

Mediation Tips for Institutions

Approach to Mediation

In general, for mediation to be successful, you need to:

- Display a **commitment** to the principles of mediation and make an investment in the mediation process.
- Display a **non-adversarial attitude**, a willingness to “think outside the box” and **identify creative, innovative resolutions** to particular issues.
- Recognize that access decisions should be made in the **spirit as well as the letter of the Acts**.
- Have in place a **decision-making structure** that permits the person mediating on behalf of the institution to bind the institution or, at a minimum, to quickly obtain the authority to bind.

Key Benefits of Mediation

- **Better Results:** the resolution is created by the parties.
- **Speed:** generally faster than formal adjudication.
- **Cost:** time, money and emotion can be saved through early resolution of the dispute.
- **Control:** each of the parties maintains greater control of the dispute and its resolution.
- **Improved Relationships:** can preserve or enhance the relationship between the parties.

Practical Things to do in Mediation

In addition to “coming to the table” with a positive attitude, some of the practical things that will go a long way toward making the process, and hopefully the outcome, successful are:

- Providing a detailed **index of records** to the appellant – often this will result in the appellant narrowing the appeal.
- **Listening** to ensure you understand the appellant’s request, interests and proposals.
- Recognizing the **power imbalance** in the process – you hold all of the information while the appellant has little or none.
- Providing **explanations** of background, processes, context and reasons.
- **Involving staff** with specific knowledge of the records and programs in the mediation discussions.
- Considering mediators’ **advisory opinions** – their role includes researching IPC precedents (orders) and providing an opinion as to the parties likelihood of success.
- **Exercising discretion** in favour of disclosure – the legislators made most exemptions discretionary – the *Acts* do not require an institution to claim these exemptions.

