to find creative solutions to problems);
 - Writing and personally periodically revising a business plan forces us to think strategically about what we are seeking to achieve, how the business can be different and special and why anyone would want to seek out and purchase the services the business is offering, or in other words to identify the unique selling point of the business or USP;
 - Utilize the business plan to secure a line of credit to assist in surviving the hard times;
 - Recognize that the best forms of marketing lies in further training and skills development and translation to positive results at the mediation table;
 - Write articles as a marketing tool - to the extent time allows;
 - Be prepared to volunteer your skills in community programs if the opportunity arises and coach for free in mediation training programs;
 - Consider offering pro bono work to some institutions and organizations in return for possible referrals as well as free introductory workshops in dispute resolution in the workplace to build business contacts;
 - Continually research the field to become abreast of new developments and trends

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- Promote the benefits of mediation wherever possible and above all, believe in mediation and extol its virtues to others;
 - Continually reflect on your processes and business and re-evaluate how you can better meet the needs of people calling on your services;
 - Emulate the learning approaches and examples of successful practitioners;
 - Search out the counsel of business advisers through bodies such as the Australian Institute of Management or the Australian Institute of Company Directors. Consider joining such bodies for prospective mentoring and networking opportunities;
 - Spend time ascertaining how to price services appropriately so as to remain competitive; not price the business out of the market and yet ensure that the business attains viability as soon as possible and continues to maintain viability;
 - Always aspire to do your best work and to continually improve your service;
 - Work on your listening skills and continually try to improve your ability as a communicator.
 - Always be prepared to offer more value than the agreement. In other words, show that you are able to go the extra mile where necessary to assist the parties;
 - Thank parties for using your services and thank referrers for sending business your way;
 - Think as a business person as well as a mediator; and.
 - Develop a good understanding of the surrounding mediation community and be prepared to call on other mediation colleagues for advice where necessary.

These of course are just some of the initiatives you can take to develop your practice. We do not for one moment suggest we have undertaken all or even most of them but they are at least something to aspire to.

OTHER ASPECTS TO CONSIDER:

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- Does your financial situation allow for the prospect of limited or low income while you are developing your practice?
 - Do you have arrangements in place to be able to “top up” the business at times from other sources to get through the difficult times? We have found for instance that there have been occasions where it has been necessary to pay wages through our other practices and this facility has been of invaluable assistance, with the Mediation Practice repaying such amounts as cashflow improves.
 - Are you emotionally prepared for and able to cope with the risk and uncertainty that private practice in mediation inevitably involves?
 - Do you have sufficient initiative, drive, energy and perseverance to get the business started and to achieve and maintain viability?
 - Are you a self starter and able to negotiate the pitfalls of any small business and particularly one in what is still a relatively young industry?

It is essential that you recognize the importance of cash flow and put credit card facilities in place to ensure prepayments. Fortunately at Brisbane Mediations through careful attention to this aspect we have no fees outstanding which is not the case for our Legal and Psychology Practices.

SOME FURTHER TIPS:

- It is important in our view that you not give up your day job unless and until you are confident that the Mediation Practice can survive on its own.
- The best way to start up is to use your Legal (or other Practice) to incubate your Mediation Practice.

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- Ultimately your success and reputation will depend on your integrity, neutrality, independence, training and commitment to improving your service. As Mosten notes “Mediation Training is never over”.
 - In developing a Mediation Practice you should aim first at the market that know you best which in our case was Family Law Practitioners, without whose support we would not have survived.
 - You shouldn’t try to be everything to everyone. If a particular mediation is above your competence or outside your comfort zone then don’t be afraid to bring someone in to assist with specific input or experience. Clients will appreciate this.

WHERE TO FROM HERE:

- It is our aim to continue to work at improving the service we offer with a view to extending the availability of mediation and increasing profitability.
- Steps are now advanced to relocate Denise’s Psychology Practice to North Quay thus freeing up her rooms at Wickham Terrace to provide room for expansion for Brisbane Mediations.
- We will continue to look for opportunities to grow the business.
- We would welcome the establishment of other stand alone practices as this would only increase community awareness of mediation services and increase the market for such services generally.

I would like to acknowledge the contribution of my partner Denise Britton to this paper.

Finally, good luck with establishing your Mediation Practice.

18 September 2009

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MJ Emerson

Brisbane Mediations

BRISBANE MEDIATIONS LETTER OF INTRODUCTION IN FAMILY LAW

DISPUTES:

Our Ref: [INSERT]

Your Ref: [INSERT]

Date:

[INSERT NAME]

[ADDRESS]

BY EMAIL: email@address.com.au

Dear [INSERT NAME],

ALTERNATIVE DISPUTE RESOLUTION

We refer to your recent enquiry regarding our dispute resolution services and enclose the following for your information:

1. Brisbane Mediations Brochure
2. Compulsory Dispute Resolution Brochure
3. Family Dispute Resolution Brochure

About us:

Brisbane Mediations offers insight and assistance in resolving family law matters that only expertise can provide. Our panel comprises experienced dispute resolution practitioners to assist you in resolving your children's and/or property issues.

Many members of our panel are registered Family Dispute Resolution Practitioners (FDRPs) pursuant to the Family Law Act and upon completion of the mediation process are able to provide the necessary s 60I certificate.

For further information in relation to the very extensive experience of our registered practitioners please see our website www.brisbanemediations.com.au

All intakes and mediation sessions take place at the Brisbane Mediations Resolution Centre located at Level 8, 225 Wickham Terrace, Brisbane. Central Station is nearby and parking is also available adjacent to the station. There are numerous coffee shops and restaurants in the area.

The Alternative Dispute Resolution Process:

As you may be aware, due to recent changes under the Family Law Act, alternative dispute resolution is generally required before court proceedings can commence. Our practitioners are engaged to assist the parties in resolving their matter in accordance with the Family Law Act.

Legal Practitioners are of course more than welcome to attend any part of the Dispute Resolution process, including intakes.

The enclosed brochures will assist you in understanding the alternative dispute resolution process.

Pre-Mediation:

Prior to a mediation with us, parties are required to sign a Mediation Agreement. Should you decide to use Brisbane Mediations then we shall forward a copy of the mediation agreement to you for execution.

Intake Sessions:

Before a mediation takes place, the FDRP engaged shall meet and talk with each party separately in order to:

- Introduce themselves to the parties;
- Explain aspects of the process including parenting plans and how the mediation is to proceed.
- Assess whether mediation is an appropriate process for the parties;
- Inform the parties of the confidentiality and other requirements of the process; and
- Identify the issues likely to be discussed in the mediation.

Wherever practicable we conduct intake sessions on a date prior to the actual mediation. This enables the FDRP to allocate adequate time for the intake and avoids the “pressure cooker” effect where the parties (who may be apprehensive about the mediation) undertakes both the pre-mediation/screening process and the actual mediation on the same day. This allows the parties to properly process all the matters discussed at the pre-mediation session and to satisfy themselves in regards to any queries that may arise, prior to embarking on the actual mediation.

There may nonetheless be instances where it is unavoidable that the intake occurs on the same day as the mediation.

Mediation:

Mediation sessions are arranged to suit the parties. They occur at the Brisbane Mediation Resolution Centre. The format of mediation sessions depend on the parties involved. Discussions can take place either in the same room or with each party in a separate room with the mediator moving between the two (this is referred to as a shuttle).

Non-attendance by a party at the mediation:

Provided we have reason to believe a party has received our correspondence, if we either do not hear anything or they indicate they have no intention of mediating the issues at hand, the FDRP engaged can, on certain pre-conditions being met, issue a section 60I certificate which will allow the other party to instigate court proceedings in relation to children issues. To prepare and issue the certificate will incur a flat fee of \$160.

Under such circumstances, if one party indicates that they wish to mediate the issues through another service whilst the other party wants to use Brisbane Mediations, we will notify the latter party and await their advice.

Post Mediation:

Upon completion of a mediation, the FDRPs can issue a section 60I certificate at the request of one or both of the parties.

Co-Mediations:

We encourage parties to consider co-mediators where parties have the benefit of two mediators, usually a lawyer and social scientist and a male and a female. There are numerous benefits which flow from co-mediation and from our experience the additional charge is most cost effective.

Our Costs:

Our fees for conducting the alternative dispute resolution process are \$290 per hour plus GST or \$370 per hour plus GST for co-mediators (for a minimum of four (4) hours including one hour for reading and preparation).

Intake sessions will also be charged at the rate of \$290 per hour plus GST or \$370 per hour plus GST for co-mediation.

Unless otherwise agreed between the parties, each party is to pay one half of the total costs, with payment due 2 business days prior to the mediation. If the time of the session (including preparation and reading) exceeds four (4) hours then the additional time will be payable on the day of the mediation.

We trust these terms are acceptable.

Should you require any further information please do not hesitate to contact our manager, Joanne MacDonald. Please note that Joanne is in the office Tuesday to Friday each week and that messages may be left at other times.

We look forward to your confirmation to proceed.

Yours faithfully,