



Neighbourhood Mediation Kit

Contents

How this kit will help you	2
Part 1. How to talk to your neighbour to resolve an issue	3
Arranging a meeting time	3
Meeting with your neighbour	3
Part 2. How mediation can help	4
What is mediation?	4
How will the mediation session be organised?	4
What is the mediators' role?	5
Your role in the mediation session	5
Part 3. Example of how mediation can help	6
Scenario	6
Prior to mediation	6
Parties' statements	6
Agenda and exploration	7
Private sessions	7
Negotiation	7
Resolution	8
Where to find further information or seek legal advice	9

Short version as at November 2011

Dispute Resolution Branch

Department of Justice and Attorney-General

This kit was prepared by Donna Cooper and Rachael Field from the Queensland University of Technology Law Faculty, with the support of a Queensland Government funded Legal Practitioner Interest on Trust Accounts Fund (LPITAF) grant.

How this kit will help you

This kit contains tips on how you can talk with your neighbour and information about how mediation may help you, including:

- an explanation of the mediation process and what it involves
- a workbook to complete and prepare for your mediation
- a final checklist to ensure you are ready for your mediation session.

Good preparation before your mediation session will mean that you will have a greater chance of resolving some or all of the issues.

Part 1. How to talk to your neighbour to resolve an issue

Face-to-face contact is usually more effective than phone calls, emails or a letter. Following are some tips on how to discuss the problem face-to-face with your neighbour.

Arranging a meeting time

Contact your neighbour to work out a suitable time and place to meet.

Choose a time when neither of you is rushed. Choose a place where you can both sit comfortably and won't be interrupted.

Before meeting, take some time to think carefully about what you want to say and how you will say it. Reading up on **tips on how to manage conflict** may also be helpful. These are available under the mediation section of the Department of Justice and Attorney-General website www.justice.qld.gov.au/mediation.

Meeting with your neighbour

First: explain the problem

- A good way to start off the discussions is to explain what the problem is from your perspective.
- Try to stay calm and avoid blaming words and name-calling. For example, say 'when your tree branches hang over my roof, my gutters block up and overflow when there is heavy rain'. Rather than 'You haven't bothered to lop your trees so my gutters are overflowing when it rains'.

Next: give your neighbour a chance to tell their side of the story

- Give your neighbour a chance to explain their views.
- When your neighbour is talking, don't interrupt them. Show that you are listening by maintaining appropriate eye contact, and acknowledging what they are saying with 'mm's, and by nodding your head.

If you reach agreement:

If you can come to an agreement by talking together, that's great!

It's a good idea to write down the details of what you have agreed to.

You may also like to make another time to meet in the future to check how things are going.

If you don't reach agreement:

Don't worry. Discussing the problem may have helped you both to gain a better understanding of each other's point of view.

You may now wish to organise a mediation session with your neighbour to resolve the issue.

Part 2. How mediation can help

If talking with your neighbour hasn't worked, or things have gone too far to handle by yourself, mediation at your local Dispute Resolution Centre (DRC) may be able to help you.

Mediation is usually faster, cheaper and more private than taking legal action.

The solution you decide on will be one that you and your neighbour agree on. It won't be imposed on you by anyone else.

Having a chance to discuss the issues with the help of a mediator, might also help to improve your relationship with your neighbour.

What is mediation?

Mediation is a structured negotiation process.

It involves you attending a face-to-face meeting with your neighbour and one or two mediators who will guide you through discussions.

All DRC mediation sessions are free for neighbourhood disputes.

What you say in mediation is confidential.

How will the mediation session be organised?

If you would like to try mediation, staff at your local centre will explain the process to you and discuss your concerns. Then they will contact your neighbour to organise the mediation.

The centre can usually arrange for mediation to take place within two weeks.

The session may take from three to four hours, depending on the issues involved.

Part 2. continued

What is the mediators' role?

The mediators will:

- guide you and your neighbour through discussions about your concerns and issues to see if there are any solutions that may be acceptable to both of you
- be impartial (remain neutral) and not take sides
- create an environment in which both parties have a chance to be heard equally, ensuring that discussions do not get out of control
- break down the problem into manageable issues
- make sure that all relevant issues are covered
- help you and your neighbour to think of options that may help to resolve the dispute
- help you write down the details of any agreement reached.

Mediation is not a legal process and the mediators will not:

- give legal advice
- take sides
- decide who is right or wrong
- make a decision for you
- make suggestions about what should happen after the mediation
- force you to reach an agreement.

Your role in the mediation session

It is important that you approach your mediation session with an open mind, even if you and your neighbour have been in conflict for some time.

If possible, you should come to mediation having thought about a range of options that could be considered.

At the mediation you should:

- participate as fully and cooperatively as possible in discussions
- be open and honest with your neighbour
- follow the ground rules set down for the mediation.

At any time during the mediation, you can tell the mediators that you would like to take a break.

Part 3. Example of how mediation can help

Scenario

Kate and George are neighbours in an inner city suburb. Kate wants to build a fence between the two properties as she wants to buy a dog. She also considers that a fence will make her property look more attractive from the street.

George does not want a fence built, as he has a vegetable garden just near the border of the two properties. Kate and George have discussed the building of a fence, but have not been able to reach an agreement. Kate has recently contacted a Dispute Resolution Centre (DRC) staff member, who has agreed to mediate the dispute.

DRC staff have explained the process to her, and have contacted George, who has agreed to go to mediation.

Prior to mediation

Kate and George each have sufficient time before the day of the mediation to think about exactly what they want out of the process.

Kate would like to build a six foot high wooden picket fence and thinks that both she and George should each pay half the cost of construction.

George doesn't want any kind of fence to be built, and definitely doesn't want to help pay for one. However, he values his relationship with Kate and wants to preserve it if he can.

Parties' statements

As Kate was the person who contacted the DRC, she is invited to give her statement first.

In her statement, Kate says she wants to build a fence because, as she lives alone, she wants a dog to help her feel more secure in her home. The fence would keep the dog contained to Kate's property. She also thinks that her house would look better with a fence, and that it would give her some privacy.

George is then invited to give a statement of his own. He tells the mediators that he doesn't want his vegetable garden to be shaded by a large wooden fence as the vegetables need full sun to grow. He also thinks that a wooden fence would be very expensive and he does not want to contribute to the cost as he is receiving Centrelink benefits.

Part 3. continued

Agenda and exploration

The mediators draw up a very short list of the issues that Kate and George have indicated they want to discuss. The two parties spend several hours discussing the items on the list, paying particular attention to the reasons behind the things they want.

George learns that Kate has several friends who have recently had their houses broken into. She thinks that having a dog would make her feel more secure, so she wants to start work on the fence and buy her dog as soon as possible.

Kate learns that George feels very strongly about his vegetable garden because growing some of his own food supplements his low income. More importantly, he has come to rely on it as a source of self-respect over the course of his long-term unemployment.

Private sessions

Once Kate and George have worked their way through the agenda, the mediators hold a private session with each of them in turn, while the other has the opportunity for a fifteen minute break.

The mediators ask Kate and George how they feel the mediation is going and whether they have any concerns that they haven't expressed. They also ask how Kate and George think the dispute might be resolved.

Negotiation

Now that Kate and George have identified their interests and concerns, the mediator helps them to think about likely ways to resolve the conflict in light of **why** they want issues resolved rather than **what** they want. This way, they can come to an outcome that is beneficial to both of them.

As Kate and George discuss the possibilities, the mediators will make sure they consider all the details involved. This way, any agreement they arrive at will state specifically what will happen, **who** will be responsible for making it happen and **how** the two will know when it has happened.

This also ensures that Kate and George don't waste their time talking through ideas that aren't practical or realistic.

Part 3. continued

Resolution

Kate and George may decide to resolve their dispute in any number of ways. For example:

- Kate might erect a six foot wooden fence but pay for the full cost of the fence
- Kate might erect a fence that isn't made of wood, e.g. a wrought iron or chain wire fence, so that sun can still shine on George's vegetable garden
- Kate might erect a shorter fence that doesn't shade George's garden to the same extent as a six foot fence would. She might also get a smaller dog that could be contained by the shorter fence
- Kate might erect a six foot fence and help George relocate his garden to another part of his property
- Kate might decide not to erect a fence or get a dog, and instead install a security system for her house.

It is also possible that Kate and George may not be able to decide on a way to resolve their dispute. As they both want to be able to get along in the future, they will probably agree on a way to keep discussing the matter.

If the two parties do reach an agreement, the mediators will write it down and provide Kate and George with their own copy.

Where to find further information or seek legal advice

If your issue relates to noise, buildings or pools contact your local council or visit their website to find out what the relevant laws are.

You can receive legal information by contacting:

- **Legal Aid Queensland.** Call 1300 65 11 88 or visit www.legalaid.qld.gov.au. You can also ask them for the contact details of your local community legal centre. Community legal centres are non-profit organisations that work in partnership with Legal Aid Queensland to provide a range of general and specialist legal services to the people of Queensland.
- **A private solicitor.** Call the Queensland Law Society on 07 3842 5842 or visit their website www.qls.com.au for names of solicitors who can help.

For information or advice about the mediation process please contact any **Dispute Resolution Centre**, Department of Justice and Attorney General.

Dispute Resolution Branch

Address: Level 1, Brisbane Magistrates Court
363 George Street, Brisbane QLD 4000

Postal address: GPO Box 149, Brisbane QLD 4001

Phone: 07 3239 6007 or 1800 017 288
(toll free outside Brisbane)

Fax: 07 3239 6284

South Queensland Dispute Resolution Centre

Phone: 07 3239 6007 or 1800 017 288
(toll free outside Brisbane)

Fax: 07 3239 6284

Email: drc.sq@justice.qld.gov.au

North Queensland Dispute Resolution Centre

Phone: 07 4799 7870 or 1800 809 605
(toll free outside Townsville)

Fax: 07 4799 7871

Email: drc.nq@justice.qld.gov.au

Far North Queensland Dispute Resolution Centre

Phone: 07 4039 8742 or 1800 671 680
(toll free outside Cairns)

Fax: 07 4039 8743

Email: drc.fnq@justice.qld.gov.au

Central Queensland Dispute Resolution Centre

Phone: 07 4938 4249 or 1800 817 927
(toll free outside Rockhampton)

Fax: 07 4938 4294

Email: drc.central@justice.qld.gov.au

Mackay-Whitsundays Dispute Resolution Centre

Phone: 07 4967 4404 or 1800 501 576
(toll free outside Mackay)

Fax: 07 4967 4402

Email: drc.mkywhit@justice.qld.gov.au

Wide Bay Dispute Resolution Centre

Phone: 07 4125 9225 or 1800 681 109
(toll free outside Hervey Bay)

Fax: 07 4125 9227

Email: drc.wb@justice.qld.gov.au



Neighbourhood Mediation Kit

Workbook: preparing for your mediation

How this workbook can help you

This workbook will help you to organise your thoughts for your mediation session. It will help you plan what you will say and how you will say it. Bring the workbook to your mediation to ensure you cover all the important issues.

Your workbook is:

- confidential and is not given to the mediators or to your neighbour
- not to be used instead of talking to your neighbour during the mediation.

The Dispute Resolution Centre (DRC) will post or email you the time and date of your mediation.

To prepare for your mediation, read and complete the following activities.

Before the mediation

It's important to be clear in your own mind about the facts of the dispute and to think about some possible solutions that may help to resolve it.

If you need to seek legal advice about your situation, read the information on page 10 (where to find out further information or receive legal advice).

What is your dispute with your neighbour about?

Briefly outline what your dispute is about.

.....

.....

.....

.....

.....

.....

.....

.....

.....

How would you like to resolve the dispute?

Briefly write here what you would like to happen.

.....

.....

.....

.....

.....

.....

.....

.....

.....

How would you like to resolve the dispute? (continued)

If you and your neighbour cannot agree, there may be other options to resolve the situation.

For the mediation to be as effective as possible, it will be helpful for you to think about the dispute a bit more and separate **what** you want to happen from **why** you want it to happen. Also, think about any underlying concerns or interests you have.

In the table below, write down each issue, thinking about what you want to happen and why. Then write down what your main concerns are:

Issue	What I want	Why I want it	Underlying concerns

Your neighbour's point of view

Now try to think about the dispute from your neighbour's point of view. Do you have an idea of what his or her concerns and interests may be?

In the table below, write down the issues you feel your neighbour may raise, thinking about what your neighbour wants and why. Also try to think of any underlying concerns he or she may have.

Issue	What your neighbour wants	Why your neighbour wants it	Underlying concerns your neighbour might have

Generating options

Now that you have identified interests and concerns try to think about potential ways to resolve the conflict in light of **why** you want issues resolved rather than **what** you want.

Remember that the main aim of mediation is to seek an outcome that is beneficial to everyone. If you are not prepared to consider the other parties' interests, then you will not be able to reach a resolution.

It helps to take a few minutes to brainstorm different options that may be acceptable to both of you.

Issue	Options that may be proposed at mediation

Reality testing these options

It can help to go through the different options that you have brainstormed, to see which ones are practical and realistic and may provide a positive outcome for you both.

It may also help to think about long-term goals to put your current dispute into some perspective.

Your issue	Solutions that may be proposed at mediation	Reality testing (longer term goals)

What are your goals for the mediation session?

Briefly write down your goals for your mediation.

.....

.....

.....

.....

.....

Is your future relationship with your neighbour a concern?

Write down your thoughts about a future relationship with your neighbour. Is it important to you that you and your neighbour can get along and talk to each other in the future?

.....

.....

.....

.....

.....

What is the worst possible outcome for you if you can't reach agreement?

.....

.....

.....

.....

.....

What to bring to mediation

Sometimes it can help discussions if you have spent some time finding out information and organising relevant documents.

What documents do you need to bring to mediation to progress discussions?

Documents that *may* be relevant, depending on the particular situation, are:

- quotes
- notes
- plans
- formal documents, for example, noise complaints
- invoices
- photographs.

Remember that the mediators will not need to see these documents, as it is not their role to make any decisions for you. However, your neighbour may want to see the documents and the documents might help to progress your discussions.

It can also help to think about what you will say during your mediation.

Your role in the mediation session

Preparing your opening statement

List your key concerns and issues to give yourself some notes to refer to when you are making your opening statement. Keep the points short and to the point. Try to write objectively, without using negative words.

It is also helpful to think about how you will talk to your neighbour during the mediation.

Tips on how to communicate effectively

- Listen carefully to what everyone is saying.
- Try to speak clearly and calmly.
- Take turns when speaking, don't interrupt the other party or speak over them.
- If there is something you need to respond to, write it down.
- Make sure that you understand exactly what is being said.
- Ask questions if you don't understand something.
- Maintain appropriate eye contact with the person you are addressing.
- Stay positive.
- Before talking with your neighbour read the **tips on how to manage conflict**. These are available under the mediation section of the Department of Justice and Attorney-General website www.justice.qld.gov.au/mediation.

It is important to write down any agreement you may reach.

After mediation

At the end of the meeting, you may or may not have reached agreement. If you have, the mediators will write up the agreement for you.

If you don't reach an agreement, the mediators will either end the session, or they may make a time for another mediation session.

Conclusion

By reading the *Neighbourhood Mediation Kit* and completing this workbook, you have ensured that you are fully prepared for your mediation. This will help your discussions with your neighbour and provide a greater chance of resolving some or all of the issues in dispute.

Congratulations and all the best!