Reassessing Mediation After a Break

Ongoing assessment and the decision to continue

A free educational resource from Considered Mediation

A participant returns from a break and accepts a proposal they firmly rejected twenty minutes earlier. The mediator feels the discussion has turned a corner. Perhaps it has. The participant may have received helpful advice, reconsidered a priority, or found an acceptable compromise. They may also have received a threatening message, become too exhausted to keep disagreeing, or decided that agreement is the quickest way to leave. These are hypothetical possibilities, but they expose a practical problem: a change in position does not explain the conditions under which it occurred.

Before treating that change as progress, the mediator needs to understand whether the person can still participate freely and meaningfully. A break interrupts the conversation. It does not necessarily resolve the concern that made a break necessary.

Mini-assessments are important when deciding whether mediation should continue after a break. A focused check before substantive discussion resumes can reveal whether to continue, change the arrangements, adjourn, or end the process. The depth of that check should reflect what happened before the break and what may have changed during it. Its purpose is to support a fresh professional judgment, not to obtain a quick reassurance that everyone is ready.

Suitability must remain open to reconsideration

The Ontario Association for Family Mediation expressly treats screening as an ongoing responsibility, extending from first contact to the conclusion of mediation. Its policy also addresses modifications and safe termination when participation cannot be supported adequately. This is an association policy, not a uniform Canadian statutory rule. [1]

Justice Canada’s HELP Toolkit, written for family law legal advisers, similarly recommends returning to safety concerns as a case develops. It recognizes that circumstances can change and that someone may disclose an earlier experience only after trust has developed. [2]

The practical proposal in this article applies that continuing attention to the moment of resuming mediation. The relevant question is specific: can these participants address this issue, in this format, at this time? An assessment made at intake cannot answer that question indefinitely. A person may be ready to discuss how documents will be exchanged while still needing information or advice before negotiating a final financial settlement.

A focused mini assessment before resuming

Explain at the outset that brief check-ins are part of the process and may occur after breaks or whenever circumstances change. That makes a later check less likely to feel like an accusation or a test of cooperation. Keep the check proportionate. A routine comfort break may call for a brief enquiry; a break following distress, a disclosure, or suspected pressure may require a fuller private reassessment before any joint discussion resumes.

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Use the following six questions as prompts for professional judgment. They are an original educational framework, not a validated screening instrument or a substitute for required professional screening. They are not scored, and there is no time limit for answering them.

1 Can we speak safely and privately now

Confirm that the setting still permits a candid conversation. In an online session, do not assume that the person is alone because the camera shows no one else. Arrange a safe way to check privately before asking sensitive questions. Justice Canada's guidance emphasizes privacy and the need to check whether remote communication remains safe. [3]

2 Has anything changed since we paused

Invite the participant to identify anything relevant to continuing, including a message, an interaction, new advice, or a concern that has become clearer. Ask about the pause itself when appropriate. Allow uncertainty and a request to speak separately; neither should be converted into a reassuring answer.

3 Can you engage with the next discussion

Explore whether the participant can follow the issue, consider alternatives, ask questions, and communicate a choice. Check what support would help. Do not infer inability from disability, tears, anger, silence, or a communication difference. Equally, a composed appearance does not establish that the person is ready.

4 Is there anything affecting your freedom to disagree

In a private conversation, explore whether the participant feels able to reject a proposal, ask for another pause, or seek advice. Include pressure arising from the process itself. Avoid asking someone to disclose fear in front of the person they fear, or to prove a concern before it receives attention.

5 What information or advice is needed before the next step

Identify the decision actually being proposed. A new document or revised offer may require reading time, an explanation, or independent advice. Separate willingness to keep talking from readiness to make a commitment. An urgent timetable does not establish that the information is sufficient.

6 What would you like to happen next

Make the available choices understandable: continue, adjust the discussion, take more time, or stop mediation. Confirm what the participant wants without promising that the mediator can safely offer every requested option. A willingness to continue is relevant; it does not settle the mediator's own assessment.

The assessment must change what happens next

A mini-assessment has little value if every answer leads back to the same agenda. The mediator should be able to identify what the answers mean for the next step and what, if anything, must happen before substantive discussion resumes.

Continue when there is an adequate basis to do so

Where the check reveals no unresolved concern preventing the proposed discussion, confirm the issue and the immediate scope of the work. Continuing an exploratory discussion does not have to mean

moving straight to agreement. Keep opportunities to pause visible throughout the session; an earlier decision to resume is not permanent clearance.

Modify the process when an adjustment addresses the concern

For example, a participant who can engage well for shorter periods may benefit from a narrower agenda and an earlier stopping time. Someone who needs an accessible document should receive it before being expected to respond. Be specific about the adjustment and check whether it works. Do not count an accommodation as effective merely because it has been offered.

Adjourn when a necessary condition is still missing

A participant may need independent advice, missing disclosure, an interpreter, or time to recover sufficient concentration. Agree on what needs to happen before reconsidering the next meeting, where that can be done appropriately. Avoid giving the impression that adjournment is a punishment for raising a difficulty. Further screening may be needed before a new appointment is confirmed.

End or redirect the process when it cannot proceed appropriately

The OAFM policy calls for termination when process modifications cannot support safe, competent participation free from fear or coercion. It also emphasizes care in communicating termination so that private screening information does not expose someone to harm. [1] Explain applicable confidentiality limits and follow the professional and legal obligations governing the particular file. Do not promise absolute secrecy.

There is no sensible arithmetic by which several positive answers cancel an unresolved safety concern. Nor should every expression of discomfort end mediation. Negotiating difficult matters can be uncomfortable. The judgment concerns what the discomfort means for this person’s ability to participate, whether support is effective, and whether the proposed next step remains appropriate.

“Mini” describes the initial scope of the enquiry, not the importance of what it finds. A short question may open a substantial conversation. If it does, the schedule should give way to the assessment. Uncertainty may justify further enquiry or a pause; it does not by itself establish a finding of abuse, incapacity, or bad faith.

A break can reveal more than it resolves

Consider three hypothetical situations. In each, the participants return from a break, but the appropriate response differs.

A changed position after independent advice

One participant explains that their lawyer clarified a misunderstanding about a proposal. They can describe the change, identify what remains unresolved, and say what they want to discuss next. The mediator can explore the revised position without treating the change itself as suspicious. The check supplies context for the decision to continue; it should not become an examination demanding that the person justify every concession.

A changed position under pressure

Another participant returns unusually quiet and says they will accept anything. During a safe private check, they disclose pressure applied during the break. Treating their apparent agreement as a

breakthrough would miss the issue. The mediator needs to reassess the process and the appropriate response within their competence. Sending both people straight back into a joint room to discuss the disclosure could create a further problem.

A return after several weeks

A third mediation resumes after an adjournment to obtain financial records. The records have arrived, but childcare arrangements have changed and one participant is now attending from a shared room. The condition that caused the adjournment has been addressed; other conditions have deteriorated. A fuller update is warranted. Resumption should depend on the present circumstances, not simply on completion of the old task.

Assess the mediator's momentum as well

The mediator should also examine their own reasons for wanting to continue. Time has been reserved, difficult work has been done, and an agreement may seem close. Those facts can explain enthusiasm for finishing. They cannot establish that a participant is ready to decide.

A useful discipline is to ask: if this were the first time I had encountered these circumstances, would I choose to begin this discussion now? That question can expose reliance on work already invested. It also helps distinguish confidence in the process from attachment to a result.

Avoid turning a check-in into persuasion. Repeatedly asking whether someone is "sure" they need to stop can make stopping feel unacceptable. Explain the process options and any known procedural consequences accurately, with referral for legal advice where needed. Then leave room for an answer that changes the plan.

The same care applies near the end of a session. A provisional understanding, a document ready for legal review, and a binding commitment are different steps. Be clear about which step is contemplated and whether anything remains necessary before taking it. The desire to record progress should not conceal uncertainty about what the parties are agreeing to.

Use the full assessment as a starting point

The attached Family Dispute Resolution Assessment provides a broader structure for considering process options. Its 60 questions address urgency, safety, willingness, financial information, ability to participate, parenting, circumstances requiring a decision, and optional arbitration considerations. It has no total score. Its preliminary outcomes direct attention to the next conversation or professional input that may be needed.

The full assessment and the mini-assessment serve different purposes. The longer document helps identify the terrain before a process is selected or when circumstances require a substantial review. The focused check asks whether the next part of an existing mediation should proceed. Use relevant answers to guide enquiry, while allowing for what the original questionnaire did not reveal.

A self-completed assessment cannot establish the other participant's wishes or the safety of a joint meeting. The document expressly preserves the need for separate professional screening. It is an educational resource, not a clinical risk instrument, a finding about either person, or a prediction of settlement success.

Keep a proportionate record of the decision

Consider recording when the check occurred, the process concern identified, the step chosen, and any condition for resuming. Distinguish a participant's report from the mediator's observation or judgment. For example, "requested time for independent advice; substantive negotiations adjourned" is more precise than "not cooperative."

Follow the confidentiality, access, retention, and reporting rules applicable to the file. A useful process record need not reproduce every sensitive disclosure. Decide what belongs in a confidential record and what may appropriately be communicated to others. Administrative emails and scheduling messages should not inadvertently reveal the reason for a private reassessment.

Take care when mediation and arbitration are combined

For practitioners who also arbitrate, the decision to pause or end mediation raises a separate question about the next procedural step. This article does not authorize a switch of roles or determine what an existing mediation-arbitration agreement requires. Obtain the necessary advice and apply the governing agreement, law, and professional rules. A mediation concern does not itself answer whether arbitration is available or how it should proceed.

Make continuation a considered decision

The strongest reason to reassess after a break is simple: the mediator is about to act on an assumption about the participants. A focused conversation gives that assumption a current basis. Sometimes it supports continuing with confidence. Sometimes it identifies a change that makes participation possible. Sometimes the responsible result is to stop.

When a participant returns to the room, the next item on the agenda can wait long enough to establish whether the conversation should continue. That attention is part of the work of mediation.

Sources and scope

This article offers an original practice framework informed by the sources below. The six prompts have not been clinically or statistically validated, and no claim is made that this particular framework improves settlement rates or predicts safety. The cited organizations have not endorsed this resource. General educational information does not replace professional training, required screening, or independent legal advice.

The discussion focuses on family mediation in Canada. Professional obligations and legal requirements vary by jurisdiction and role. Justice Canada's HELP Toolkit is addressed to legal advisers; its guidance is used here for relevant principles of continuing enquiry and safe communication, not as a declaration of the duties of every mediator. Article sources checked 28 October 2026.

1 Ontario Association for Family Mediation

Policy on Intimate Partner Violence and Power Imbalances. Revision dated 15 September 2025. Sections E, G and H support continuing screening, process reassessment, and care in termination.

Read the OAFM policy

2 Department of Justice Canada

HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers. HELP Guide, introduction and section P.1. Supports revisiting concerns as circumstances or disclosures change.

Read the HELP Guide

3 Department of Justice Canada

HELP Toolkit, Tab 6: Tips for Discussions with Your Client. Supports attention to privacy and safe communication, including remote meetings.

Read the communication guidance

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Attached assessment

The companion PDF includes the complete 23-page Family Dispute Resolution Assessment, Version 1, dated 26 October 2026. Its original pagination and content are retained, with a copyright footer added. Assessment pages 1 to 17 are public guidance and questions; pages 18 to 21 are the website implementation appendix; pages 22 to 23 contain reference and scope notes. The attachment is not evidence that an online assessment has been installed or published.