



10861NAT Diploma of Aboriginal & Torres Strait Islander Legal Advocacy

LEARNER MANUAL

Block 5

Conflict & Mediation

**NAT10861008 Provide mediation for clients
needing legal assistance**

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Introduction to *NAT10861008 Provide mediation for clients needing legal assistance*

This unit describes the performance outcomes, skills and knowledge required to mediate fair and equitable outcomes for Indigenous clients in circumstances of legal disputes.

Prepare for mediation

What is Mediation?

Mediation is one form of **alternative dispute resolution (ADR)**.

ADR refers to various dispute resolution processes and techniques to assist parties to a dispute to come to an agreement with the help of a third party thus avoiding the need to make a complaint to a court.

In more recent times, however, ADR has been adopted by courts as a tool to help settle disputes alongside the court system itself. ADR has been adopted as a useful tool by most Australian court systems.

Outside the court context, ADR has also become a familiar feature for dealing with disputes in business and community situations.

Mediation is a process that promotes the self-determination of participants and in which participants, with the support of a mediator:

- (a) communicate with each other, exchange information and seek understanding
- (b) identify, clarify and explore interests, issues and underlying needs
- (c) consider their alternatives
- (d) generate and evaluate options
- (e) negotiate with each other; and
- (f) reach and make their own decisions.

Role of the Mediator

The mediator facilitates a process. The mediator cannot make a decision about the outcome of the dispute, or who is right or wrong.

A mediator can help people to:

- Identify the issues in dispute
- Consider options for dealing with the issues
- Reach their own negotiated solution.

A mediator **should**:

- Guide participants through discussions about their concerns and issues to help them to explore whether there are solutions that may be acceptable to all involved
- Be impartial and not take sides
- Ensure that all relevant concerns and issues in dispute are addressed
- Assist to break down the relevant concerns and issues in dispute into manageable parts
- Create an environment where all participants have an equal opportunity to be heard
- Ensure that discussions do not get out of control
- Assist participants to examine options for resolving the dispute
- Assist participants to write down the details of any concluded negotiated agreement.

A mediator **should not**:

- Provide legal advice
- Take sides
- Decide who is right or wrong
- Make a decision on behalf of participants
- Make suggestions about what should happen after the conclusion of the mediation
- Force participants to reach an agreement.

In some cases, mediation is not possible because, for example:

- A mediation is a voluntary process (unless ordered by a court) and one or more potential participants to a dispute may not agree to participation (mediation is voluntary unless a court has made an order that you are to mediate)
- There might be safety concerns or reason to fear violence
- A person involved in the dispute is unable to speak up for themselves or negotiate on their own behalf and this makes mediation unsuitable
- The issue affects the wider community, so that there might be a 'public interest' in having a court decide it, or
- The issues in the dispute are very complex or otherwise not suitable for mediation.

The mediator **should**:

- Explain the mediation process and set the guidelines for how it will work
- Ensure each person has a chance to talk, be heard and respond to the issues
- Keep everyone focused on communicating and resolving the dispute
- Ask questions to help people identify and communicate about what their goals and desires are and why they feel that way
- Help clarify the issues and suggest ways of discussing the dispute
- Help the people in dispute develop options and consider whether possible solutions are realistic
- Try to assist the parties reach an agreement where appropriate and make sure everyone understands any agreement reached, and
- Refer you to other helpful services if required.

The mediator **must not**:

- Take sides, make decisions or suggest solutions - this is for you and the other participants to do
- Tell you what you should agree to do - you decide what to do, including whether to stay at mediation

- Decide who is right or wrong - the focus is on finding a solution that everyone can live with, not making a judgment
- Give legal, financial or other expert advice - you can get advice before, during and after mediation if you choose, and
- Provide counselling - you can get counselling or other support before, during and after mediation if you choose.

If all the participants agree, mediation may also involve support people.

Identify key stakeholders and analyse dispute to be resolved

When is mediation used (i.e. who are the parties and what types of disputes are likely to be at issue)?

Mediation can help resolve disputes involving:

- neighbours
- communities or associations
- money matters
- families
- schools
- workplaces, and
- businesses.

Some Aboriginal and Torres Strait Islander people may be concerned about the prospect of mediation, considering it to be a European form of dispute resolution and thus culturally alienating and unhelpful. The reasons for this can be various e.g.:

- The perceived 'pseudo-judicialising' of the mediation process
- Language barriers
- Communication barriers (e.g. challenges in accessing reliable and private telephone and internet services)
- Financial challenges
- Transport constraints etc.

It is very important therefore for the mediator to take such concerns into consideration. The mediator also needs to be aware that Aboriginal and Torres Strait Islander dispute resolution systems predated the arrival of the British in 1788 by thousands of years.¹ It is in this regard that Bauman and Pope point out the following:

*The ability of Indigenous communities to deal with conflict in ways that reflect their local practice and reinforce local community authority not only help make communities safer and more enjoyable places to live, they also go some way to addressing the sources of dysfunction and systemic conflict.*²

The mediator of a dispute involving Aboriginal and Torres Strait Islander people needs to ensure that the parties are involved in the development of a suitable mediation model with which they are comfortable.

In order to effectively incorporate Indigenous culture and experience into a mediation practice, the Victorian Aboriginal Legal Service Co-operative Ltd in its paper *“Exploring culturally appropriate dispute resolution for Aboriginal and Torres Strait Islander peoples”*³ emphasises specific issues to be considered when mediating a dispute involving Aboriginal and Torres Strait Island people:

Preparation

Bishop encourages the mediator to properly prepare the parties so that culture can be incorporated effectively into the mediation experience.⁴ In this regard, Bishop states that, by outlining ‘a sufficiently certain communication plan pre-mediation session, parties may be able to experience more cultural comfort as to the mediation process, and may enable a mediator to design a mediation plan that will better accommodate the particular needs and demands of the parties’ in dispute’.⁵

In this regard, it may be important for the mediator to ensure that, before commencing the mediation, there is an appropriate recognition of kinship and acknowledgement of traditional Indigenous ancestors.

¹ Croft, H., *The Use of Alternative Dispute Resolution Methods within Aboriginal and Torres Strait Islander Communities* (2015) <https://docplayer.net/26214025-The-use-of-alternative-dispute-resolution-methods-within-aboriginal-and-torres-strait-islander-communities.html>.

² Bauman, T and Pope, J., *Solid Work You Mob Are Doing – Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia* (Report to the National Alternative Dispute Resolution Advisory Council, FCA Indigenous Dispute Resolution & Conflict Management Case Study Project, ACT, 2009) 115.

³ The Victorian Aboriginal Legal Service Co-operative Ltd, “Exploring culturally appropriate dispute resolution for Aboriginal and Torres Strait Islander peoples” <https://balitngulu.org.au/assets/2015/06/Alternative-Dispute-Resoution-ADR.pdf>.

⁴ Bishop, H., *Influences Impacting on Aboriginal ADR Processes in the Context of Social and Cultural Perspectives* (2000).

⁵ Bishop, H., *Influences Impacting on Aboriginal ADR Processes in the Context of Social and Cultural Perspectives* (2000).

Venue

The mediator must remain sensitive to schedule the mediation session(s) at an appropriate venue. This is especially important for remote communities where access to services is difficult.⁶

Neutrality and impartiality

Given the detailed and complex structures of Aboriginal and Torres Strait Islander family networks, kinship obligations, and far-reaching community knowledge, it may be difficult to find an Aboriginal and Torres Strait Islander mediator who is completely neutral.⁷

In some cases, therefore, it may be difficult to locate a mediator who is a 'neutral third party' for a mediation between Aboriginal and Torres Strait Islander parties. The issue should be decided on a 'case by case basis and flexibility is necessary in this regard.'⁸

Respected figures within Aboriginal and Torres Strait Islander communities are often valued for their ability to remain impartial. Nevertheless, care needs to be taken to remind the participants that the mediator's role is to 'assist' the parties and not to 'solve' their dispute.⁹

Confidentiality

The requirement of confidentiality is often central to a successful mediation process.

The reason for this is to encourage the parties to negotiate honestly, without the fear of having the dialogue used as evidence in subsequent court proceedings.

However, this can be a challenge in some Aboriginal and Torres Strait Islander disputes due to close kinship ties, living arrangements, and the multi-party nature of many such disputes. The Aboriginal

⁶ The Victorian Aboriginal Legal Service Co-Operative, Exploring culturally appropriate dispute resolution for Aboriginal and Torres Strait Islander Peoples (12 April 2015) <https://balitnqulu.org.au/assets/2015/06/Alternative-Dispute-Resolution-ADR.pdf> .

⁷ Cunneen C, Luff J, Menzies K, & Ralph N (2005) 'Indigenous Family Mediation: The New South Wales ATSIFAM Program' Australian Indigenous Law Reporter 9(1).

⁸ Cunneen C, Luff J, Menzies K, & Ralph N (2005) 'Indigenous Family Mediation: The New South Wales ATSIFAM Program' Australian Indigenous Law Reporter 9(1).

⁹ It must be noted that not all Aboriginal and Torres Strait Islander parties will prefer an Aboriginal or Torres Strait Islander mediator. Some parties may prefer a totally neutral mediator who possesses no community connections. If a dispute in a small community affects all community members, an 'external' mediator may be preferred. Also, kinship obligations can create family and/or cultural pressure on an Aboriginal and Torres Strait Islander mediator to take a particular side. Cunneen C, Luff J, Menzies K, & Ralph N (2005) 'Indigenous Family Mediation: The New South Wales ATSIFAM Program' Australian Indigenous Law Reporter 9(1).

and Torres Strait Islander community(ies) involved may be very aware of the dispute and its history.¹⁰

Sauvé states that mediated outcomes of Aboriginal and Torres Strait Islander disputes were often made public to bring the 'moral weight of the community' to bear on the agreement.¹¹ In a sense, the community itself 'owned' the dispute. The typical requirement of confidentiality can run counter to this notion.¹²

Pringle recommends flexibility in relation to confidentiality.¹³ Kelly emphasises that mainstream mediations will also have exceptions to confidentiality e.g. where employees involved in a dispute agree to notify management of the outcome of the mediation.¹⁴

Voluntary attendance

The mediator must remain alert to the possibility that the parties may not attend the mediation in a voluntary capacity. Noble refers to example of community leaders pressuring parties into attending a mediation.¹⁵

'Gratuitous concurrence' refers to the situation where an Aboriginal and Torres Strait Islander participant may agree to a direct question that they have not understood.¹⁶ Waterford refers to the: *...a well-known phenomenon of Aboriginal English and traditional Aboriginal language speakers is 'gratuitous concurrence', where a listener indicates consent or agreement to a person in a position of authority, even when they do not agree with what is being said (or sometimes when they do not understand what is being asked).*¹⁷

¹⁰ Cunneen C, Luff J, Menzies K, & Ralph N (2005) 'Indigenous Family Mediation: The New South Wales ATSIFAM Program' Australian Indigenous Law Reporter 9(1).

¹¹ Sauvé M (1996) 'Mediation: Towards an Aboriginal Conceptualisation' Aboriginal Law Bulletin 3(80): 10.

¹² Cunneen C, Luff J, Menzies K, & Ralph N (2005) 'Indigenous Family Mediation: The New South Wales ATSIFAM Program' Australian Indigenous Law Reporter 9(1).

¹³ Pringle K L (1996) 'Aboriginal Mediation: One Step Towards Re-Empowerment' Australian Dispute Resolution Journal 7(4): 253. It may be necessary to remove or amend the confidentiality clause in any mediation agreement.

¹⁴ Kelly L (2007) 'Mediation in Aboriginal Communities: Familiar Dilemmas, Fresh Developments' Indigenous Law Bulletin 28(6): 14.

¹⁵ Noble K (1994) Alternative Dispute Resolution: Aboriginal and Torres Strait Islander Initiatives Paper presented at the Third International Conference in Australia on Alternative Dispute Resolution, Surfers Paradise, 1-2 October.

¹⁶ Roberts F (2008) Aboriginal English in the Courts Kit Fitzroy: Victorian Aboriginal Legal Service Co-operative Limited.

¹⁷ Waterford, K., "Cross-cultural disputes: guidance for Australian mediators" [2017] AULA 43; (2017) 141 <http://classic.austlii.edu.au/au/journals/PrecedentAULA/2017/43.html>.

The mediator must be aware of this phenomenon. It can be addressed by the mediator making use of open-ended questions, thus allowing the participant to state their own point of view in a narrative form, rather than indicate agreement or disagreement to a statement made by another person.

Language

In a paper by the Family Law Council of Australia, the Northern Australian Aboriginal Justice Agency (NAAJA) submitted that *'complex language is often used in family dispute resolution proceedings. Many of our clients leave mediations with limited understanding of what transpired in the mediation'*.¹⁸

Since the 1960's, educators have officially recognised a difference between Aboriginal English and Standard Australian English.

Aboriginal English can include differences in grammar, vocabulary, meaning, use and style depending on the location of the particular community.

Again, this challenge can be overcome by employing open-ended questioning or even engaging an Aboriginal English interpreter if necessary.^{19 20}

Non-verbal communication barriers

Mainstream mediators may regard silence as a sign of evasiveness.

With a mediation involving Aboriginal and Torres Strait Islander participants the mediators must remain sensitive to non-verbal communication barriers. This includes the need to wait until a participant volunteers certain information and to respect silence when it occurs.

Silence should not be misinterpreted and used against the relevant party.

Strong language

Sensitivity to the potential use of strong language may be necessary.

¹⁸ North Australian Aboriginal Justice Agency, Submission to NT Government, Aboriginal Clients in the Family Law System (2011) 5.

¹⁹ Roberts F (2008) Aboriginal English in the Courts Kit Fitzroy: Victorian Aboriginal Legal Service Co-operative Limited.

²⁰ Pringle K L (1996) 'Aboriginal Mediation: One Step Towards Re-Empowerment' Australian Dispute Resolution Journal 7(4): 253.

Strong language may not be intended as an attack on the other party or upon the mediator themselves.²¹

Mediators may need to be open to the possibility that a participant may walk out of the room after a moment of 'elevated emotion'.²²

Taboo topics

The mediator should aim to avoid reference to topics that are considered to be 'taboo' e.g. genitals, pregnancy and speaking the names of recently deceased.

The participants may also exhibit a reluctance to discuss 'men's business' and 'women's business' with each other. In this light, it may be important for such matters to be discussed with a same gender mediator.²³

²¹ National Alternative Dispute Resolution Advisory Council (2006) Indigenous Dispute Resolution and Conflict Management Canberra: National Alternative Dispute Resolution Advisory Council .

²² Pringle K L (1996) 'Aboriginal Mediation: One Step Towards Re-Empowerment' Australian Dispute Resolution Journal 7(4): 253.

²³ Pringle K L (1996) 'Aboriginal Mediation: One Step Towards Re-Empowerment' Australian Dispute Resolution Journal 7(4): 253.

Conduct mediation interview

Establish the Ground Rules

The mediator explains the rules and process involved in mediation.

First, meet with each participant separately, to outline what they can expect from you and from the process. Make sure that they are both willing to participate – mediation won't work if you try to impose it!

Agree on some ground rules for the next stage of the process. These might include asking each person to come prepared with some solutions or ideas, listening with an open mind, and avoiding interruptions. It's important that you build trust with both participants, and make them feel safe enough to talk openly and truthfully with you and with one another.

Sourced on 28/7/22: <https://www.mindtools.com/pages/article/mediation.htm>

Statements by the parties

Each party has the opportunity to describe the dispute.

Identification of the dispute

The mediator will ask the parties questions in order to gain a better understanding of the conflict.

Private caucuses

The mediator will conduct private meetings with the parties to obtain a better understanding of each party's side and to assess possible solutions.

Find a quiet room in a neutral location where you won't be disturbed, away from the rest of the team.

Meeting with the participants individually will allow them to share their side of the story with you openly and honestly. Use active listening skills and open questions to get to the root of the problem. Reflect upon and paraphrase what your team members tell you, to show that you understand their points of view.

Use your emotional intelligence to identify the underlying cause of the conflict, and pay attention to each participant's body language to help you to get a better sense of their state of mind.

Be prepared to encounter a range of strong feelings, from fear and distress to anger, and even a wish for revenge. But avoid shutting these feelings down – this might be the first time that your team members have fully expressed the impact of the conflict, and it will likely give you valuable clues to its cause.

Then ask each person what they hope to gain from the mediation. Remind them that it's not about winning, but about finding a practical resolution that suits everyone who's involved.

Sourced on 28/7/22: <https://www.mindtools.com/pages/article/mediation.htm>

Negotiation

The mediator will help the parties reach an agreeable solution.

Once both sides have had time to reflect, arrange a joint meeting. Open the session on a positive note, by thanking them for being open to resolving the conflict. Remind them of the ground rules, summarize the situation, and then set out the main areas of agreement and disagreement.

Explore every issue in turn, and encourage the participants to express how they feel to one another. Make sure that they have equal time to talk, and that they can express themselves fully and without interruption. If they become defensive or aggressive, look for ways to bring the conversation back to the main problem at hand. Encourage them to empathize with one another, and to improve their understanding of one another's point of view by asking questions themselves.

Once both sides have given their views, shift their attention from the past to the future.

Go over the points that were raised in your meetings, and try to identify areas where they have at least some shared opinions. Resolve these issues first, as a “quick win” will help to build positive momentum, and bolster both sides' confidence that a workable solution can be found.

Ask participants to brainstorm solutions and encourage win-win negotiation to make sure that they reach a solution that they're happy with. If a suggestion is unreasonable, ask the initiator what he would consider to be reasonable, and whether he thinks that the other party would agree.

Sourced on 28/7/22: <https://www.mindtools.com/pages/article/mediation.htm>

Document outcomes of mediation interview

Written agreement

If the parties reach a resolution, the mediator may confirm the agreement in writing and ask the parties to sign this agreement.

Take notes during all of the meetings that you mediate and, once the participants have reached a solution, write that up as a formal agreement. Make sure that the agreement is easy to understand and that actions are SMART (Specific, Measurable, Achievable, Relevant, and Time-bound).

Help to avoid any confusion or further disagreement by checking that your language is neutral, free from jargon, and clear for all. Read the agreement back to both parties to make sure that they fully understand what will be expected from them, and to clarify any points that they do not understand or that are too general or vague.

You might even consider getting each person to sign the agreement. This can add weight and finality to the outcome, and help to increase their accountability. But mediation is designed to be a relatively informal process, and you could undermine this by pushing too hard.

It's time to bring the mediation to a close. Give the participants copies of the agreed statement, and clearly explain what will be expected from them once they're back in the workplace.

Take some time to prepare, together, how to overcome obstacles to implementing the agreement, and to explore options for dealing with them. Summarize the next steps, offer your continued support as a mediator, and thank both parties for their help and cooperation.

Sourced on 28/7/22: <https://www.mindtools.com/pages/article/mediation.htm>

Services and Agencies Relevant to Mediation

Legal Aid NSW

The Family Dispute Resolution Service of Legal Aid NSW helps people to resolve their family law dispute without going to court by inviting the parties involved in the dispute to attend a mediation.

Sourced on 28/7/22: <https://www.legalaid.nsw.gov.au/what-we-do/family-law/family-dispute-resolution>

NSW Department of Fair Trading

Fair Trading provides a free mediation service concerning housing and property, which often assists in achieving a resolution without needing to resort to more formal and costlier avenues such as the Tribunal or courts.

<https://www.fairtrading.nsw.gov.au/housing-and-property/strata-and-community-living/community-and-neighbourhood-schemes/resolving-disputes-and-mediation>

NSW Small Business Commission

The NSW Small Business Commission offers a cost-effective commercial mediation service to help solve many types of disputes without the high cost and delays inherent in going to court.

<https://www.smallbusiness.nsw.gov.au/what-we-do/mediation>

The Law Society of NSW

<https://www.lawsociety.com.au/practising-law-in-NSW/working-as-a-solicitor-in-NSW/alternative-dispute-resolution/programs-and-services>

Family Relationships Online

<https://www.familyrelationships.gov.au/separation/family-mediation-dispute-resolution>

Federal Circuit and Family Court of Australia

Assistance with dispute resolution can be obtained through Legal Aid, Community Legal Centres or private legal practitioners.

Legal Aid is generally subject to means and assets tests as well as restrictions on the type of matters that assistance can be provided for.

Community Legal Centres can provide free advice and some, but not all, can assist you with representation. A list of Community Legal Centres in each state and territory can be found on the [Community Legal Centres Australia](#) website.

Private legal practitioners work on a fee-for-service basis. Each state and territory has a Law Society or Institute (for solicitors) as well as a Bar Association (for barristers). Law Societies and Bar Associations often operate:

- referral services to a legal practitioner who can help
- mediation services, and/or
- maintain lists of arbitrators.

Law Society websites all have a 'Find a Solicitor' and 'Find a Mediator' function to search for solicitors and mediators in your area.

The following webpages provide information on external dispute resolution services:

- [Family Relationships Advice Line](#)
- [Attorney-General's Department Family Dispute Resolution Register](#)
- [Australian Institute of Family Law Arbitrators and Mediators](#)
- [Legal aid bodies in your relevant state or territory](#)
- [Attorney-General's Department: amica - An Online Dispute Resolution Tool](#)

Community Justice Centres

Community Justice Centres (CJC) provides free mediation services. CJC mediators can mediate in different sorts of matters including neighbour disputes, community disputes, small debts and disputes at work.

You can arrange mediation at CJC by contacting [CJC](#).

If you ask CJC to arrange mediation, CJC staff will contact the other people involved in your dispute and invite them to mediate. If the other people agree, mediation may be arranged as soon as one week after your first call. Mediation at CJC is free.

The [CJC website](#) provides a range of resources to help you prepare for mediation.

People Community Justice Centres

People Community Justice Centres (CJC) has a program to help Aboriginal and Torres Strait Islander people mediate disputes and it has Aboriginal mediators. For more information on this program, go to the [CJC website](#).

Fair Work Commission

If you make an unfair dismissal or general protections application to the Fair Work Commission (the Commission), you will be asked to attend a conciliation conference before your case goes to a hearing. A conciliation conference is very similar to mediation and the information on this site about preparing for mediation will help you prepare for a conciliation conference. For more information on conciliation in employment matters, go to the [Fair Work Commission website](#).

If you make a complaint to the Fair Work Ombudsman you may also be asked to attend a mediation conference. For more information on this process, go to the [Fair Work Ombudsman website](#).

Family Dispute Resolution

Family Dispute Resolution is a process for resolving disputes about the care of children in family matters.

In Family Dispute Resolution, the people involved (for example parents, grandparents) meet with a mediator to talk through problems and try to come to an agreement. If you want to apply to a family law court for a parenting order (an order about children), you first need a certificate to say you have attempted Family Dispute Resolution.

There are some exceptions (for example, urgent matters or situations involving violence or child abuse). For more information on exemptions, go to [Family Relationships Online](#).

If you think one of these exemptions applies to you, or you have another reason why you don't want to try family dispute resolution, you should get [legal advice](#).

You need to use an accredited (approved) person to do this sort of mediation. It can be provided by private providers or by government Family Relationship Centres. You can find contact details for accredited FDR providers on the [Family Dispute Resolution Register](#).

The mediator in family matters is called a "Family Dispute Resolution Practitioner".

For more information on Family Dispute Resolution:

- go to the Legal Aid New South Wales website [Best for Kids](#)
- go to the [Family Relationships Online](#) website
- ring the Family Relationship Advice Line on 1800 050 321, or
- get [legal advice](#).

Private Mediators

There are private mediators who offer mediation services for a fee. Some may specialise in a particular industry or type of dispute. Private mediators will charge for mediations and the cost will often depend on how long the mediation lasts.

To find a private mediator you can:

- contact the [Alternative Dispute Resolution Programs and Services](#) on the Law Society NSW website.
- contact a Registered Mediation Accreditation Body and ask for details of mediators registered with them. For more information go to the [Mediator Standards Board](#).

- search the [Yellow Pages](#) telephone directory.

Court or tribunal referrals to mediation

In some cases, a court or tribunal can refer you and the other party directly to mediation before it hears your case.

For example:

- In Apprehended Personal Violence Order (APVO) cases, the Local Court can refer the parties to mediation.
- In small claims debt matters, the Local Court can order that the parties try mediation and adjourn the case so they can do this.
- In fencing disputes, the Local Court or the Local Land Board can refer the parties to mediation and adjourn (postpone) the case so that the parties can first attend the mediation.

If you have a matter before the Local Court and you would like to try mediation, you should ask for a referral to mediation on the first date the case is listed (in small claims matters this is called the Pre Trial Review). In most cases you will be referred to [Community Justice Centres](#) for mediation.

For more information on small claims matters, see the [Debt - Small Claims](#) section of this website.

For more information on AVO matters, see the [Apprehended Violence Orders](#) section of this website. For more information on fencing matters, see the [Fences](#) section of this website.

If you come to an agreement at mediation, if all parties agree, you can ask the court or tribunal to make 'consent orders' in the same terms as your agreement. If the court does this, it means the agreement can be enforced in the same way as other orders of the court. If you are not sure whether you would like the court to make consent orders in the same terms as your agreement, you should get [legal advice](#). For more information about agreements reached at mediation, see [What happens at mediation?](#)