

Attachment D2: MEDIATION

Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person – the mediator – and work out a mutually agreeable solution.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and makes sure that the process is as fair as possible for all concerned.

The following outlines the Mediation procedure that will be followed by HA:

1. The people involved in a formal complaint (Complainant and Respondent) may work out their own resolution of the complaint or seek the assistance of a neutral third person or mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
 - a. After the Complainant and Respondent have had their chance to tell their version of events to the MPIO on their own, and;
 - b. The MPIO does not believe that any of the allegations warrant any form of disciplinary action – proven serious allegations will not be mediated;
 - c. Mediation looks like it will work i.e. the versions given by each party appear as though it will be possible for each party to understand the other's point of view.
3. Mediation will **not** be recommended if:
 - a. The Respondent has a completely different version of the events and they won't deviate from these;
 - b. The Complainant or Respondent are unwilling to attempt mediation;
 - c. When/if there is a real or perceived power imbalance between the people involved
 - d. Due to the nature of the complaint, the relationship between the parties or any other relevant factor, the complaint is not suitable for mediation.
4. The MPIO will notify the respondent/s that a formal complaint has been made, provide them with details of the complaint and notify/confirm that HA has decided to refer the matter to mediation for resolution.
5. If mediation is chosen to try to resolve the complaint, the MPIO will in consultation with the Complainant and respondent, arrange for a Mediator to mediate the complaint.
6. The mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with HA acting as a mediator.
7. The mediator will talk with the Complainant and Respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
8. All issues raised during mediation will be treated confidentially. We also respect the rights of the Complainant and the Respondent(s) to pursue an alternative process if the complaint is not resolved.
9. If the complaint is resolved by mediation, the mediator will prepare a document that sets out the agreement that has been reached. This agreement will be signed by the Complainant and the respondent(s). We expect the parties involved to respect the terms of the agreement.
10. If the complaint is not resolved by mediation, the Complainant may:
 - Write to the MPIO to request that the MPIO reconsider the complaint in accordance with **Step 3**
 - Approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.