

## Farm Debt Mediation

### Preliminary conference or intake meeting with the Mediator

#### Agenda items for discussion

Parties to a mediation under the *Farm Debt Mediation Act 1994 (NSW)* must have at least one person participate in the preliminary conference / intake meeting who will participate in the actual mediation.

These are the issues your mediator is like to discuss with the parties before the mediation:

1. Appointment, functions and role of the mediator (FDMA sections 4AA, 16, 17, National Mediation Accreditation Standards (NMAS)).
2. Agreement to mediate, suitability of the dispute for mediation, conflicts of interest, and mediator's fees and parties' costs.
3. Conflicts of interest.
4. Location, venue, time frames and other practical matters about the mediation session including the start time (section 14(1A)(b)), adjournments and termination (section 18E) and who will attend (such as an interpreter, guarantor, business and/or personal partner, persons with a legal or equitable interest in the outcome of the mediation) or adult child, and what the role of any adviser will be (section 18H).
5. Confidentiality of the mediation (sections 18F and 18G).
6. Preparation by each party prior to mediation, including consideration of any advice that may need to be sought, and referral if appropriate. Mediators will provide information about the valuable support that the Rural Financial Counselling Service can provide. Contact information for this free service is on the NSW Rural Assistance Authority's website. Legal advice may also be recommended.
7. Pre-mediation exchange of information and/or documents (section 18D, Form 4). The mediator will report to the Authority about whether an information request was reasonable and whether information was provided within a reasonable period.
8. Authority to settle the matter on the day. Written authority if a representative will sign the Mediation Agreement, and costs if authority is not held (section 18H).
9. "Satisfactory Mediation" (section 4(1A)) and mediator's summary (section 18O).
10. Mediation Agreement – drafting by the mediator (section 18K), and enforceability. NB If a Deed is later agreed, the Deed must reflect the Agreement (section 18N).
11. "Satisfactory mediation" (section 4(1A)) and mediator's reporting obligations (section 18A).
12. Cooling off period after a Mediation Agreement is entered into, and rights during the cooling off period (sections (sections 18J – 18M).
13. Arrangements for signing an agreement to mediate and provision of a copy of a blank "Mediation Agreement".
14. Internal appeals (section 18P), mediator immunity (section 18), exit survey and complaint processes.
15. Costs of the mediation (section 18I).