



## **Helpful information about your upcoming Mediation**

WE ARE PASSIONATE ABOUT TACKLING THE HEAVY COSTS OF CONFLICT ACROSS THE COMMUNITY. FOR OVER 30 YEARS, OUR NETWORK OF PROFESSIONAL PRACTITIONERS HAS PROVIDED CONFIDENTIAL AND EFFECTIVE SERVICE TO THE PEOPLE OF THE ACT AND REGION

## Steps of the CRS Mediation Process

- 1) Introductions:** Mediators will welcome you and take you to your own waiting area. When everyone has arrived, the mediators will have a 5-10-minute private session with each party to see if there is anything they need to be aware of since you last had contact with CRS.
- 2) Opening Statements from the Mediators:** The mediators will bring everyone together in the same room and give an overview of the role of CRS, purpose of mediation and expected outcomes, the mediation process itself, the 'authority' of the mediators is in guiding the process, and what your 'authority' is in terms of the content of the mediation.
- 3) Opening Statements from the Parties:** Each party will then be invited to give brief statement about their concerns and what they want to achieve in the mediation session. This might involve giving some history, perhaps some incidents etc...you will not be required to give much detail, just an overview to give some additional insight for the mediators and the other parties involved in the mediation. You will have plenty of time to expand later in the mediation. After each party has given their overview, the mediators will read back your statements to make sure they have the basics of the issues.
- 4) List of Issues (Agenda):** From your statements the mediators will develop a list of the main concerns common to all parties (about 5-6 items). The list is written on the whiteboard for everyone to see and provides a framework for discussion throughout your mediation. You will find that what you want to talk about, and resolve, is covered somewhere in this list.
- 5) Exploration:** This is where you and the other parties involved can fully discuss all the issues with each other. You will be able to ask questions, make comments, talk about your thoughts, feelings and past actions so that others can understand what has brought you to the current situation. You will also have an opportunity to hear what the other party's concerns, feelings and actions have been about. The mediators will assist everyone to talk openly and respectfully about what has happened. The mediators will encourage and guide direct communication between everyone in an effort for everyone to develop mutual understanding.
- 6) Private Session:** Each party has an opportunity to speak with the mediators privately to see how things have been going for you during the mediation and what the possibilities for a resolution. You will have a chance to share your ideas with the mediators before presenting them to the other party. The mediators might test out the 'livability' of your ideas to see how they might work in the future.
- 7) Negotiation:** Everyone is brought back together for the last part of the mediation. Whereas the steps above mainly looked at what has happened in the past to bring you to this point The Negotiation stage will focus on the future in terms of pathways and actions everyone can offer (and deliver) to resolve the issues. This is a time to make credible offers and resisting the temptation to do the opposite of what the other party is offering.
- 8) Outcome:** Agreements are made between the parties. The agreement may or may not resolve the issues 100% but can be a means to reaching 100% agreement in the future. The mediators will assist parties to develop the specifics such as who will do what, when, how, any costs involved etc. In some cases, you can also make agreements to have the document used as the bases for a legal document through the court or solicitor.

## FAQ's about Attending a Mediation

### **Q: What if I am feeling anxious prior to the mediation?**

**A:** Anxiety, stress, trepidation are all quite understandable feelings to have prior to the mediation session. You are coming because there have been issues with differing perspectives, needs and fears between you and the other person, which has escalated into a dispute. In CRS's experience, the heightened emotional distress normally starts to dissipate through the mediation as you become more aware that you are being assisted by the mediators to put your side of the issues across, as well as hear (possibly for the first time) what the real issues and emotions of the other person/s involved. Sometimes just having this opportunity is enough to dispel incorrect perceptions about the situation and where everyone is coming from.

### **Q: How should I prepare for mediation?**

**A:** It may help to consider:

- Your rights and responsibilities in relation to the dispute (may include seeking legal advice)
- What are your goals in relation to the situation short/medium/long-term?
- How the dispute affects your day-to-day life
- The main issues you would like to discuss
- What you are prepared to do to make this happen
- How the dispute might be resolved if mediation is not successful.
- What you think the other party wants
- Put yourself in their shoes and think about what they might expect
- What you think they might accept to resolve the situation.
- How you might react if you don't like what the other person is saying...will your reaction escalate the situation
- What perception they have of you and why
- Do some research and/or prepare any lists which might be useful eg if you are coming to mediation to talk about replacing a fence, do some research on the cost of a new fence; if you are coming to mediation to talk about a property settlement put together a list of assets and liabilities and values. It will save you time and costs in the long run to come prepared to your mediation.
- Try not to do anything to escalate the issues before the date of your mediation.

### **Q: Who can attend your mediation?**

**A:** Before the mediation is held, all people involved must agree on who will be attending the mediation. All those directly involved in the dispute should be encouraged to attend and participate. In determining who should be at the mediation session, a good rule of thumb is 'people who are involved in making decisions are the best people to attend the session' (this is also useful to rule out who should not be part of a mediation session)

Can you bring:

- 'Support people' may attend if required, though they do not participate/contribute to discussion in the session. The names of support people must be agreed to before the date of the mediation session and can be done through the CRS office.
- 'Witnesses' are not necessary as the mediators are not there to assess the situation and make decisions. Unlike a court setting, mediation is not about evidence, nor right or wrong, nor innocence/guilt. It is about people coming together to resolve the issues themselves and make an agreement that they can live with.
- 'Lawyers' are not required as mediation is not a legal process; in some types of disputes, CRS encourages people to seek legal advice before attending mediation.

**Q: What opportunities will I have to speak during the mediation?**

**A:** Apart from the information in the section on 'Steps of the Mediation Process', generally you will have plenty of time to share your thoughts, feelings, opinions, fears and hopes during the mediation session. The same opportunity is also given the other party involved. At times the mediators might cut you off in order for the other party to have the time to reflect and respond to what you have been saying. This might become frustrating at times to have to stop/start what you are saying, however a critical part of being able to resolve a situation is two-way communication...that is taking a moment of silence to let others respond to you and also hearing what their thoughts, fears, hopes and feelings are also. The more information you are able to share...and also hear from the other person, the more knowledge everyone will have on the best way to resolve the situation.

**Q: How long do mediations take?**

**A:** Mediations generally last for 3 – 4 hours; however, they can go longer depending on the nature of the issues, the willingness of parties to continue with the mediation and the professional view of mediators on the validity of continuing. (Shuttle mediations generally take over 5 hours, because the parties are in separate rooms, mediators need to repeat/transfer information between the rooms)

**Q: How do I communicate and negotiate with someone I've had a difficult relationship with?**

**A:** CRS staff and mediators appreciate that much water has passed under the bridge between you and the other party before the mediation. They have said things to you, you have said things to them, incidents have occurred, promises have been made and broken...all of which has probably lead to an increasing lack of trust on both sides. The mediators will work with all parties to start unravelling these issues and move you towards mutual understanding that everyone needs to work together to come up with a resolution that works and meets everyone's needs. Mediators will assist you to talk about issues a certain way eg how you might broach a resolution with the other person, such as asking hypothetical's, which is a way of gently revealing where you are without being direct (*I haven't talked to you about this, but what if...? what would...? imagine we...*)

**Q: Will the mediators tell us what to do?**

**A:** No. The resolution to your dispute will come from the parties involved. The mediators will assist you to get there by focusing everyone on the issues, how they came about and what it will take to resolve them. The mediators will not give you advice, nor tell you or the other party that you are wrong (or right for that matter), they won't make judgments on behaviour, personality whether someone is being reasonable or unreasonable. What the mediators will do is ensure that everyone has the space to talk but also to stop and listen. The mediators will assist everyone to come up with realistic and livable resolutions that meet everyone's short &/or medium &/or long-term needs.

The mediators will be in charge of the mediation process...you and the other party will be in charge of the content.

**Q: What if I need a break during mediation?**

**A:** There are no specified times during a mediation session where everyone breaks for morning/afternoon tea or lunch. If you need to take a break in order have lunch, move your car, use the facilities, then all you need to do is let the mediators know and they will negotiate with everyone to take a break for however long is needed. If you have any personal reasons why you might need to break more frequently, please let CRS intake officers know during the interview stage and they will pass on this information to the mediators. Alternatively, at the start of any mediation you will have about 5-10 minutes alone with the mediators, you are also able to use this opportunity to let them know of any needs you have and

negotiate how this can best be accommodated during the mediation. Any information you discuss with the mediators can be kept confidential from the other party upon your request.

**Q: If we reach agreement, do I need to sign the outcome statement?**

**A:** Signing the outcome statement is a signal of your goodwill and intention to follow through on the things you have agreed to. Similarly, it is a sign of the other person's good will as well. Signing the outcome statement does not create a legally binding agreement between you and the other person.

**Q: Why don't the mediators sign the outcome statement?**

**A:** The outcome statement is a record of what you and the other person have agreed to do, and is a sign of your mutual goodwill to do those things. The mediators don't have an ongoing role after the mediation in making sure you follow up on your agreements, which means it is unnecessary for them to sign the outcome statement. Additionally, the mediators' role is to facilitate the mediation, their role does not include being witnesses.

**Q: What can I do if I am not happy with how discussions are progressing during the mediation?**

**A:** At any time during the mediation you can request to speak to the mediators privately to express your concerns. Alternatively, if you feel uncomfortable about asking to speak to the mediators privately, there is a point during the mediation process called 'Private Session' where you will have an opportunity to speak to the mediators by yourself. The private session comes at about the half way point in the session. Think about what you might not be happy with...the mediators are there to assist you and everyone else achieve the best outcome and they cannot improve the situation or your comfort level if you don't let them know. Don't wait until after the session to let CRS know what you were finding difficult or dissatisfied with...it is harder to retrospectively correct an issue.

**Q: What if I have more questions or need to talk to CRS before the mediation?**

**A:** Just give the CRS office a call on Ph: 6162 4050 and we will be happy to assist you wherever possible before you attend your mediation.

Conflict is a natural part of life and it might surprise you to know that conflicts, disputes, difficult relationships can actually be quite positive. You might be thinking 'You've got to be kidding!!!'

The following list of why conflict is positive might provide you with another way of looking at your current situation:

- ✓ Time for us to increase our knowledge of one another.
- ✓ Opportunity to clarify our roles and functions in certain situations.
- ✓ Time in which problems can be solved creatively by looking together at a variety of alternatives.
- ✓ Compromise that will leave all parties involved in a winning situation.
- ✓ Process by which feelings ultimately can be aired openly and freely.
- ✓ Chance to reveal our unique ways of thinking, acting and feeling; and to show understanding, respect, and acceptance of the unique ways in which others think, act and feel.
- ✓ Time to talk and communicate openly; and honestly, reducing hostility, anger, or misunderstanding.
- ✓ Moment of honesty, which can result in a lifetime of improved communication.
- ✓ Opportunity to clarify and define the rules of interaction to strengthen the relationship.
- ✓ Time to clarify our expectations of others; a time to modify existing rules or sanctions based on our experience.
- ✓ Opportunity to stand back and figure out what hasn't worked in the past and what needs to change for things to work better in the future.

# CRS Service Charter

## For Service Users

### Your Rights

- ✓ An effective, quality service
- ✓ Be treated with respect
- ✓ Have their need for confidentiality respected and maintained
- ✓ Equal access to the services offered
- ✓ Have their complaints/grievances addressed
- ✓ Have the opportunity to provide input to the management of the service
- ✓ Have the right to decline/withdraw from the service offered by the service.

### Your Responsibilities

- ✓ Treat staff with respect
- ✓ Treat other users with respect
- ✓ Provide feedback on the service
- ✓ Inform staff of any concerns or difficulties
- ✓ Contact staff regarding ideas for improving the service.

## For CRS Staff

### Our Rights

- ✓ Be treated with respect
- ✓ Training, information and resources
- ✓ Privacy and confidentiality
- ✓ A safe and healthy working environment
- ✓ Provide input to service management
- ✓ Have complaints managed in a positive manner without discrimination
- ✓ Have the right to refuse/withdraw a service, within policy guidelines.

### Our Responsibilities

- ✓ Be responsive to service users' needs
- ✓ Provide an effective, appropriate, quality service
- ✓ Provide a safe and healthy environment for the service
- ✓ Be non-discriminatory
- ✓ Treat service users with respect
- ✓ Respect the need for service users' privacy and confidentiality
- ✓ Manage complaints/grievances in a positive manner without discrimination
- ✓ Be sensitive and responsive to service users' concerns and difficulties
- ✓ Consider service users' needs and views when evaluating and planning service provision.