

# Terms of Engagement

The Employment Mediation Service provides dispute resolution services to help resolve differences that arise between parties in employment relationships.

Mediators employed by the service are highly trained and experienced in employment jurisdiction and mediation practice. They use different approaches and channels to assist parties, depending on the issues involved.

The underlying principles of mediation are that it is voluntary, confidential, empowers parties to make their own decisions, and is conducted by an impartial person.

In accordance with these principles, the mediator's primary role is to provide a safe environment for parties to address their issues, understand each other's perspectives, and look at ways to reach a resolution that meets the needs and interests of both parties.

Mediators are also required to act in accordance with the MBIE mediator competency framework, practice guidelines, MBIE Code of Conduct, the Public Service Commissioner's Standards of Integrity and Conduct, and the MBIE Mediator Code of Ethics.

Representatives perform an important role in the mediation process. They assist a party to:

- › articulate their point of view
- › understand their options, prospects of success, and risks if a resolution is not reached at mediation
- › consider options for resolution that meet their client's needs
- › understand the other party's needs and concerns, with an aim to help resolve matters
- › work with the mediation process to promote an outcome that is in the best interests of their client.

Other support people also have a significant role to play, providing emotional support and an objective viewpoint, which can help parties achieve a resolution.

For the mediation process to achieve its aims, and the mediators to perform their role, there are expected standards of behaviour that must be upheld by those who use the service.

While it is understandable that parties themselves might experience high emotions before, during and after the process, it is expected that those who represent them (either advocates or other representatives) will maintain professional standards of behaviour.



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Those standards include, but are not limited to:

- › respecting tikanga Māori
- › acting in good faith and maintaining professional objectivity
- › acting in the best interests of their client at all times
- › being prepared for the mediation including preparing their client
- › encouraging their client to actively engage and participate in the process
- › being courteous, helpful and respectful of all those involved in the mediation
- › maintaining safety at the mediation, including the physical and psychological safety of parties
- › ensuring representation of their client does not undermine the integrity of the mediation process
- › avoiding behaviour that undermines the mediator's role and the mediation process, including making negative comments about the service or other mediators during the mediation process
- › acting in a way that promotes resolution in accordance with the spirit of the Employment Relations Act 2000
- › maintaining confidentiality, with regard to s 148 of the Employment Relations Act 2000
- › allowing the mediator to talk directly to the parties in accordance with section 147(3) of the Employment Relations Act 2000
- › raising concerns about the process with the mediator privately (not in front of the other party).

If a mediator believes that these standards of behaviour are not being upheld – to the extent that the mediation process (including the mediator's role) is, or may be, undermined, or the safety of any person at the mediation is jeopardised (including physical and psychological safety) – they are authorised to bring the mediation to a close.

If you have any comments or concerns about the mediation process you have experienced, please contact the National Manager of the Employment Mediation Service Email [MediationService@mbie.govt.nz](mailto:MediationService@mbie.govt.nz)