



Facilitated Discussions and Mediations

Facilitated Discussions and Mediation are two alternative dispute resolution (ADR) tools that can be used to successfully help people in conflict resolve their differences by empowering the people involved to find their own solutions. Both processes complement Council's REACH characteristics by encouraging respectful conversations and taking accountability for one's own actions and behaviours.

Facilitation is an informal process where an impartial "third" party provides guidance to help the participants try to reach a mutually acceptable settlement and, if not, how the parties can continue to work respectfully and professionally together. The facilitator may offer suggestions, advice and solutions to assist the process.

More information below

Mediation is an informal process where the mediator facilitates frank, yet respectful, conversations between the parties. It helps two or more people in dispute to reach a mutually acceptable agreement. The mediator is not there to judge, to say one person is right and the other wrong, or to tell the parties what they should do. The mediator controls the process but not the outcome.

More information below

What are the benefits?

- Issues can usually be resolved more quickly and effectively when informal resolution options such as these are used.
- There is a greater likelihood of positive working relationships being restored and possibly even enhanced.
- The people involved often develop skills to resolve future workplace difficulties themselves.
- It provides an opportunity for those involved to understand and empathise with the feelings of the person(s) with whom they are in conflict.
- It can give participants insights into their own behaviour and that of others, thereby opening up opportunities for positive change.
- It encourages communication and helps the people involved find a solution that everyone feels is fair and that considers their individual needs.
- The parties have a greater opportunity to influence the outcome than if more formal resolution options are chosen.

Is it compulsory?

No. Participation is voluntary. Even after a process has commenced, either party can leave the discussion at any time. Likewise, the facilitator/mediator may end the process if they feel it is no longer productive, the situation is serious enough to warrant some other formal intervention or the behaviour of one or more of the parties is not productive or acceptable.

Why should I give it a try?

If conflict is not resolved quickly, it can result in serious implications and health concerns for the individuals impacted, as well as for colleagues, family and friends who may be drawn into the matters. Formal procedures (such as investigations) can result in people 'take sides' leading to (often) irreparable relationship breakdowns that become extremely difficult to resolve. Some further consequences of escalated conflict may include -

- people who stop talking and completely disengage from each other;
- violence and nastiness;
- legal battles;
- people giving up and seeing the situation as hopeless;
- people becoming irrational and making bad decisions;
- the conflict reaches the point of no return; and
- serious psychological and physical health issues.

When is it appropriate?

Facilitation and mediation can be appropriate in the stages of conflict when the parties may have not yet shared or discussed their concerns with each other directly. It is also appropriate when both parties are committed to finding a constructive and mutually agreeable way forward rather than needing to prove who is right or wrong.

However these tools are not appropriate for every situation where there is conflict. In some cases, the use of a formal procedure may be required to meet legal obligations such as where there is an allegation of physical harm to a person. Or where there is significant dispute between the parties in regard to what has occurred. It is also not effective in disputes where one or both of the parties might not be willing to take part.

Much of the success of these tools is because they are voluntary and the parties are willing participants who have a shared goal of wanting to sort out their differences.

The earlier in the conflict these types of discussions take place, the more chance there is of a successful

resolution. The longer the conflict goes on, the more entrenched the parties are likely to become and the more likely that others will be drawn into the conflict. When this occurs, it can be difficult for the parties to consider the other party's concerns and to generate mutually acceptable solutions.

Sometimes, a facilitated discussion or mediation may be recommended even after a formal process has concluded. This is because a formal process (such as an investigation) is often about establishing facts and making findings but does not restore the working relationship of the parties. In fact, relationships can deteriorate because of formal processes and the need for facilitation or mediation to repair and rebuild the working relationship is of paramount importance.

When can I use it?

Most types of workplace disputes can be resolved by facilitation or mediation, including -

- Communication issues and breakdowns
- Personality clashes
- Relationship breakdowns
- Unresolved or ongoing grievance issues
- Perceived discrimination, harassment or bullying issues
- Differences of working style or approach
- Inappropriate use of power, status or position

Who is involved?

For facilitated discussions, the facilitator might be someone from within Council, such as your (or another) Manager or Team Leader; a representative from Organisational Development or an experienced facilitator from an external organisation.

Mediators undergo specialised training in the mediation process. As such, a mediator is more likely to be from OD or from an external organisation.

What is the role of the mediator or facilitator?

The mediator or facilitator will:

- establish ground rules, set confidentiality requirements and ask similar questions of all

parties during the process in an attempt to draw out the concerns and find common areas of interest which will assist in resolving the matters.

- help you clarify what the issues are and help you express what you need from the resolution. They will encourage you to brainstorm solutions.
- not take sides with either party. Their role is to help you understand one another and to reach agreements and solutions acceptable to all parties. They do not give opinion about who is right or wrong.
- help you document a written agreement from the mediation, as will the facilitator if a written agreement is required.

The facilitator/mediator won't –

- resolve the dispute by making or imposing decisions for you or the other party. A facilitator may be more forthcoming with advice and offer suggestions for resolution. A mediator is unlikely to do so unless he/she has the express permission of the parties to do so.
- tell you what to talk about. It is the responsibility of the parties to do this, although they will ask questions and guide the process to support effective discussions.
- talk with others without your permission about what happened during the discussion.

Is it confidential?

Yes. Either process offers an environment where it is safe to have open and honest discussions without fear of anything being disclosed to anyone else without the agreement of all involved (with the exception of anything for which disclosure is required under law eg. criminal offences).

You and the other parties will be provided with copies of any agreements arising from the discussion. File notes may be taken by the facilitator or mediator. These will be stored confidentially in Council's record management system in a secure location.

How should I prepare?

The more preparation you do, the more likely you are to get the most out of the discussion.

In preparing, you should consider:

- what has happened and why the situation has occurred. This is important because often there are bigger, or related, issues at play and the conflict may be a symptom of these.
- whether there are any processes in place, or not in place, that have contributed to the conflict.
- if the conflict has arisen as a result of assumptions being made by you or the other party that may or may not be true.
- are your personal values different (not necessarily more right or wrong) from the other person and therefore is there an opportunity for you to view the situation differently.

During your preparation, try to identify any underlying issues and raise these during the discussion so all issues are on the table and able to be worked through.

Keep the following principles in mind:

- be willing to fix the problem
- be honest and say what the problem is for you and how it is making you feel
- listen to what the problem is for them
- attack the problem, never the person
- look for answers and common 'interests' so everyone gets what they need

More information of preparing for the discussion can be found below.

What support is available to me?

Council's Employee Assistance Provider, Converge International, can provide you with emotional or practical support at any time before, during and after the process. An onsite or off-site appointment can be made by calling 1300 687 327. This is a confidential service at no cost to you, available to Council staff and their immediate families.

You can also seek the support of –

- your Manager or Team Leader;
- the Team Leader, Organisational Development (Council's Equal Opportunity Officer);
- any Director;
- a Union Representative;

- your designated OH&S Representative (in relation to issues of Bullying or Workplace Violence only) (Webstar > OHS > OHS Representatives or noticeboards); or
- an EEO Contact Representative (Webstar > HR Connection > EEO Contact Representatives or noticeboards)

Will it resolve all my concerns?

Even with the goodwill of all parties and everyone's best endeavours, there is no guarantee that a facilitation or mediation will resolve all the issues, prevent the same behaviour re-occurring or even result in an agreement. However facilitation or mediation gives the parties one of the best opportunities to resolve their issues and build stronger working relationships.

It may be that you will notice an immediate improvement in the relationship or relations may take a period of time to improve, because it can take time for behaviours to change.

On the other hand, the behaviour may not improve at all (or even deteriorate further). It is good practice for the facilitator or mediator to put in place a process during mediation / facilitation so parties know what to do in the event that issue persist such as the option to reconvene discussions. Alternatively, it may be that matters have reached a point where a more formal resolution process needs to be implemented.

How does this fit in with REACH?

Trying to resolve matters informally and between the two parties is very much in line with Council's REACH Characteristics.

Remember it is important to also enact the REACH Characteristics during and after the conversation by not gossiping or sharing the outcome with others.

By following the tips contained at the back of this fact sheet to prepare and have the conversation, you will

be sure you are acting in the spirit of the REACH characteristics. At the end of a successful discussion or mediation, you may not be firm friends, but should be able to have a professional working relationship.

Further information

Further information is available from Organisational Development on 8571 5136

Facilitated Discussion

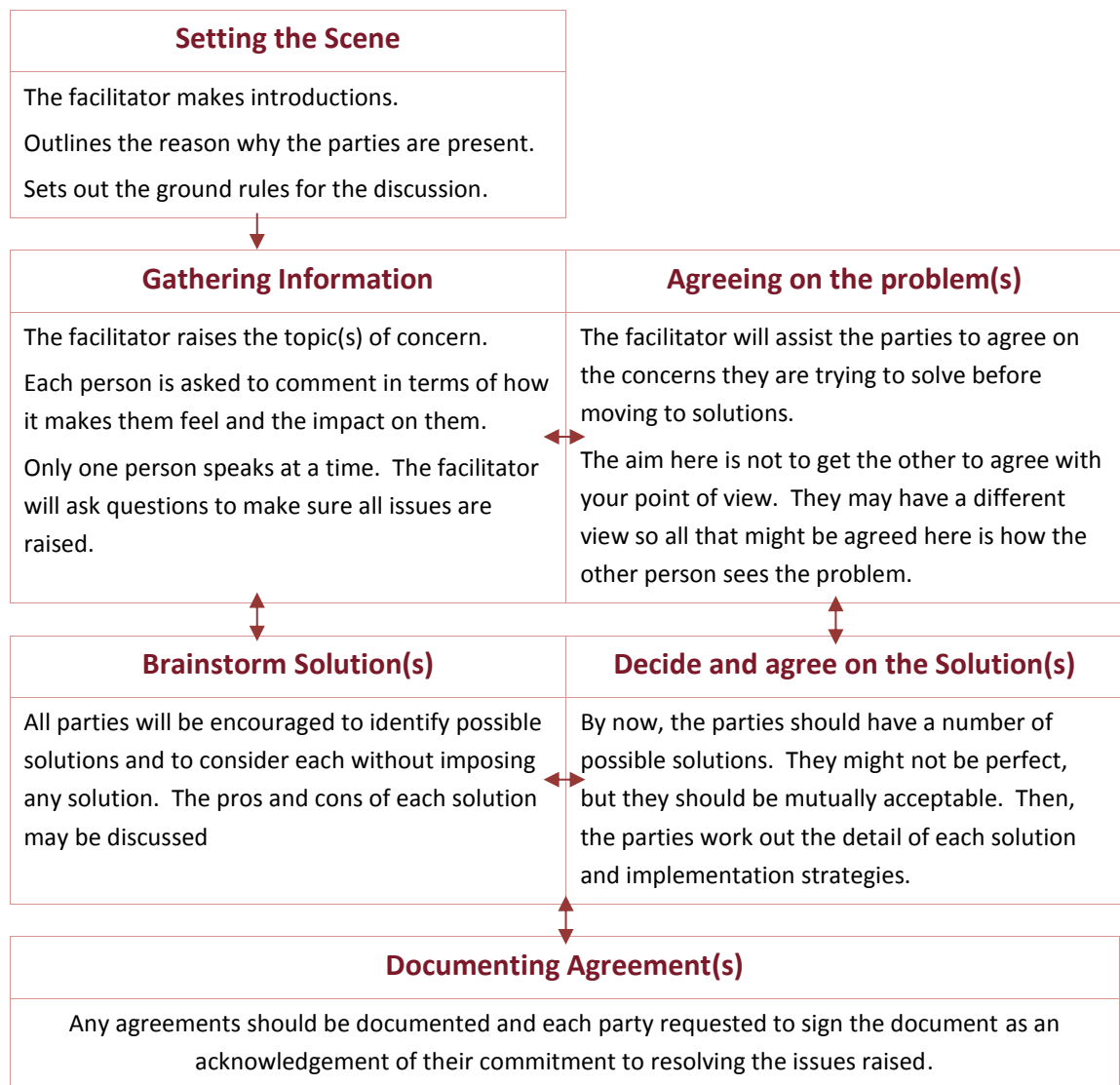
An informal process where an impartial third party provides guidance to help the parties try to reach a mutually acceptable settlement and, if this is not possible, to help the parties identify how they can work together professionally.

Key points

Facilitation is a process where the participants negotiate with the assistance of an Alternative Dispute Resolution (ADR) practitioner as facilitator who helps the parties identify disputed issues, develop options, consider alternatives, and attempt to reach an agreement. The facilitator may offer suggestions, provide feedback and provide opinion about the solutions proposed.

The facilitator will not establish facts, take sides, give advice, make a decision or decide who is 'right or wrong'. The facilitator guides the parties through the process and will assist them to ensure that there are open lines of clear communication, and messages are appropriate shared and received.

Process



General Points	▪ A facilitator will be appointed by Council. This might be a manager, an Organisational Development representative, or an external person appointed by Organisational Development. ▪ The facilitator will arrange a joint meeting between you and the other person(s). The facilitator may or may not seek relevant information from each person beforehand. ▪ You or the other person(s) may decide to have a support person attend. The support person is bound by the same confidentiality requirements as the participants. ▪ You will both have the opportunity to outline relevant events as you see them. One person will talk and the others will listen during this process. The facilitator will coordinate this process. ▪ All participants will act respectfully towards one another during the process, and they will be encouraged to speak frankly. More information about what is expected is contained below. ▪ The facilitator will actively intervene to provide frank feedback to people involved, ensure the discussion remains relevant and practical, and try to resolve the issues. Depending on the nature of the issues, a resolution may consist of an agreed list of future behaviours and actions, and may also include an agreed timetable for a subsequent review of the effectiveness of the process. ▪ The facilitator will prepare a file note to document the resolution and provide a copy to the parties and if appropriate a copy may be provided to Organisational Development.
Expectations	▪ All participants involved in the facilitation will treat information discussed discreetly, focus on the problems not the person, not gossip, and act in good faith to try and resolve the issues at hand.

Mediation

An informal process in which a neutral third party who has no power to impose a solution helps disputing parties try to reach a mutually acceptable settlement.

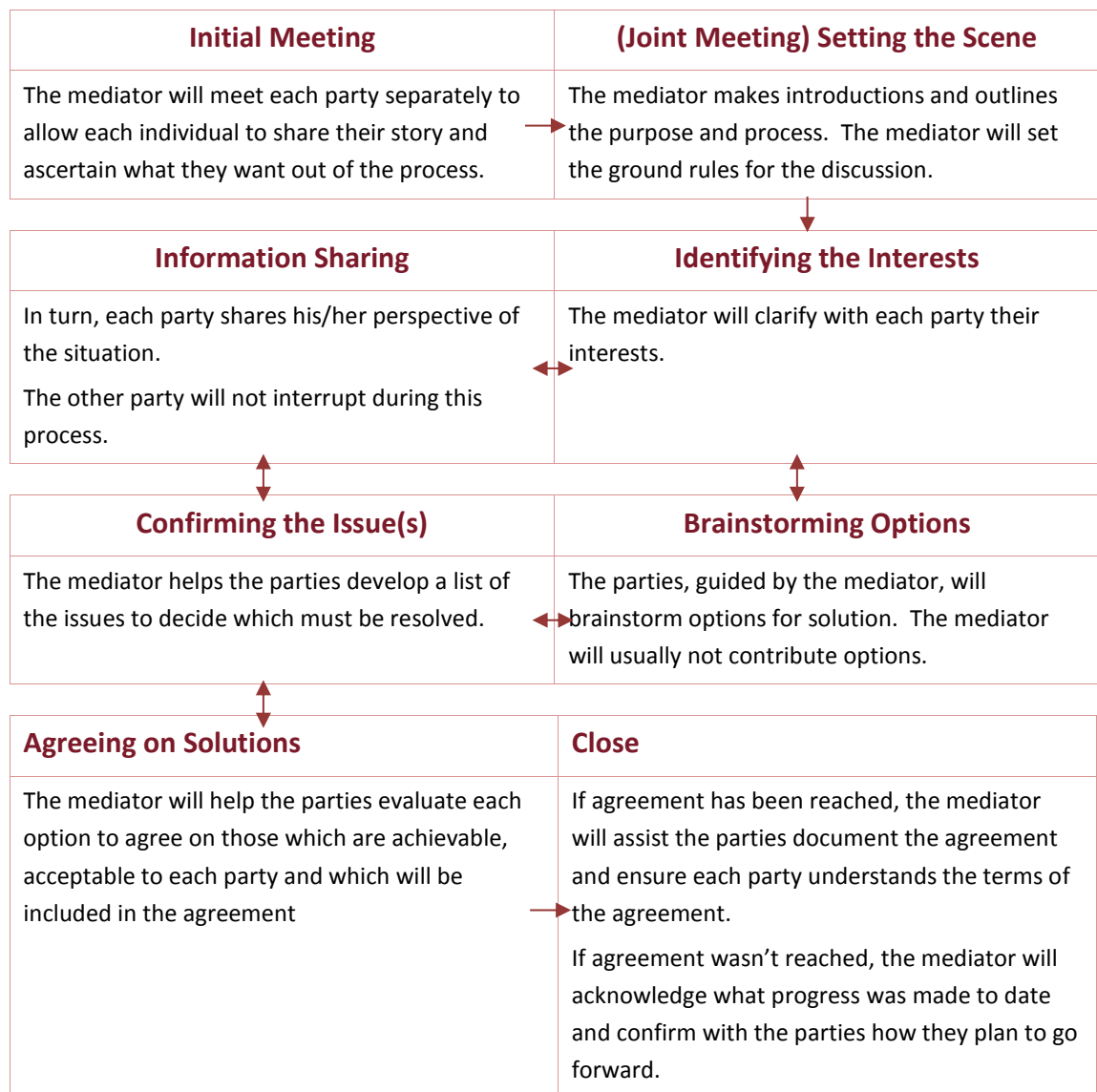
Key points

Mediation is a process where the parties to a dispute, with the help of a trained mediator:

- attempt to work out what the issues are;
- try to find options to resolve the conflict;
- consider the options and each other's needs and interests;
- try to reach an agreement; and
- document their agreement.

The mediator does not give advice and will not determine the outcome of the dispute or resolution.

Process



General Points

- This is more formal than a facilitated discussion process. A mediator will be appointed by Council and will be someone who is independent and may also hold qualifications in mediation. It may be someone who works at Council or it may be an external person. An Organisational Development representative will appoint the mediator.
- The parties may be asked to sign a written mediation agreement which will include agreement that the mediation is to be a confidential process.
- The mediator will seek information about the complaint from the parties prior to the joint meeting. This might be done in person, over the phone, or in writing.
- The mediator will then arrange a joint meeting between the parties.
- The parties will each have the opportunity to outline relevant events as they see them. One person will talk and the others will listen during this process. The mediator will facilitate this process.
- The parties may decide to have a support person attend.
- At times, the mediator may break the joint meeting to speak individually with each party.
- The parties will act respectfully towards one another during the process, and they will be encouraged to speak frankly.
- The mediator will endeavour to assist the parties to resolve the issue and develop a constructive solution. The mediator will not impose a solution. Depending on the nature of the issues, this solution may consist of an agreed list of future behaviours and actions, and may also include an agreed timetable for a subsequent review of the effectiveness of the process.
- The mediator will document the resolution and provide a copy to the parties. If appropriate a copy may also be provided to Organisational Development.
- Participation in the mediation is voluntary - you can leave the process at any time.

Expectations

All participants involved in the mediation will treat information discussed discreetly, focus on the problems not the person, not gossip, and act in good faith to try and resolve the issues at hand.

FACILITATED DISCUSSION / MEDIATION PREPARATION TEMPLATE

Should you require support in relation to how you are feeling about this process (your emotions, anxiety, worry) you might wish to utilise the services of Council's Employee Assistance Program service. For a confidential appointment at no cost to you, call Converge International on 1300 687 327.

Before the Facilitated Discussion / Mediation

Summarise the key event(s) and/or incident(s) you want to talk about.	
For each event/incident, make a few detailed notes.	
What effect has this situation had on you?	
What are some possible solutions – for you? (List at least two possible solutions for each of the concerns you have listed.)	
What are some possible solutions – for the other person(s)? (List what might be possible solutions the other person(s) might put forward to resolve your concerns. Note whether you would be prepared to agree with each solution)	

FACILITATED DISCUSSION / MEDIATION PREPARATION TEMPLATE

What alternatives are there to resolution? (Think about what alternatives are available to you if you are unable to reach a resolution. What would it mean for you? What might it mean for the other party?)	
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Your opening statement

How will you summarise your perspective and what you want to talk about in a brief 1-2 minute opening statement. (Dot points are OK)	
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During the Discussion

Emotions including tears are a normal part expressing how you are feeling. If you are upset, it can be difficult to tell the other person what it is about their behaviour that is concerning you without it sounding like a criticism which can result in the other person becoming defensive or angry. One way of removing blame or criticism from the discussion is to use an “I” statement.

How to make an “I” Statement

1. Say “I feel” (instead of “you (or they) make me feel”)
2. Say how you feel
3. Say what is the event/situation/behaviour that resulted in your feelings
4. Say what it is about the behaviour or its consequences that have made you feel uncomfortable / angry / disappointed etc.
5. Acknowledge any parts your behaviour that may have contributed to this conflict
6. Say what you would prefer to happen – an alternative to the behaviour

It then becomes a sentence, like -

I feel annoyed when you ***take the equipment I am using and you put it away before we have finished the job because it means I have to stop what I’m doing to get the equipment out again and this slows us down. I haven’t said anything before because*** I know you’re only trying to help. ***I would prefer*** it though if we could leave the tidying up until we’re ready to leave. I’d like to understand it from your point of view though.

FACILITATED DISCUSSION / MEDIATION PREPARATION TEMPLATE

Write "I" statements for each of the matters you wish to raise.	
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Prepare yourself to actively listen during your conversation.

- Take a deep breath and relax.
- Remove distractions as much as possible
- Use open body language (avoid crossing your arms, turning away from or pointing your finger at the person)
- Focus on listening as your first priority in the conversation. Hold any thoughts or responses you may have until the other person has finished speaking

When listening to the other person, the following responses can be helpful:

What to Do	How to Say It
Encourage the other person to share his or her issues as fully as possible	"I want to understand what has upset you." "I want to know what you are really hoping for."
Clarify the real issues, rather than making assumptions. Ask questions that allow you to gain this information, and which let the other person know you are trying to understand.	"Can you say more about that?" "Is that the way it usually happens?"
Restate what you have heard, so you are both able to see what has been understood so far - it may be that the other person will then identify that additional information is needed.	"It sounds like you weren't expecting that to happen."
Reflect feelings - be as clear as possible.	"I can appreciate how upsetting that must have been."
Validate the concerns of the other person, even if a solution has not been identified at this time. Expressing appreciation can be a very powerful message if it is conveyed with integrity and respect.	"I really appreciate the opportunity to talk about this issue." "I am glad we are trying to figure this out."