

Dispute Resolution Guide for Sport & Active Recreation Clubs

Dispute Resolution - What are the options for Sport?

As part of an investigation into the cost of delivering sport in Victoria, VicSport identified dispute resolution, and the threat of litigation, as a significant issue impacting on sport and active recreation organisations. To assist sport & active recreation organisations resolve disputes, VicSport has developed the following guide for sport and active recreation organisations. Please note this is a guide only. If your organisation is unsure of its position in regard to a dispute, you should seek appropriate professional advice.

The first preference for dealing with any dispute should be to achieve a resolution acceptable to both parties through a process of mediation. Achieving such an outcome avoids the need for costly and drawn out legal or arbitration battles.

Mediation

Mediation is an informal problem-solving process in which the parties who are in dispute meet, preferably under the guidance of skilled and impartial mediators. The aim of mediation is to discuss the issues in dispute, identify options for resolution, and consider these option with the aim of achieving a solution agreeable to both parties.

The process of mediation is based on encouraging the parties in dispute to decide on an acceptable resolution to their dispute. Ideally, when undertaking mediation, the mediator should:

- Initially meet with each party individually to allow each aggrieved party to outline their personal view of the issue in dispute
- Based on these meetings, the mediator then determines a list of issues for discussion. The aggrieved parties then meet together in the presence of the mediator(s) to discuss issues with each other, in an informal, non-threatening manner to help gain an understanding of each other's situation.
- A good mediator will encourage the parties to talk to and listen to one another about the effects the dispute has had on the other party.
- Through facilitation by the mediator, the parties work together to negotiate an outcome acceptable to all

It is always a good idea for any outcomes achieved and decisions made through mediation to be detailed in writing and signed by all parties for future reference. Although these agreements will not be legally binding documents unless due legal process has been undertaken to make them so, they do help to clarify outcomes for all parties and may assist as reference material for the future.

Of course some disputes will not be resolved through a mediation process and may require legal intervention. It should be noted however that at any time during a legal case mediation can be used to resolve an issue and should be always kept in mind as an option.

Using mediation to resolve disputes has a number of advantages over various legal or arbitration alternatives:

- Mediation can be arranged quickly and is relatively inexpensive in comparison to costly, time consuming, and stressful legal battles
- Mediation is informal and confidential
- Mediation aims to engage all aggrieved parties in determining an acceptable outcome to a dispute
- Mediation can help to restore or preserve relationships which may be irreparably damaged by legal battles

Where do I find a Mediator?

There are a range of options available to organisations who wish to locate a reputable dispute resolution mediator.

Dispute Settlement Centre of Victoria (DSCV)

DSCV offers a low cost mediation service for both individuals and groups, either small or large. There is usually no fee for most of the services provided by the DSCV, parties simply bear the costs for their own expenses, such as legal advice, travel costs, and the like. DSCV can also meet the cultural and communication needs of people from culturally and linguistically diverse backgrounds.

The DSCV has a panel of highly skilled and trained mediators from a wide range of backgrounds located around the State. Mediators are employed on a sessional basis, and are paid by the Department of Justice. Mediators are selected primarily for their mediation skills and do not give other advice or make recommendations to parties, regardless of their qualifications, knowledge or particular field of expertise.

If all aggrieved parties agree to be involved in mediation, a meeting can usually be arranged within 1 or 2 weeks. The mediation session usually takes between 2 and 4 hours, and one session is generally all that is required; however this does vary on a case-by-case basis.

For further information contact:

The Dispute Settlement Centre of Victoria
Level 4, 456 Lonsdale St
Melbourne, 3000
P: 1800 658 528 or (03) 9603 8370
W: www.justice.vic.gov.au/disputes/

LEADR Association of Dispute Resolvers (Victoria)

LEADR is an Australasian, not-for-profit membership organisation formed to serve the community by promoting and facilitating the use of consensual dispute resolution processes generally known as Alternative Dispute Resolution or ADR. LEADR is a source of mediators for the business, legal and broad community sectors.

LEADR offers a free referral service that puts parties who are in dispute in contact with mediators who are equipped to assist in the resolution of a dispute. After consultation about the needs of the parties, LEADR provides the profiles of usually 3-5 suitable mediators to the parties, who then make a final selection of mediator(s). This referral service is provided free of charge, and a fee for the mediator's services is negotiated with and payable directly to the mediator.

For further information contact LEADR

P: 1800 651 650 or 02 9251 3366

W: www.leadr.com.au/chapters/victoria.htm

The Institute of Arbitrators & Mediators Australia (IAMA)

IAMA aims to serve the community, commerce and industry by facilitating efficient dispute resolution methods, including mediations and conciliation. IAMA has chapters in all Australian states and territories. IAMA can assist groups with mediation, and also has a search function on their website to assist groups find an arbitrator or mediator.

For further information contact IAMA

P: 03 9607 6908

W: www.iama.org.au

Further Information

The Australian Sports Commission has further information regarding dispute resolution on their website. For further information go to:

www.ausport.gov.au/ethics/contacts.asp#dispute

In addition, your own legal practitioner may be able to provide you with specific advice and support regarding your dispute resolution needs.