

List of Issues

Creating a List of Issues

Agenda setting involves a balance between:

- “Mediator authority” - ensuring that the list of issues is workable and positive,
- “Party ownership” - ensuring that the list of issues belongs to the parties.

A list of issues also needs to be “sold”. Refer to the parties’ statements to show how their concerns have been captured.

List of Issues - Key Points

Parties’ own language	Balance	Inclusive
<ul style="list-style-type: none"> • Neutral • Clear • Non-judgemental 	<ul style="list-style-type: none"> • Common interests and concerns of each party • Brief yet complete • Non-blaming 	<ul style="list-style-type: none"> • Co-mediator & parties • Words and order • Includes future focus

Structure

The structure of the list of issues can be described as a similar structure to an essay.

There is an introduction, a body, and a conclusion.

	Neighbours – Fence	Parenting	Workplace
Introduction Where do all disputes begin? Generally, there’s some prior relationship between the parties	- Neighbourly Relationship	- Co-parenting Relationship	- Relationship as Co-workers
Body These are the central issues within the dispute	- Replacement - Repair - Cost - Height - Colour - Material	- Time with each parent - Rules/Boundaries - Health - Holidays - Financial support - Education	- Roles - Responsibilities - Projects - Team - Accountability
Conclusion This is how the parties are going to move forward in the future	- Communication	- Communication	- Communication

Some disputes may require lists with subheadings, for instance

Property Settlement	Neighbours - Fence
Assets <ul style="list-style-type: none"> - Home - Contents - Car 	Fence Replacement <ul style="list-style-type: none"> - Height - Type/Material - Colour - Disposal of old fence

How much detail is too much?

The nature of mediation, the role of the mediator and what the mediator encourages parties to discuss is true from one dispute to the next. There are also truisms in the implicit nature of every agenda item that does not necessarily need to be made explicit on the white board.

- Feelings

The nature of any human being is that there will always be feelings attached to the dispute. So, the mediator does not need to put the word 'feelings' as an agenda item. Feelings and emotions will come into every agenda item to some extent. It is up to the mediator to ask appropriate questions to provide opportunities for parties to share their emotions.

- Past, Present, Future

An implicit aspect of each item on the list of issues, mediators will be encouraging parties throughout the mediation to talk about the past, present and future. Different steps of the process will focus on timeframe issues respective to the step that the mediation is up to.

For example, for an item like 'Working Relationship', the mediator might ask during exploration:

- o What did your working relationship look like *before* the change?
- o How is the working relationship *right now*?
- o What would you like the working relationship to look like *moving forward*?

Language and the List

Language needs to be kept neutral to avoid further inflaming the situation. As mediators, you may need to reframe some of the parties' language. For example:

- "I want the kids every weekend" may become "Time with the kids"
- "Harassment" could be reframed to "Workplace conduct"



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CONFLICT RESOLUTION SERVICE

Try to reframe the following:

- "Substandard work"
- "Breach of contract"
- "Arguments"
- "Money Owed"

