MEDIATION ACADEMY · LIVE WEBINAR

The Stages of the Mediation Process

Start to finish — and what each stage has to deliver

Seven stages, two detours, and the one thing that never switches off.

Presenter copy — full script in the notes pane / accompanying document

WHERE WE'RE GOING

What you'll walk away with

1

Seven stages, seven strategies

Zero to six — and the tactics each one has to deliver before you move on.

2

Two detour strategies

De-escalation and the domino. Not stages, rather handy interventions to get back on track.

3

What runs underneath

Risk containment: the strategy that never switches off, and overrides whatever else you were doing.

4

A trigger for each

An observable event that prompts the mediator to start the next strategy.

Strategy/Stage · Tactics/Deliverables · Techniques/Tips · Common mistakes. These line up with the columns on the cheatsheet. Nothing to memorise tonight.

Your strategy: a stage, a detour, or what runs underneath

0	**Preparation**	Study the file; arrive fully present.
1	**Introduction & opening statements**	Set the tone in 45–90 seconds.
2	**Agenda setting**	Turn what they said into a neutral list.
3	**Exploration**	Find what matters.
4	**Option generation**	Build proposals.
5	**Reality-testing & evaluation**	Test it.
6	**Negotiation & consensus building**	Close and record.

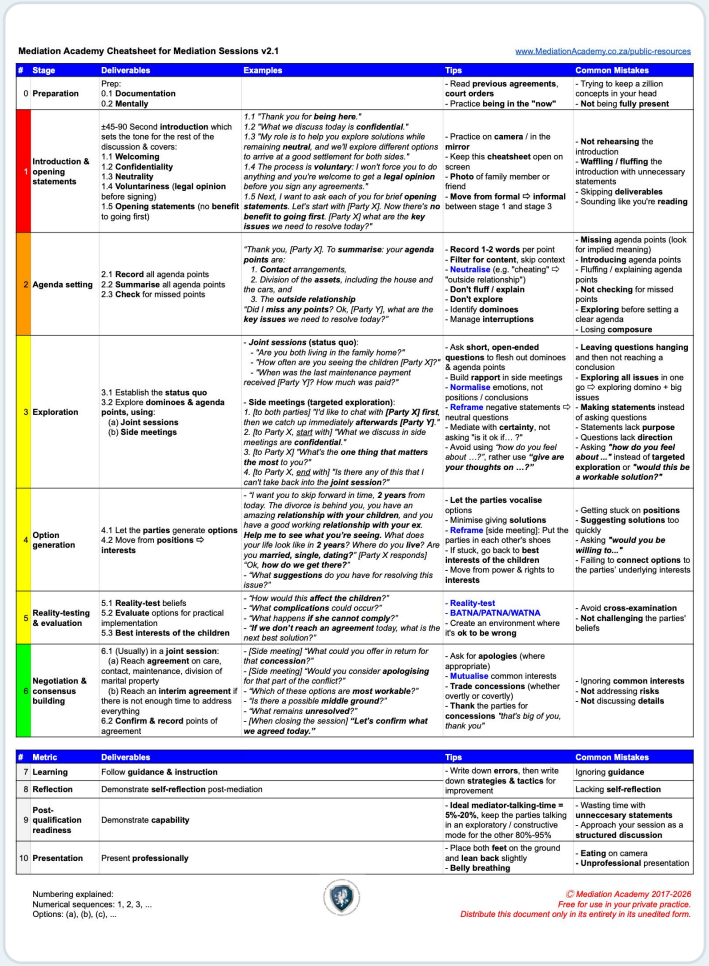
Detour strategy · De-escalation

Stabilise the room.

Detour strategy · Domino

Clear the blockage.

Underneath it all · Risk containment Make it safe before you make it productive.



Mediation Academy Cheatsheet for Mediation Sessions v2.1 www.MediationAcademy.co.za/public-resources

#	Stage	Deliverables	Examples	Tips	Common Mistakes
0	Preparation	Prep: 0.1 **Documentation** 0.2 **Mentally**		- Read **previous agreements**, **court orders** - Practice **being in the "now"**	- Trying to keep a zillion concepts in your head - **Not** being **fully present**
1	Introduction & opening statements	±45-90 Second **introduction** which sets the tone for the rest of the discussion & covers: 1.1 **Welcoming** 1.2 **Confidentiality** 1.3 **Neutrality** 1.4 **Voluntariness** (**legal opinion** before signing) 1.5 **Opening statements** (no **benefit** to going first)	*1.1 "Thank you for **being here**."* *1.2 "What we discuss today is **confidential**."* *1.3 "My role is to help you explore solutions while remaining **neutral**, and we'll explore different options to arrive at a good settlement for both sides."* *1.4 The process is **voluntary**: I won't force you to do anything and you're welcome to get a **legal opinion** before you sign any agreements."* *1.5 Next, I want to ask each of you for brief **opening statements**. Let's start with [Party X]. Now there's **no benefit to going first**. [Party X] what are the **key issues** we need to resolve today?"*	- Practice on **camera** / in the **mirror** - Keep this **cheatsheet** open on screen - **Photo** of family member or friend - **Move from formal ⇨ informal** between stage 1 and stage 3	- **Not rehearsing** the introduction - **Waffling** / **fluffing** the introduction with unnecessary statements - Skipping **deliverables** - Sounding like you're **reading**
2	Agenda setting	2.1 **Record** all agenda points 2.2 **Summarise** all agenda points 2.3 **Check** for missed points	*"Thank you, [Party X]. To **summarise**: your **agenda points** are:* *1. **Contact** arrangements,* *2. Division of the **assets**, including the house and the cars, and* *3. The **outside relationship**.* *"Did I **miss any points**? Ok, [Party Y], what are the **key issues** we need to resolve today?"*	- **Record 1-2 words** per point - **Filter for content**, skip context - **Neutralise** (e.g. "cheating" ⇨ "outside relationship") - **Don't fluff / explain** - **Don't explore** - Identify **dominoes** - Manage **interruptions**	- **Missing** agenda points (look for implied meaning) - **Introducing** agenda points - Fluffing / explaining agenda points - **Not checking** for missed points - **Exploring** before setting a clear agenda - Losing **composure**
3	Exploration	3.1 Establish the **status quo** 3.2 Explore **dominoes & agenda points, using**: (a) **Joint sessions** (b) **Side meetings**	- ***Joint sessions* (status quo)**: *- "Are you both living in the family home?"* *- "How often are you seeing the children [Party X]?"* *- "When was the last maintenance payment received [Party Y]? How much was paid?"* - **Side meetings (targeted exploration)**: *1. [to both parties] "I'd like to chat with **[Party X] first**, then we catch up immediately **afterwards [Party Y]**."* *2. [to Party X, start with] "What we discuss in side meetings are **confidential**."* *3. [to Party X] "What's the **one thing that matters the most** to you?"* *4. [to Party X, end with] "Is there any of this that I can't take back into the **joint session**?"*	- Ask **short, open-ended questions** to flesh out dominoes & agenda points - Build **rapport** in side meetings - **Normalise** emotions, not positions / conclusions - **Reframe** negative statements ⇨ neutral questions - Mediate with **certainty**, not asking "is it ok if... ?" - Avoid using *"how do you feel about ...?"*, rather use ***"give are your thoughts on ...?"***	- **Leaving questions hanging** and then not reaching a conclusion - **Exploring all issues** in one go ⇨ exploring domino + big issues - **Making statements** instead of asking questions - Statements lack **purpose** - Questions lack **direction** - Asking ***"how do you feel about ..."*** instead of **targeted exploration** or ***"would this be a workable solution?"***
4	Option generation	4.1 Let the **parties** generate **options** 4.2 Move from **positions ⇨ interests**	*- "I want you to skip forward in time, **2 years** from today. The divorce is behind you, you have an amazing **relationship with your children**, and you have a good working **relationship with your ex**. **Help me to see what you're seeing.** What does your life look like in **2 years**? Where do you **live**? Are you **married, single, dating**?" [Party X responds] "Ok, **how do we get there?**"* *- "What **suggestions** do you have for resolving this issue?"*	- **Let the parties vocalise** options - Minimise giving **solutions** - **Reframe** [side meeting]: Put the parties in each other's shoes - If stuck, go back to **best interests of the children** - Move from power & rights to **interests**	- Getting stuck on **positions** - **Suggesting solutions** too quickly - Asking ***"would you be willing to..."*** - Failing to **connect options** to the parties' underlying interests
5	Reality-testing & evaluation	5.1 **Reality-test** beliefs 5.2 **Evaluate** options for practical implementation 5.3 **Best interests of the children**	*- "How would this **affect the children**?"* *- "What **complications** could occur?"* *- "What happens **if she cannot comply**?"* *- **"If we don't reach an agreement** today, what is the next best solution?"*	- **Reality-test** - **BATNA/PATNA/WATNA** - Create an environment where it's **ok to be wrong**	- Avoid **cross-examination** - **Not challenging** the parties' beliefs
6	Negotiation & consensus building	6.1 (Usually) in a **joint session**: (a) Reach **agreement** on care, contact, maintenance, division of marital property (b) Reach an **interim agreement** if there is not enough time to address everything 6.2 **Confirm & record** points of agreement	*- [Side meeting] "What could you offer in return for that **concession**?"* *- [Side meeting] "Would you consider **apologising** for that part of the conflict?"* *- "Which of these options are **most workable**?"* *- "Is there a possible **middle ground**?"* *- "What remains **unresolved**?"* *- [When closing the session] **"Let's confirm what we agreed today."***	- Ask for **apologies** (where appropriate) - **Mutualise** common interests - **Trade concessions** (whether overtly or covertly) - **Thank** the parties for **concessions** *"that's big of you, thank you"*	- Ignoring **common interests** - **Not** addressing **risks** - **Not** discussing **details**

#	Metric	Deliverables	Tips	Common Mistakes
7	Learning	Follow **guidance & instruction**	- Write down **errors**, then write down **strategies & tactics** for improvement	Ignoring **guidance**
8	Reflection	Demonstrate **self-reflection** post-mediation		Lacking **self-reflection**
9	Post-qualification readiness	Demonstrate **capability**	- **Ideal mediator-talking-time = 5%-20%**, keep the parties talking in an exploratory / constructive mode for the other 80%-95%	- Wasting time with **unneccesary statements** - Approach your session as a **structured discussion**
10	Presentation	Present **professionally**	- Place both **feet** on the ground and **lean back** slightly - **Belly breathing**	- **Eating** on camera - **Unprofessional** presentation

Numbering explained:
Numerical sequences: 1, 2, 3, ...
Options: (a), (b), (c), ...

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Every Strategy has a Trigger

STRATEGY	DO THIS WHEN…	THE TACTICS YOU'RE DELIVERING
0 Preparation	You prepare to mediate	Study the case file and arrive fully present
1 Introduction	You open the mediation session	Deliver the introduction, ask for opening statements
2 Agenda setting	After the introduction	A neutral list of agenda points
3 Exploration	The agenda has been set	Facts on the table, then positions → interests
4 Option generation	You can separate positions from interests	Proposals from the parties onto the table
5 Reality-testing	At least one option has been generated	Test a proposal against real life implementation
6 Negotiation & consensus	Options pass reality-testing	Record points of agreement, with full details
Detour · De-escalation	The room gets heated	Bring the temperature down
Detour · Domino	The session doesn't progress, or a party keeps returning to an issue	Resolve the one issue blocking progress
Risk containment	Throughout the session	Make the process safe before making it productive

In the practicals: *"what are you trying to achieve right now, and why?" — "I'm in exploration, because he still can't tell me what she's worried about."*

Preparation — study the file, arrive present

Tactics

- Study all relevant documentation, including previous agreements and court orders.
- Prepare yourself mentally to be in a state of relaxed awareness — a.k.a. “being in the now”, or being “fully present”.

Most likely to be overlooked, yet it provides the strongest foundation for the day's work.

Examples

What being “fully present” actually looks like:

- The first hour of waking programs you, consciously or unconsciously. Skip social media, WhatsApp and the news.
- Create a “centre point” of relaxed awareness to which you can return at any time.
- Everything that can be prepared is prepared. All that is left is to be receptive to what the parties are saying.
- There is never any need for a “performance” on the part of the mediator.
- Notice the silence between thoughts, and between words. Practice returning to your centre point in that silence.

Techniques

- Study previous agreements and court orders before the day, not on the day.
- Keep the cheatsheet open on your screen — nobody can see it.

Common mistakes

- Trying to keep a zillion concepts in your head.
- Not being fully present.
- Arriving without having read the file.

Introduction & opening statements

Tactics

Cover five things:

- Welcoming · neutrality · confidentiality · voluntariness · opening statements.
- Deliver it in 45 to 90 seconds. You are always working against the clock.
- Move from a formal feel to an informal feel as quickly as possible — see it as an icebreaker.

You may use the example opposite verbatim without losing or gaining marks in the formal assessment.

Example

1 “Thank you for being here.”

2 “What we discuss today is confidential.”

3 “My role is to help you explore solutions while remaining neutral, and we'll explore different options to arrive at a good settlement for both sides.”

4 “The process is voluntary: I won't force you to do anything and you're welcome to get a legal opinion before you sign any agreements.”

5 “Next, I want to ask each of you for brief opening statements. Let's start with Party X. Now there's no benefit to going first. Party X, what are the key issues we need to resolve today?”

Techniques

- Practise on camera or in front of the mirror. It is a conversation, not a performance.
- Read it off your screen. Stick a photo next to the webcam and talk to that.

Common mistakes

- Not rehearsing. Waffling, or fluffing it with unnecessary statements.
- Forgetting confidentiality, neutrality or voluntariness.
- Sounding like you are reading from a script.

Agenda setting — the neutral list

Tactics

- Record all agenda points — listen for both the expressed and the implied.
- Summarise all agenda points while neutralising the language.
- Check for missed points, then confirm the agenda with both parties.
- **The issues raised by the parties are not the agenda points. The agenda is the neutral list of issues to be addressed.**
- **And at this stage: do not explore.**

Examples

"I don't want him to see the children" → contact arrangements

"I want the house and the Mitsubishi" → the division of the assets, including the house and the cars

"He cheated on me with his assistant" → the outside relationship

"Thank you, Party X. To summarise: your agenda points are: one, contact arrangements. Two, division of the assets, including the house and the cars. And three, the outside relationship. Did I miss any points?"

Techniques

- Keep Notepad open and write down single words as they speak.
- Don't fluff the points — you are merely reading a list. They give the context later.
- Interruptions: let them run out of steam · 2–3 uncomfortable seconds of silence · "Party Y, we'll explore this after we set the agenda."

Common mistakes

- Missing agenda points — look for implied meaning.
- Introducing points the parties did not raise; not checking for missed points.
- Exploring during agenda setting. Losing your composure during interruptions.

Exploration — find what matters

Tactics

- Establish the status quo — in the joint session, only what is common cause between the parties.
- Find targeted information to resolve the dominoes and the agenda points.
- Move the parties from positions to interests.
- **The test for a side meeting: can you name its purpose? If not, stay in the joint session.**

Choose one or two big issues and focus exclusively on those. All the facts on all the issues will cost you the time you don't have.

Examples

Joint · status quo

"Are you both living in the family home?" · "How often are you seeing the children?" · "When was the last maintenance payment for the children received?"

Announce the split

"Now that we have an agenda, let's flesh out the issues in side meetings. I'd like to chat with Party X first, then we catch up immediately afterwards, Party Y."

Side meeting

"What we discuss in side meetings is confidential." · "What's the one issue that matters the most to you?" · "If I take this back into the joint session, how would you like it to be framed?" · "Is there any of this that I cannot take back into the joint session?"

Techniques

- ALWAYS open a side meeting with confidentiality, and ALWAYS close it by checking what you cannot take back. Those are free marks.
- Ask short, open-ended questions. Build rapport with active listening — it buys you the reality-testing later.

Common mistakes

- Exploring all the issues instead of the domino plus one or two big ones.
- Going into a side meeting whose purpose you cannot name.
- Leaving questions hanging and not reaching a conclusion.

Good questions vs bad questions

Bad questions

- Yes/no questions, which prompt disagreement
- Stuck in the problem
- Party-centered
- Positions only
- The mediator comes up with the solutions

Good questions

- Open-ended
- Future focussed
- Child-centered
- Interests over positions
- You allow the parties to come up with the solutions

Two examples

Drug testing & supervised contact	✗ "Would you be ok with him doing drug tests to prove he's sober?"	✓ **"How do we keep the children safe?"**
Rehabilitative maintenance	✗ "Would you be willing to pay her R15,000 p/m in maintenance?"	✓ **"How can we get her to become financially independent?"**

Write this one down: "Why do you want that?" invites a defence. "What would that mean for you if it happened?" invites a disclosure.

Option generation — build proposals

Tactics

- Let the parties generate the options.
- Uncover interests: a position is what a party says they want; an interest is why it matters.
- Get workable options onto the table, with both parties contributing.

Position: “I want the children every weekend.”

Interest: “I want meaningful time with the children and to remain involved in their lives.”

Once the interest is clearer, more options become possible.

Examples

Future mapping

"I want you to skip forward in time, two years from today. The divorce is over, you have an amazing relationship with your children, and you have a good working relationship with your ex. Maintenance is paid on time every month. Your children are flourishing. Help me to see what you're seeing. What does your life look like in two years?" …then: *“Ok — how do we get there?”*

The simpler version

“What suggestions do you have for resolving this issue?”

The no-evaluation rule — say it out loud

“We're brainstorming options, not choosing, so we don’t have to agree to anything on this list yet.”

Techniques

- Guiding questions first — the parties must come up with the solutions.
- Write the options down in the parties' own words, without improving them.
- Polite, co-operative and immovable? Bank one small, early agreement first.

Common mistakes

- Getting stuck on positions.
- Suggesting solutions too quickly.
- Stopping at one option.
- Evaluating while you are still collecting — it kills the second option.

Reality-testing & evaluation — test it

Tactics

- Reality-test the parties' beliefs — challenge them, respectfully.
- Test and evaluate options for practical implementation.
- Maintain the standard of the best interests of the children.
- **You are finished when both parties can say what happens if the plan fails, and the proposal has a who, a when and a consequence.**

“Every second weekend” is not a proposal. “From Friday 18:00 to Sunday 17:00, collected from the house, and if he's going to be more than 30 minutes late he phones her” — that is a proposal.

Examples

- “How would this affect the children?”
- “What complications could occur?”
- “What happens if she cannot comply?”
- “If we don't reach an agreement today, what is the next best solution?”
- “Talk me through how this would work in practice.” · “Is this affordable?”
- “How would this arrangement work during school holidays?”
- “Walk me through next Tuesday — what happens the first time someone's late?”
- “What would have to be true for this still to work in a year?”

Techniques

- Create an environment where it is ok to be wrong. Empathise.
- Ask, don't tell: “If a judge heard that argument, what do you think they'd ask you next?” That does the work of an opinion without costing you rapport.

Common mistakes

- Not challenging the parties' beliefs at all.
- The opposite mistake: treating it as attacking a position, cross-examination, or legal advice.

Negotiation & consensus building — close and record

Tactics

- A detailed agreement on the key issues — care, contact, maintenance, division of the marital property — or an interim agreement if there isn't time.
- Confirm and record the points of agreement.
- Compare options · address risks · trade concessions · mutualise common interests.
- **Pay attention to the details:**

R5,000 a month · paid on the 30th · spousal or child maintenance? · every second Friday at 18:00, starting this Friday.

In the formal assessment you will not have time for everything. Aim for an interim agreement on one or two key issues.

Examples

In a side meeting

"What could you offer in return for that concession?"

"Would you consider apologising for that part of the conflict?"

In the joint session

"Which of these options are most workable?"

"Is there a possible middle ground?"

"What remains unresolved?"

"Let's confirm what we agreed today."

"That's big of you, thank you."

Techniques

- Only elicit an apology if it is a domino. Never ask the aggrieved party whether they would like one — it must come as a surprise.
- Bank each agreed item in writing as you go, and confirm the whole MOU at the end.

Common mistakes

- Ignoring common interests.
- Not addressing risks.
- Not discussing details.

DETOUR STRATEGY · NOT A STAGE

De-escalation — stabilise the room

Bringing the emotional temperature down far enough that the parties can think, listen and decide. You might need it at any point in your session, including in the middle of your introduction. Take the detour, do the work, and go back to the stage you left.

Choose it when…

- The parties interrupt each other
- Accusations are flying
- One party cannot hear the other
- The resistance is bigger than the logic of the situation
- You ask what matters to them and get back an attack, or the same demand again

Tactics

- Bring the temperature down
- Get the parties back to one speaker at a time
- Return ownership of the discussion back to the parties

In the joint session: let them run out of steam · two to three uncomfortable seconds of silence · "Party Y, we'll come back to that. Party X, please finish."

Techniques: Slow down and drop your volume — on video that is far more visible than it is in a room. · Silence is a technique, not an accident: count to seven before you fill it.

"Let's keep this constructive" is an instruction, not an intervention. It usually sounds like taking a side.

DETOUR STRATEGY · NOT A STAGE

The domino — clear the blockage

Dealing directly with the one thing that is stopping everything else. Take the detour, do the work, and go back to the stage you left.

Choose it when…

- A party keeps returning to the same issue
- A party attributes motive — “he only does that to spite me”
- The tone does not match the size of the item on the table
- A party needs acknowledgement before they can negotiate

Examples

- “We've come back to this issue twice now. Can we deal with it directly?”
- [Side meeting] “What would need to be acknowledged before you could move forward?”
- [Side meeting] “You experienced that as him dismissing you. Can we find out what he was actually doing?”

Before you go near it: do not take this detour while the room is still hot. De-escalate first. · Rehearse any apology in a side meeting — never let a half-baked apology happen live in the joint session.

Common mistakes, and they are expensive: putting the blockage on the agenda as an item to be negotiated · letting the session become a conversation about the marriage, and running out of time · mining after the blockage has been neutralised.

THE STRATEGY THAT RUNS UNDERNEATH · IT NEVER SWITCHES OFF

Risk containment — make it safe

Making the process safe before making it productive. It is not a stage, nor is it a detour — it is something we practice throughout the session, and it overrides whatever else you were doing.

You're doing it when…

- The safety of a child or a party is in question
- A party cannot negotiate freely — substance abuse, violence, intimidation, a severe power imbalance
- A party agrees to everything without asking a single question
- A party cannot participate today — intoxicated, cannot follow the discussion, or feels they cannot speak freely

The tactic is one line

Build safeguards into whatever is agreed on.

And here is the test for whether you have done it:

The arrangement would still be safe if one party stopped co-operating tomorrow.

Safeguards are relaxed on evidence, never on pressure from the parties or their legal representatives.

Trade the schedule, not the safeguard.

Three things to do — starting this week

1 **Learn the triggers, not the theory**

If you can answer “what am I trying to achieve right now, and why?” at any moment, you're mediating. If you can't, you're having a conversation.

2 **Rehearse the introduction**

It is 45 seconds long, it is written out for you, and it is the only part of a mediation you can fully prepare in advance.

3 **Pick one thing and use it this week**

Not in a mediation — in a conversation. The two-to-three seconds of silence. Or “what would that mean for you if it happened?”

And keep the cheatsheet open. I use it in live sessions with clients. There is no prize for holding it all in your head.

Thank you

We’ll take questions after the next 2 slides

Learn the triggers. Rehearse the introduction. Learn how to use silence. Keep the cheatsheet open.
The recording and the cheatsheet go out to everyone who registered.