

Mediating a Solution

There are ways to resolve the breakdown of a relationship without destroying everything. FRANCA CIAMBELLA from **Consilium Law Corporation** answered our questions about the process of mediation.



Tell us about the recent changes to the mediation and divorce processes.

In the past, the approach to resolving marital disputes in the Singapore courts was mainly adversarial. With respect to court-mandated mediation, the focus was on child-related issues such as custody, visitation rights and maintenance.

One recent change introduced by the Singapore courts is mandatory counselling for all couples with children. This aims to ensure that the best interests of the children remain the primary consideration of all parties during the divorce process.

Further, the move towards a judge-led approach to divorce proceedings will ensure that the court can direct the proceedings, and focus the parties on the relevant ancillary issues rather than using the divorce proceedings as a “tool” in the battle between the parties.

Why are these changes beneficial?

The parties will no longer be able to prolong, or distort, the legal proceedings for the sole purpose of acting in contempt against the other party. As emotions run high, the perceptions even of individuals with the best of intentions can become clouded, and they may act against the best interests of themselves and their children.

What is your role as an accredited mediator?

As both an accredited Singapore Mediation Centre and Alternative Dispute Resolution (ADR) Group (UK) mediator, I manage the process, which is an interest-based approach to dealing with marital disputes. Like the collaborative approach, if successful, mediation lead to a Settlement Agreement, which can be used as the basis for the terms of the divorce. The parties then obtain the divorce in the most expedient and efficient manner. This inevitably saves on legal costs and minimises acrimony.



Talk us through the process and the different types of mediation.

There are two types: court-mandated mediation and private mediation. Court-mandated mediation is ordered by the court as part of the divorce proceedings and usually focuses on child-related issues such as maintenance, custody and visitation rights.

Private mediation is an avenue for the parties to resolve all issues, including “soft issues” such as the children’s diet and participation in extra-curricular activities. A session would usually last a single day and is attended by the parties and the mediator. A party may bring another person, with the consent of both parties, if they require emotional support through the mediation process. Parties can also bring lawyers or have time to call their lawyers to obtain advice.

Mediation is particularly useful when the dispute involves another person with whom a party needs to remain on good terms. Highly contested legal proceedings may polarise and ultimately ruin relationships. Mediation can resolve a dispute without destroying a relationship. In comparison with legal action, private mediation is quicker, more private, fairer and less expensive.

What is your approach?

The first thing we ask is whether the parties have attempted reconciliation, or whether reconciliation is or may be possible. Secondly, we always try to refer parties to counsellors, because the mediation process is smoother if adults or children have this support. Thirdly, we ascertain whether they are open to mediation. Generally, one party agrees. Then we contact the other party to see if they are interested in mediation. If they are, we suggest two alternatives: private mediation in our office, or at the Singapore Mediation Centre. Next, we prepare the parties through pre-mediation sessions; and finally, we conduct the mediation. **1**

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