



## Victim-offender Mediation – Information for lawyers

### A potential benefit for your client?

A mediation officer from the Victim-offender Mediation Unit (VMU) is available in all Magistrate Courts, including the Stirling Gardens Magistrates Court (SGMC). Lawyers can contact the mediation officer directly, or via court welfare or security. Lawyers appearing at SGMC should approach the mediation officer before or at the Committal stage.

Once initial contact has been made, the mediation officer will make a preliminary assessment about the suitability of the client and the matters for mediation. Feedback will be provided back to the court on the same day (usually within the hour). If the offender is recommended to mediation, a remand period of four to eight weeks will be sought to enable the mediation process.

If a mediation officer cannot be contacted, lawyers can still request the presiding magistrate to make a mediation referral – just as they would request a pre-sentence report. If this occurs, the lawyer must also ask that any protective bail conditions be changed to allow mediation to proceed. This can usually be done by requesting the words “except for purposes of court-based mediation as directed by the mediation officer” be added to the existing bail conditions.

Whether face-to-face or indirect, mediation will typically involve:

- an apology – verbal or written
- an explanation for the offence
- discussion of background and/or ongoing issues
- the return of property and/or monetary compensation
- payment of the victim’s out-of-pocket expenses.

### Who can participate?

**Victims of crime** may initiate a request for mediation where they know an offender has been convicted by the court but has yet to be sentenced.

**Offenders** who have **entered a plea of guilty** (or in some circumstances, who have been found guilty) and referred by the court for mediation prior to sentencing. **Lawyers** can initiate a mediation referral by requesting the magistrate to make such a referral for their client. **The court** may also suggest/direct a referral for mediation, should the presiding magistrate deem the matter as suitable.

A Community Corrections Officer (CCO) or Youth Justice Officer (YJO) may also initiate a reparative mediation referral **on behalf of an offender**, usually as part of preparing a pre-sentence report for that person.

## **What are the benefits of mediation?**

### **For victims**

Mediation provides an opportunity for victims to hold offenders accountable for their crime, while also providing the offender with an opportunity to offer the victim an apology, as well as assistance and compensation.

It provides victims with an opportunity to inform the offender about the impact the offence has had on them, as well as raising any issues about the offender's motivation or rationale that may concern them. More importantly, it is one of the few opportunities victims have to be directly involved in criminal justice proceedings. The Victim-offender Mediation Unit also informs victims of other options available to them, such as preparing victim impact statements and accessing the Victim Support Service.

### **For offenders**

The immediate benefit to offenders is that the mediation process may be taken into account by the sentencing magistrate, regardless of whether mediation has been successful or not.

Magistrates will often cite a successful mediation outcome not just for reflection in sentencing but also to offer encouragement to the offender to adopt more law-abiding behaviours in future.

In the broadest sense, mediation provides an offender with an opportunity to be seen by the court as accountable for their actions, while also providing assistance and compensation to victims. Offenders can offer an apology and explanation for the offence and (where appropriate) make amends through various forms of compensation.

The wider and longer term benefit of mediation to offenders (and the community) is that they have an opportunity to gain a better (and direct) understanding of the broader impact of their offending behaviours - and as a consequence may decide to pursue a more law-abiding lifestyle.

### **For the community**

Although the victim-offender mediation process is confidential, there is a potential benefit to the wider community. As offenders are "exposed" to their victim through the mediation process, they have an opportunity to appreciate the wider impact of their offending behaviour and will hopefully be encouraged to adopt a more law-abiding lifestyle as a consequence.

## **For more information**

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