

Fact sheet – Are CJC Agreements enforceable?

Is an agreement made at mediation at Community Justice Centres legally binding?

Normally agreements made at a voluntary mediation session at Community Justice Centres (CJC) are not legally binding. They are made in good faith and it is up to the people who made the agreement to keep to it.

However, you may be able to make your agreement legally enforceable if everyone agrees.

Note that if you are attending a court-ordered mediation, an agreement you make may be legally binding. If you aren't sure if your mediation was court-ordered, please ask our staff.

Do you need an enforceable agreement?

At the end of a mediation session at CJC, most people feel that a 'good faith' agreement that is not binding is appropriate.

However, some people would prefer a legally binding agreement. Everyone participating in the mediation must agree before an agreement can be made enforceable.

What do you need to do to make my CJC good faith agreement legally enforceable?

Your agreement can include a statement saying that the parties to the dispute agree to have an enforceable agreement drawn up after the mediation in the same terms as the CJC mediation agreement.

After the mediation, you can then enter into a legally binding form of agreement, for example a legal contract or deed. This would usually be with the assistance of a lawyer or at least legal advice about how to make the agreement legally enforceable.

Lawyers do not generally attend CJC mediations, however, if they are present they may be able to draft the agreement in a legally binding form then and there.

Alternatively, if you have reached agreement, you may be able to ask a court to make a court order in terms of the agreement.

This is called a "consent order" or "orders made by consent". The court will consider the terms of your agreement and may make orders that are the same or similar.

Once a court order has been made, the court can enforce it and impose sanctions if someone does not comply with it.

What should you do before agreeing to an enforceable agreement?

You should get legal advice before consenting to an enforceable agreement.

You can get legal advice before mediation, during mediation (by telephoning a lawyer in a break) or between two mediation sessions.

CJC staff can give you referrals to legal information and advice services – just ask when you call us. Mediators will also provide further information about enforceable agreements near the end of your mediation session.

How do you enforce an agreement made pursuant to a CJC mediation session?

CJC cannot enforce any agreements. If an agreement is not kept, it is up to you to consider getting legal advice and, if appropriate, taking legal action.

However, if an agreement is not kept, you are free to attend a further mediation session at CJC at any time to explore what went wrong and to try to reach a more lasting agreement.

For more information

Visit the website www.cjc.justice.nsw.gov.au

Freecall: 1800 990 777

Email: cjc@justice.nsw.gov.au

If you are deaf or have a hearing impairment or speech impairment, contact us through the National Relay Service on 1800 555 677 and ask for 1800 990 777