



Mediation & Facilitation

FairWay Resolution Limited
Tā te Hinengaro Tōkeke Whakatau

“FairWay Resolution Limited provides an independent, impartial mediation service for a wide range of individuals and organisations.”

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Mediation

The process involves an impartial third person (a professionally qualified mediator) helping the disputing parties to reach agreement through a constructive, problem-solving approach. The mediator doesn't make a decision on the dispute, but helps the parties to discuss the issues and develop a mutually acceptable result.

Mediation can be used in a variety of situations, including relationship, employment, community, commercial and ACC disputes- in fact any circumstances when two or more parties are unable to resolve an issue by themselves.

When is mediation a good idea?

Mediation is appropriate when:

- both parties are prepared to enter the process voluntarily and with a desire to resolve their dispute
- the parties have an ongoing relationship and are willing to focus on the present and the future, rather than the past.

Preparing for mediation

Mediation is most effective when everyone comes prepared, having written down the points they want to cover and what they would like to achieve from the process. It's a good idea to think of any potential barriers to settlement, and of any ways to overcome them – and to gather any necessary background and supporting information.

What happens?

Mediation is a flexible and informal process – there are some basic ‘rules’, but generally the meeting and how it goes is up to the parties involved. Anything that takes place is confidential, which means it cannot be referred to in any subsequent review or court proceedings.

Parties are welcome to bring friends and family/whanau. They can also bring a legal representative, but as mediation is an informal process this person can only provide help and advice. Meetings can be arranged to reflect tikanga Maori, including being held on marae, and te reo translators can be provided.

Usually the parties meet together, but the mediator can also meet people separately (and confidentially) to discuss the dispute and explore ideas for settlement.

Mediation generally involves two agreements:

- one at the beginning, when everyone signs an ‘agreement to mediate’ that sets out their rights and responsibilities
- one at the end, if agreement has been reached. The parties also receive written notification that the mediation is complete.

The duration of mediation varies; it takes as long as is necessary to make progress. Most mediation meetings last between 2 and 6 hours. Parties can withdraw at any time if they wish and if they can’t reach agreement they can take further action, such as taking an ACC dispute to review.

“In mediation the parties involved are in control of the dispute and how they wish to resolve it. If they reach agreement, the agreement is final and binding on everyone.”

Who pays?

The costs of mediation – and who pays – are agreed between the parties before the process begins. However, in all ACC-related cases, ACC and its agents have agreed to meet FairWay Resolution Limited's costs.

Parties are generally responsible for meeting their own costs (such as travel) for attending the mediation meeting, unless agreed otherwise.

Who is the mediator?

All FairWay Resolution Limited's mediators are members of the Arbitrators' and Mediators' Institute of New Zealand. They have extensive experience in mediation and have undertaken training in alternative dispute resolution. You can expect your mediator to listen to your views and to provide an independent and impartial service that focuses on achieving a result that is satisfactory to all parties.

Applying for mediation

Anyone involved in a dispute can suggest mediation, but it only goes ahead if all parties agree. If you're considering mediation, talk to someone on our team – we'll be happy to advise.

The Mediation Process

1. Parties agree to mediation
2. Mediator arranges meeting with parties
3. Mediator opens meeting – roles and responsibilities discussed and agreed
4. Parties explain how they see the issues and outline their needs and concerns
5. Everyone agrees what the issues are
6. Everyone thinks of ways to resolve each issue
7. Each option is tested to see if it will work
8. Everyone agrees on a solution that satisfies everyone
9. A written agreement is signed
10. Mediator concludes the meeting

“Private meetings may be held at any time with the mediator.”

Facilitation

Facilitation is similar to mediation, but is more flexible and open ended. It involves an impartial, professionally qualified facilitator helping the parties to resolve a dispute. They help achieve this through initiatives such as file analysis, information gathering, consultation, negotiation and problem-solving. The facilitator may provide written recommendations for resolving the dispute or moving the parties forward, but does not make any binding decisions.

If the parties can't agree on a solution, facilitation can lead to mediation or in ACC cases to a formal review.

What happens?

Facilitation is a flexible process – everyone involved in the dispute may meet with the facilitator or alternatively the facilitator may meet with the parties separately.

The process depends on the nature of the dispute and the wishes of the parties. Once it's finished, the facilitator writes a letter to everyone involved with details of the results.

Who pays?

The costs of facilitation – and who pays – are agreed between the parties before the process begins. However, in all ACC-related cases, ACC and its agents have agreed to meet FairWay Resolution Limited' costs.

Parties are generally responsible for meeting their own costs (such as travel) for attending the facilitation meeting, unless agreed otherwise.

Applying for facilitation

Anyone involved in a dispute can suggest facilitation, but it only goes ahead if all parties agree. If you would like to know more about facilitation as a method for resolving your dispute, talk to someone on our team – we'll be happy to advise.

good listeners

trained in mediation
and facilitation

able to create a
comfortable atmosphere

impartial

FairWay Resolution mediators are

trustworthy

used to dealing with
a wide range of people

sensitive to
cultural needs

members of the Arbitrators
and Mediators Institute of NZ

Mediation and facilitation contacts

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