



CBOS
Consumer, Building &
Occupational Services
Promoting a fair marketplace

Fact Sheet

Our Mediation Process

This fact sheet has been developed to help parties understand the mediation process. Mediators have 20 business days to assist parties to reach an agreement. Mediation is offered to assist parties when disputes arise in residential building work contracts over the value of \$20,000. Both the owner and the building contractor can apply for mediation.

Role of the mediator

A mediator is an independent person/s who will try to assist parties to reach an agreement.

Mediators assist parties to:

- identify the issues
- explore options, and if possible
- achieve a resolution

Please note: a mediator cannot advise a party, make decisions for, or impose a solution on the parties.

Communication and mediation sessions

Mediation will be tailored to suit each circumstance. This is determined at the discretion of the mediator on a case-by-case basis. It may involve running mediation in-office, on-site, teleconference or by video link.

Mediators may be able to help reach a resolution without the need for a formal mediation meeting.

Other party involvement

At any stage during the mediation process there may be a need to add other parties. This may include a person who can provide technical advice, expert opinion, or interpreter services. The mediator must notify all parties in writing of adding another party to the process.

Only with the consent of all parties can the process be discussed with a legal or expert adviser.

Confidentiality

Confidentiality in the mediation process is important to all parties. Parties and the mediator will not disclose any confidential information supplied during mediation. This is unless required by law or to get professional advice, for example from a lawyer.

How to seek further advice or information

During the mediation process, parties may wish to seek advice and guidance. The mediator/s, who are assigned to the dispute, is the best person to provide further advice.

If the mediator is unavailable the parties may contact CBOS:

- By phone 1300 654 499, or
- By email cbos.info@justice.tas.gov.au

Please note: Mediation is not a substitute for legal or other expert advice.

How to withdraw from the process

A party may at any time withdraw from mediation by giving written notice. This must be provided to each of the parties and the mediator. If a notice is not provided, mediation will continue until the timeframe has expired.

Suspension or termination of the process

The mediator may suspend or end a mediation process at any stage. Generally, the mediator will end the process if they believe that the process may harm or present an imbalance towards a party. The mediation process is also terminated if the 20 business days has expired.

Reaching an agreement

If an agreement is reached it will be drawn up formally for both parties to sign. This agreement then becomes legally binding and enforceable through the courts.

Indemnity provisions

The mediator will not be liable to a party for any act or omission by the mediator in the performance or alleged performance of the mediator's obligations during mediation or under any agreement reached, unless the act or omission is fraudulent.

Each party indemnifies the mediator against all claims by that party or anyone claiming under or through that party, in the performance or alleged performance of the mediator's obligations during mediation or under any agreement reached, unless the act or omission is fraudulent.

No statements or comments, whether written or oral, made or used by the parties, their representatives, or the mediator, within the mediation, are to be used in any action for:

- defamation, or
- any related complaint

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