

Changes introduced by Te Ture Whenua Māori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020

Frequently asked questions – Dispute resolution

1. Why have changes been made to dispute resolution?

Disputes involving whenua Māori are often delicate and complex. Historically, disputes over Māori land have been considered by the Māori Land Court. This public way of resolving disputes can lead to long-lasting resentment between whānau members and have an impact on relationships.

Creating a statutory process for private and out-of-court dispute resolution using a mediator and relevant tikanga to resolve the issues should help to maintain whānau relationships. Using this mediation service, details of disputes will stay private and the parties involved can develop their own sustainable solutions to which everyone agrees.

2. Will parties have to pay to use the mediation service?

The mediation service will be free, although whānau involved will need to meet the travel costs associated with attending mediation and the costs of obtaining independent legal advice if they decide to seek it.

3. Will the parties be able to choose the mediator?

The parties involved in the dispute will need to agree on the mediator to be used. From early 2021, and for the first two years of the new dispute resolution service, only Māori Land Court Judges will be able to act as mediators. When a Judge is appointed as a mediator, they will not be able to sit on any other court proceedings about that matter. It will also be possible for more than one mediator to be appointed if everyone agrees.

The Ministry of Justice is developing a list of independent mediators who are not court Judges. It will take time to ensure the pool of mediators have the skills and experience relevant to Māori land.

Once the pool is in place, parties in the dispute will be able to request an approved mediator from the pool, or agree a mediator who is not on the list so long as the appointment is approved by the Chief Executive of the Ministry of Justice and the referring Judge or Registrar. If preferred, parties could still request a Judge as a mediator.

4. What happens when parties reach an agreement?

If parties reach an agreement, the independent mediator will record the terms of the resolution and provide this to the Māori Land Court to formalise.

5. What happens when the parties fail to reach an agreement?

If agreement is not reached at mediation, the independent mediator will notify the Māori Land Court. There will be options available to parties when considering the next steps to resolve the dispute, including going to Court or going back to mediation.