

# GUIDANCE NOTE – THE REIQ’S DISPUTE RESOLUTION PROCESS

## 1. The REIQ’s objectives

The Real Estate Institute of Queensland (**REIQ**) REIQ aims to provide its members with information, products and resources that complement business practices and ensure the delivery of consistent professional services to consumers in Queensland. The REIQ can assist you with eligible disputes through its dispute resolution process (**DRP**).

The REIQ’s objectives for its DRP include to:

- (a) set the standards of behaviour and acceptable conduct of members in dealing with other real estate practitioners, clients and consumers; and
- (b) enable appropriate member behaviour through an efficient and effective DRP;
- (c) provide a private and cost-effective forum for the resolution of disputes.

## 2. General procedure for a dispute

The general procedure for initiating a dispute through the DRP is briefly outlined below:

**Step 1** The REIQ requires, at first instance, a potential claimant to attempt to resolve a dispute directly with the respondent. The potential claimant must communicate in writing to the respondent within 20 days of the first event giving rise to the dispute.

**Step 2** If no resolution is reached by the parties within 20 days of the first written correspondence that was sent to the respondent, the claimant must lodge a notice of dispute with the REIQ Registrar in the prescribed form, within 45 days from the date of the first written correspondence that was sent to the respondent;

**Step 3** Once the notice of dispute is lodged, the REIQ will undertake an assessment of whether the dispute falls within its eligibility criteria for the DRP and is an ‘Eligible Dispute’ within the definition of those criteria. If the REIQ determines that the dispute:

- (a) is not an Eligible Dispute, the parties will be informed that the REIQ cannot assist with the dispute, and the claimant will be referred to the relevant regulatory authority should the claimant wish to pursue the dispute; or
- (b) is an Eligible Dispute, the dispute will proceed to DRP as facilitated by the REIQ and further outlined below.

**Step 4** The parties to an eligible dispute will be referred to an independent mediator appointed by the REIQ and will be required to participate in a mediation (**Mediation Service**).

**Step 5** If, as a result of the Mediation Service:

- (a) the dispute is resolved, the parties must enter into a deed of settlement to document the agreed terms; or
- (b) the dispute is not resolved, the parties will be referred to the relevant regulatory authority should the claimant wish to further pursue the dispute.

### 3. Eligibility criteria

The REIQ's DRP is specifically tailored to encourage:

- (a) appropriate conduct amongst its eligible members; and
- (b) the direct resolution of disputes between members and other real estate practitioners, clients and consumers.

In an effort to streamline the DRP and directly cater to its members, the REIQ has a strict eligibility criteria which must be met in order to lodge a dispute through the DRP (**Eligibility Criteria**). The REIQ's Eligibility Criteria can be accessed [here](#).

### 4. Communication between parties

If the requirements of our Eligibility Criteria are met, you may be eligible to initiate a dispute through the DRP as a claimant. As outlined in Step 1-above, you are required to, in the first instance, attempt to resolve the matter with the respondent before lodging a dispute with the REIQ.

The process for attempting to resolve your dispute with the respondent is as follows:

- (a) write to the respondent within 20 days of the first event giving rise to the dispute (**First Letter**). In the First Letter, you should:
  - (i) specify the nature of your dispute;
  - (ii) specify the remedy and outcome you are seeking to resolve the matter;
  - (iii) allow a minimum of five business days for the respondent to provide a response to your First Letter;
- (b) if you are satisfied with the respondent's response to your First Letter, confirm in writing to the respondent that the matter is resolved;
- (c) if you are not satisfied with the respondent's response to your First Letter, or the respondent has not provided a response within 20 days of your First Letter:
  - (i) confirm in writing to the respondent that you intend to refer the matter to the REIQ for resolution; and

- (ii) lodge a dispute with the REIQ within 45 days of your First Letter to the respondent.

## 5. Lodging your dispute

To lodge a dispute with the REIQ, you are required to:

- (a) lodge a 'Form 1 - Notice of Dispute' by email to [mediation@reiq.com.au](mailto:mediation@reiq.com.au);
- (b) attach a copy of a summary of the dispute, all written correspondence (including the First Letter and any response) and supporting documentation with the Form 1 – Notice of Dispute; and
- (c) pay the Filing Fee.

Once you have lodged a Form 1 – Notice of Dispute, the REIQ will:

- (a) assess your dispute against the Eligibility Criteria and determine whether the REIQ can assist with your dispute;
- (b) if the REIQ can assist with your dispute, confirm to you in writing that the matter will be referred to the Mediation Service; and
- (c) if the REIQ cannot assist with your dispute, confirm to you in writing that it cannot assist with your dispute, and that the matter should be referred to the relevant regulatory authority or other statutory body should you wish to pursue the dispute.

## 6. Mediation Service

To participate in the Mediation Service, the parties to the dispute must consent to and sign a mediation agreement prior to the mediation.

Mediations are without prejudice meetings conducted by mediators appointed by the REIQ who operate independently to the REIQ management team. Our mediators are experienced legal practitioners who act as facilitators in the dispute between the parties and attempt to assist parties to resolve the matters in dispute.

The mediation must occur within 14 days after a notice of mediation is issued by the REIQ to the claimant and respondent.

The appointed mediator will, having regard to your dispute, determine the:

- (a) time and date of mediation;
- (b) location of the mediation; and
- (c) duration of mediation.

The claimant must pay the Mediation Service Fee to the REIQ before the mediation.

Please note the outcome of a mediation, including whether all issues in dispute are resolved and whether each party is satisfied with the outcome, will vary depending on the attitude of the parties, the nature of the dispute and other individual circumstances of the matter.

## 7. Fees

Our fees are provided below.

<b>Filing Fee for Form 1 – Notice of Dispute</b>	\$220 (incl. GST)
<b>Mediation Service Fee</b>	\$1,000 (for a mediation capped at 2 hours (excl. GST))

Please note the fees are non-negotiable and do not include any fees related to the potential referral of a dispute to a regulatory authority. However, the fees may be recoverable depending on the outcome of a mediation.

If the Dispute is not resolved after the two hour mediation, it is open to the parties by agreement, to negotiate an additional engagement of the mediator directly.

## 8. Referral to a regulatory authority

If the REIQ cannot assist with your dispute through the DRP, or if your dispute cannot be resolved through the Mediation Service, you may be referred by the REIQ to a regulatory authority or other statutory body to pursue the dispute.

Depending on the nature of the dispute, your dispute may be referred to:

- (a) the Queensland Civil and Administrative Tribunal (**QCAT**);
- (b) the Office of Fair Trading (**OFT**);
- (c) the Residential Tenancies Authority (**RTA**); or
- (d) another statutory body, court or tribunal that has jurisdiction to consider your dispute.

If your dispute is currently being considered by a regulatory authority for investigation and determination, the REIQ cannot assist you with resolving the dispute.

Please note that there may be statutory limitation periods limiting the time available for you to pursue a dispute with a regulatory authority. The existence of a statutory limitation period will depend on which regulatory authority is investigating the matter, its governing statute, and the nature of your dispute.

## **9. Additional matters**

Please note that the REIQ:

- (a) is not a decision-making body or regulatory authority;
- (b) cannot assist potential claimants whose disputes do not meet its Eligibility Criteria and to which the REIQ's DRP therefore does not apply;
- (c) cannot provide legal advice in relation to the nature or outcome of your dispute;
- (d) cannot provide legal advice in relation to prospects of your dispute before a regulatory authority; and
- (e) cannot consider any dispute already being considering by a regulatory authority, other statutory body, court or tribunal.

## **10. Contact information**

If you need further information, please contact our REIQ Registrar at [mediation@reiq.com.au](mailto:mediation@reiq.com.au) or 07 3249 7326.