

# **MEDIATION SERVICES**

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## **Agreement is the best way**

Mediation is a process and set of principles designed to manage and resolve disputes between parties.

Mediation is proving a more efficient method of dispute resolution than other processes and can help preserve relationships through the intervention of a third party.

Mediation provides the opportunity for parties to discover the interests and concerns of each, to define the dispute more clearly, and to agree on procedures or methods of resolving substantive issues. It forces the parties themselves to confront the dispute and assist them in resolving it to their own satisfaction.

## **Mediation - how it works**

Parties who are in dispute enter mediation with the intention of reaching consensual settlement of the dispute.

Mediation is a process and set of principles designed to manage and resolve disputes between parties. Essentially a process whereby the parties, with the assistance of a third party mediator, attempt to define issues, and through structured negotiations, reach a settlement.

The parties, and those attending the mediation with them, should agree and understand that mediation is conducted on the following terms:

- The mediator is a facilitator who through training and experience assists the parties to reach their own settlement. The mediator does not make decisions for the parties, offer legal advice, or tell them what to do.

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- For the mediation to work the parties must co-operate in good faith with each other and with the mediator.
- Full, open and honest communication is essential to mediation.
- Whilst the parties agree to use mediation with a view to reaching settlement it is understood that parties can withdraw from the mediation at any time or the process can be terminated if it proves impossible to resolve the dispute.
- Whilst legal and other advisers are often part of the mediation process, the mediation is conducted as an informal conference with the parties themselves seeking to resolve the dispute. The parties ought freely engage in a frank exchange of views and explore ways in which it might be resolved. Legal advisers are not present as advocates but rather to assist the mediator and the parties towards resolving the dispute.
- The parties to mediation usually enter a written mediation agreement which sets out the basis of the mediation and the terms under which it will be conducted.
- If a party is not present or if, for example, a corporation is involved, then a party should be represented by a representative with full authority and knowledge, able to engage in the process and to settle the dispute. Corporations are generally represented by a chief executive or other senior person who has total authority. When it is recognised that an intensive mediation has a high prospect of settling a dispute that might otherwise occupy a considerable period of time in preparation and in court then the time devoted by such senior personnel is justified.

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At the heart of the mediation process is the opportunity for each party to make an objective appraisal of their own position and the whole dispute. Having heard from another party one is more fully informed of the other party's position and interests and more likely to then explore opportunities for settlement. It forces the parties themselves to confront the dispute and assist them in resolving it to their own satisfaction. Parties to the dispute then feel that they have ownership of the dispute and any settlement reached at mediation.

## **Mediators**

Peter Wilson and Philip Brewin, directors in the firm of Nevett Ford, are trained mediators and approved by the Law Institute of Victoria.

Peter Wilson is an accredited specialist in mediation.

## **Peter Wilson**

- Accredited specialist in mediation (Law Institute of Victoria)
- Accredited mediator The Institute of Arbitrators and Mediators
- Managing director, Nevett Ford
- 38 years in practice, specialising in litigation with an emphasis on personal injury, commercial litigation, insurance law and administrative law
- Previously held appointment as a part-time presiding member of the Administrative Appeals Tribunal of Victoria (1987-1997)

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## **Philip Brewin**

- Admitted 1977
- Litigation director, Nevet Ford
- 32 years in private practice with an emphasis on personal injury, commercial litigation, professional negligence, family law, employment law, and product liability
- Was employed for a period in the United Kingdom practising in professional negligence

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## **Our people**

### **Directors**

- Philip Brewin
- Greg Doran
- Andrew Lumb
- Peter Lumb
- Paul Stephens
- David Stratton
- Frank Vagg
- Peter Wilson

### **Senior Lawyers**

- Cathy Drake
- Elizabeth Hall
- Viv Stephens
- Pauline Madden

### **Lawyers**

- Annmarie Farrell
- Sean Huggins
- Ryan Curtis-Griffiths
- Helen Zheng
- Kent Mallinson
- Meaghan Smyth
- Shea Rowell

### **Legal Executive**

- Paul James

### **Nevett Ford**

#### **Financial Services**

#### **Financial Advisors\***

- Tracey Burns
- John Ives
- Cameron Moore

**Nevett Ford is a member of Law Australasia, the National Association of Law Firms**

*\* Our advisors are authorised representatives of OzPlan Financial Services, a holder of Australian Financial Services Licence Number 221235*

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