Resolving disputes online: reviewing the Victorian Small Business Commission’s model of service delivery

SUMMARY PAPER

**Introduction**

The Victorian Small Business Commission (VSBC) moved mediations from face-to-face to online via videoconferencing during the COVID-19 pandemic to ensure Victorians could still access our services.

This change meant we were no longer limited by mediation room availability – either at our Melbourne offices (where we were restricted to running four sessions at any one time) or at locations in regional Victoria. Significantly more sessions could now be held simultaneously in COVIDSafe settings by our panel of experienced and independent mediators.

By providing many more mediations, we were able to respond to a record increase in demand for our services. In 2019–20 over 2,700 people applied for our help to resolve a dispute (an increase of almost 40 per cent on 2018–19). This figure rose to 5,100 for 2020–21, with the vast majority of matters being over commercial rent relief. Of all mediations conducted in 2020–21 (n = 2,298), the success rate remained strong at 77 per cent, and the majority of parties surveyed said they would prefer online to face-to-face in future.

2021–22 has so far seen a continued need for our specialised help.

**Reviewing our change in operations: what our stakeholders shared**

As we keep responding to COVID-19, we’re committed to ensuring there are no barriers to small businesses accessing an efficient and inclusive dispute resolution service. We’re also committed to reviewing our change in operations so we can understand how parties are benefitting and where improvements can be made. In reviewing our service, we consulted widely, including with small business owners, landlords, our mediators and trusted advisors to small businesses:

**When it came to logistics…**

* **SAFE** ­– online dispute resolution is a COVIDSafe method for bringing parties together for mediation
* **ACCESSIBILE** – it removes the barrier of travelling to a set location (particularly for parties based in regional Victoria) and eliminates associated costs ­(be it petrol, public transport or parking), and parties don’t need to take as much time away from their work and family
* **CONSISTENT** – we can consistently and reliably deliver our service as we navigate COVID normal
* **GREEN** – it reduces the carbon footprint of a mediation session
* **TECHNOLOGY** – on occasion, parties do have issues using the technology though this is unlikely to impact on mediation and, at this stage of the pandemic, people’s technology literacy is much higher than it was at the outset

**When it came to wellbeing…**

* **CALM** ­– taking part in a session from your own home or business means that for some, mediation is less stressful, emotions are less likely to escalate and decisions are more likely to be made on the day
* **PRIVATE** – because parties aren’t in the same building, there’s a greater sense of privacy during breakout sessions (where each party has the chance to have a private discussion with the mediator)
* **ON EQUAL FOOTING** – our mediators said the online space makes it less likely for one party or their representative to overpower or pressure another, helping to place parties on equal ground when it comes to negotiations
* **ENGAGING** – our mediators draw on their expertise in engagement to build rapport with parties, and said they feel supported by the ability and willingness of most parties to engage online
* **FATIGUE** – without the usual face-to-face breaks that would happen when walking between rooms, parties and mediators need to be disciplined when taking breaks during online mediation

**How we’ve supported parties since implementing online mediations**

**Guidance in navigating the process**

VSBC mediators have provided expert help to support parties throughout their mediations.

This has included:

* letting parties know just how important it is to communicate messages in a clear, direct and upfront manner in an online environment
* advising parties that mediations can be emotional, and that jumping in to voice your perspective or position is okay and can be an important part of moving to a solution
* helping parties to overcome communication barriers, for example, by acknowledging that they might not want to have this conversation and that they might be uncomfortable, but that this is the time to say what they need to say in order to work towards agreement.

**Building financial literacy**

Taking on board feedback shared by our mediators since we moved to online mediations, we have taken steps to help ensure parties have good financial literacy before making important decisions at mediation. Our staff who provide preliminary help to resolve disputes have undergone training in:

* understanding the free financial counselling services available via [Partners in Wellbeing](https://www.partnersinwellbeing.org.au/small-business-support)
* identifying when a party might be in need of financial counselling
* providing parties with information to access supports.

We will be monitoring the impact this has on mediation outcomes over time.

**Conclusion**

The feedback on virtual mediations has been overwhelmingly positive, so we will continue to hold mediations online, supporting parties to be actively involved in the process and reap the benefits.

We will also continue to:

* provide access to face-to-face mediations in some situations, such as mediations about farm debt
* encourage parties to talk with us about their specific needs.

For more information, [contact us](https://www.vsbc.vic.gov.au/contact-us/).