

## Mediation Terms

Getting into a dispute can at times be an unavoidable part of running a business, and mediation can be a highly effective and efficient way to resolve disputes. There are costs to a long, drawn-out dispute, especially if it ends up in court. Mediation is usually cheaper and faster than going to court or a tribunal and helps parties to a dispute to weigh all the considerations so they can understand the best outcome for them. The mediation process administered by the Queensland Small Business Commissioner (QSBC) is provided to assist small businesses to resolve lease disputes and is subject to the provisions of the *Retail Shop Leases Act 1994* (the RSL Act) or the *Small Business Commissioner Act 2022* (the SBC Act).

The mediator nominated by the QSBC is an independent professional, accredited under the [National Mediator Accreditation Standards](#) (NMAS). Rather than have a solution imposed by a court based on a narrow set of legal principles, the parties can decide what to do while looking at the commercial situation in full. Agreements reached through mediation can include practical remedies and personal outcomes – not just purely legal ones.

By participating in this mediation, you accept and agree to comply with your obligations under the RSL Act and SBC Act and any additional terms set out in this document.

### Terms

1. You must conduct your own case which means, represent yourself (s. 57 of the RSL Act and s. 25 of the SBC Act)
2. You may be represented at the mediation conference by an agent only if your business is a corporation; or the mediator is satisfied an agent should be permitted to represent you (s. 57 of the RSL Act and s. 25 of the SBC Act)
3. The mediator may allow a person to attend and participate in the mediation conference if the mediator is satisfied the person has an interest in the resolution of the dispute and each of the parties' consents.
4. As per the commissioner's expectations: you cooperate; and act reasonably and in good faith in all discussions and actions associated with the dispute.
5. You are responsible for your own costs for the mediation conference unless otherwise ordered by QCAT or a court.
6. You must not make an official record of anything said in a mediation conference; however, a mediator may make notes they consider appropriate.
7. The mediation conference will be held in private and is not open to the public.
8. You understand the mediator will not advise about the law, encourage or assist a party in reserving or establishing legal rights, or act as an adjudicator or arbitrator.

## **Mediation process**

In accordance with the NMAS practice standards the mediation process starts when the parties to the lease dispute are given a Notice of Mediation Conference by the QSBC, ordinarily includes an intake conversation and conference with the mediator and ends when the nominated mediator gives the parties a Notice of Mediation Outcome.

The mediator will help the parties to explore the issues, discuss options, and, if possible, reach a settlement agreement. The mediator may ask the parties to share information, may meet with the parties together or separately, and may communicate orally or in writing.

## **Mediation outcome**

If the parties reach an agreement at the mediation conference, the agreement must be in writing and signed by both parties. As soon as practical after the mediation ends, the mediator will give the parties a notice of mediation outcome, and if a settlement agreement cannot be reached you should seek your own independent legal advice about your further options. This may include an application to QCAT or an application to a relevant court.

## **Further Information**

You can find out more on the QSBC website: <https://qsbc.qld.gov.au/>