

MEDIATION FOR FAMILY BUSINESS

Jon Kenfield, FBA Accredited Adviser

Introduction

Family and business systems are fundamentally different. Put them together and everything from planning and problem solving to decision making and conflict resolution becomes more complicated. Mediation, using an independent expert to manage family negotiations, can help.

Plans and Conflicts

Planning, and managing conflicts, are hard work. It's difficult enough to find the time and energy to run a business and a family from day to day, so who needs more? Answer: You do, if you want to leave a viable business and a viable family behind you!

Ordinary businesses can be viewed dispassionately. Their plans are formulated in terms of turnover and profits, costs and cashflows, customers and competitors, markets, production, staff, product and service lines and the like. In contrast, family businesses are sensitised and complicated by emotion. Often, the desire to avoid family conflict defers planning and decision making until it's too late - allowing the Dogs of War to attack the business and the family when they are at their most vulnerable.

And there's the fact that getting stuck into family members and/or issues can be disastrous for the "intervenor", who may get badly burnt – and not always from the most obvious quarters.

A Place for Mediation

Here's where you can use a skilled mediator who understands family business. Mediators are process experts who work with individuals and groups to help them explore issues, generate sensible options and commit to agreed solutions. A well-managed mediation process can save and strengthen underlying relationships.

Mediators create environments that facilitate communication; increase everybody's understanding and appreciation of where others are coming from and provide a forum to work through respective needs and interests. They remove the barriers to trust that prevent family members from talking, problem solving, deciding, planning, agreeing and committing.

Mediators are independent and have no stake in the final plans, or in the dispute outcomes. It's no part of their role to evaluate or judge and the agreements they help to produce don't need to be measured against any external criteria - they just need to be acceptable to the parties, clear and workable.

Mediation Process Stage 1 - Exploration (issues and facts)

The mediator establishes rapport and guides the parties through a systematic identification of issues to produce an "Issues Agenda". The idea is that if every issue on the resulting list is resolved to everybody's satisfaction, their problem will be solved.

After identification we explore the issues by gathering all available information, recognising that both facts and perceptions are important. The mediator ensures that everybody is as well-informed and engaged as possible before any effort is made to develop solutions.

Careful management of process and people allows sensitive family, business and other issues to be handled with minimal conflict and embarrassment. Potentially explosive emotional energies are recognised and handled constructively, rather than being suppressed and left to fester, probably causing serious damage later.

Mediation Process Stage 2 - Assessment

Once the issues have been identified and all relevant facts and opinions obtained, the mediator facilitates the process of working out the implications. Again, perceptions are treated like facts, at least until there's a good reason to do otherwise.

Mediation Process Stage 3 – Option Generation

When the issues have been identified and assessed, the mediator proceeds to Stage #3 – a creative brainstorming process designed to generate options that could produce solutions. Getting everybody to participate helps to create a sense of sharing and ownership in both the process and its outcomes.

Mediation Process Stage 4 - Solutions

Finally, the mediator helps everybody to visualise how the options will look, work, feel and satisfy everybody's interests in real life. At the end of this reality check it's usually quite easy to get everybody's agreement and commitment to the preferred solution.

Conclusion

Mediation was introduced to Australia as a fast, low cost, constructive alternative to litigation. It quickly proved its worth and is now in widespread use. The processes and skills used to resolve difficult conflicts in commercial and relationship environments can be used to good effect, for all manner of issues, within family businesses. If you want to develop great plans and avoid future conflict in your business and your family, consider mediation as the caring, thinking person's preferred approach.

About the author:

Jon Kenfield operates Family Business Strategies in Melbourne and is the author of "The Solutionist Guided to Family Business", the first comprehensive Australian "how to" text on family business. He's an accredited FBA adviser. More information and contact details at: www.fambizstrategies.com.au.