



# INFORMATION SHEET

## MEDIATION

The word “mediation” is derived from the Latin word *medius* which means middle and refers to a process involving an intermediary.

Simply put, mediation is a consensual process whereby disputing parties plus an intermediary work together in order to gain a better understanding of the issues and facts involved in a particular conflict. Once the issues and facts have been clarified, the participants work through a process which may (if appropriate) culminate in a resolution of some or all of the issues in conflict.

Despite the above, mediation as a concept is not easy to define with any precision. There is no single mediation process or model which can be succinctly described and which clearly distinguishes it from other decision-making processes. A constant difficulty is that the art of mediation is still rapidly evolving in New Zealand particularly as it is gaining increased acceptance and as its usage develops and expands.

The primary features of all mediation are:

- ⊗ it is a decision-making process;
- ⊗ in which the parties are assisted by a third person, the mediator;
- ⊗ who attempts to improve the process of decision-making; and
- ⊗ to assist the parties reach an outcome to which each of them can assent.

Following on from this are what might best be called secondary features or objectives:

- ⊗ to bring greater clarity to a situation by identifying and defining which matters do or do not require decisions to be made;
- ⊗ overcome or reduce communication problems between the parties so that they can more clearly perceive and understand what each other means and feels;
- ⊗ identify and acknowledge the various parties’ needs and interests, whether substantive, procedural or psychological;
- ⊗ promote constructive and efficient negotiations which focus predominantly on the parties’ needs and interests, and which broaden the search for options and settlement alternatives;
- ⊗ reduce anxiety and other negative effects of the problem situation and to be empowering for the parties so that informed and rational decision-making can take place;

- ∅ encourage the parties to take charge of their own decisions and to accept responsibility for the consequences of those decisions;
- ∅ reduce tension and improve, or at least not lead to a deterioration in, relationships between the parties; and
- ∅ provide the parties with a model, and some skills and techniques, for future decision-making without third party assistance.

In addition, there are a great many other features of mediation which are entirely variable and which will vary from one set of circumstances to another. This variation which occurs adds to the difficulty in pinning down a precise definition of mediation.

Mediation has many uses, e.g.

- ∅ to define problems or disputes
- ∅ to settle disputes
- ∅ to manage conflict
- ∅ to negotiate contracts
- ∅ to formulate policy
- ∅ to prevent conflicts

Mediation is an extremely useful tool which can often produce surprising and long lasting results. It is far cheaper and quicker to organise than traditional forms of dispute resolution and enables the parties to be involved in the process at all stages.