

## A Guide to Mediation

### FACTS ABOUT THE HUMAN RIGHTS COMMISSION

The Human Rights Commissioners are members of the public (up to 12 in total) who are appointed by the Governor, on the advice of the Premier, after the Leader of the Opposition has been consulted. Commissioners are responsible to the Minister of Culture and Social Rehabilitation for the administration and enforcement of the Act.

The staff of the Human Rights Commission are public officers.

### FOR FURTHER INFORMATION PLEASE CONTACT:

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*This leaflet was produced by the Human Rights Commission as a public information guideline. It provides a brief explanation of the process of mediation.*

This guide is designed to help you understand the process of “Mediation,” a method of complaint resolution offered to you if you are ever involved in a case being investigated by the Human Rights Commission (the “HRC”).

**The Guide to Mediation answers the following questions:-**

- What is mediation?
- What is the purpose of mediation?
- When is mediation offered?
- What are the benefits of mediation?
- If I agree to mediation what happens next?
- Other important facts about mediation.



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## WHAT IS MEDIATION?

Mediation is a method of resolving complaints by bringing together the parties in a dispute, with the aid of an independent third person. Mediation is intended as a means of helping the parties to move from a position of conflict into a process of collaborative negotiation to reach a settlement. Mediation provides an opportunity for the parties involved to view each others' positions and seek ways of reaching a mutually agreeable solution.

## WHAT IS THE PURPOSE OF MEDIATION?

The HRC is required, under the Human Rights Act 1981, to bring the parties together in an effort to settle any complaints alleging unlawful discrimination, unless the complaint or grievance is of such a nature that it warrants prosecution. The purpose of offering mediation is to encourage both parties to seek ways to resolve their differences without the need for a full investigation and a possible hearing before a Board of Inquiry.

## WHEN IS MEDIATION OFFERED?

Where the HRC has reviewed a complaint of discrimination and determined that it appears to be genuine, the matter is then subject to an investigation. The investigating officer obtains a full statement from the complainant, and then notifies the respondent (the person/s or company against whom the complaint has been made) of the decision to conduct an investigation. The respondent is then given an opportunity to reply to the complaint. **Once the respondent's response has been received, the HRC then offers both parties an opportunity to have a mediator work with them to settle their dispute.**

## WHAT ARE THE BENEFITS OF MEDIATION?

- Mediation is confidential;
- Mediation takes place in a neutral setting;
- Mediation provides an opportunity to better understand the other parties position;
- Mediation can improve communication between the parties;
- Mediation deals with the issues but also with what may have caused them;
- Mediation can produce solutions without requiring an admission of guilt;
- Mediation allows for more control, speed and confidentiality;
- Mediation (at the HRC) is FREE to both parties.

## IF I AGREE TO MEDIATION WHAT HAPPENS NEXT?

First of all, BOTH parties need to agree to mediation. The process is as follows:-

- Three potential mediators are chosen by the HRC from a roster of persons who have received special training in mediation;
- The parties involved can object to any of the mediators if they believe there is a conflict of interest with a particular mediator;
- If the parties do not select the same mediator, the third mediator is selected by the HRC;
- Once a mediator has been selected and approved by both parties, he or she is given a set number of hours (up to 15) in which to bring the parties together to try to reach a settlement and to draft an agreement acceptable to both parties;
- The mediator has 30 days in which to seek a resolution and reach agreement between the parties;
- If successful, the HRC receives a report from the mediator confirming that a

mutual agreement has been reached. That is then the end of the matter;

- If no agreement is reached, or if either party withdraws from the mediation process, the HRC will continue with an investigation of the complaint.

## OTHER IMPORTANT FACTS ABOUT MEDIATION

- You have the right to withdraw from the mediation process at any time;
- You are allowed to have a lawyer or friend present with you during mediation meetings;
- Mediators are neutral. They do not take sides or impose an agreement on the parties without their consent.
- Mediation allows both parties to maintain a level of control over the possible outcome.

## CONCLUSION

At the HRC mediation is a means of helping persons involved in human rights disputes to actively participate in settling their differences in a spirit of cooperation, without the need for legal proceedings or a costly and time consuming investigation. The HRC urges you to consider mediation if ever you are involved in a human rights dispute, either as a Complainant or as a Respondent. Mediation is intended for everyone's benefit.