

Agree to disagree

We all make decisions in different ways. In this case study, one parent believed it was important to make their own decision, but the other parent believed the wider family's wishes, especially the elders, should be respected.

Background

The family were two young parents who came to mediation to discuss their three-year old child. Both parents had very strong family ties with their whanau and strong cultural commitments. On the face of it, there was a lot in common. However, their individual histories and interpretations of their culture, specifically around responsibility, family and parenting, put them in very different positions.

Mum had been removed from her parents at a young age and adopted out to family. While she had a very strong bond with them and enjoyed their support, advice and counsel, she believed that the final decisions regarding their baby's welfare was for her and the baby's father to make.

Dad grew up in a very close-knit family with a strong male lead. Decisions were made collectively and tended to follow the advice of elders. As a result, his parent's wishes were paramount to any decisions to be made for the baby. This clash caused issues in the relationship and after the parties separated, continued to impact on the way Mum and Dad interacted.

Before the mediation

Before any mediation, the FairWay mediator will have individual conversations with each party. In these conversations Mum's view was that Dad needed to 'step up' and be accountable as the other parent. She did not want anyone else to be in the room to 'influence' him. However, from Dad's perspective, he wanted to consult with his family during the mediation to seek their view on any agreements. He saw these decisions as joint decisions to be made by the wider family as a whole.

There were considerable negotiations as to who would support the parents during the mediation. Dad's parents wanted to be in the mediation room. Mum was adamant that this was not going to happen and, due to clashes with Dad's father, would not agree to him being a support person. Finally, it was agreed that Dad would have his mother and sister as support people but they would be outside the room so that he could talk to them when he needed to do so. Mum did not have any support people. She maintained that her parents were close by if she needed them, but that the ultimate decisions were hers to make, not theirs.

Mediation

On the day of the mediation, the parents worked hard to reach agreement. They discussed how they would arrange for Dad to have contact with their child, what their respective expectations of each other were and how they could make their co-parenting relationship work. Dad had numerous breaks to check in with his mother and sister. The parents discussed the importance of family for both of them and what their child needed from them. There were numerous difficult problems to solve, but the parents found creative solutions and agreed a way forward.

Once all agreements were reached, Dad went outside again to check in with his mother and sister and to discuss some of the solutions with them. This was necessary as Dad had no means of transport and required his family's assistance to see his child. Mum then invited his mother into the mediation so she could share in reading through the agreement before they signed it. However, at this point the Dad's father exerted his influence. He was phoned for his input and was not satisfied with the final agreement. As a result, the Dad decided not to sign the agreement.

The mediator followed up with the Dad a few days later. He explained that his family decided to not sign the agreement and that "was the end of it" for him. While he could not sign a written agreement, he would stick to what they had verbally agreed and he had signalled this to Mum after the mediation.

Reflection

Mediation is a voluntary process and that presents its own challenges, however it is important that people are not pushed into an agreement. While sometimes parties do not reach written agreement, they still benefit greatly from participating in the process. Both parties have a better understanding of the issues and often communication improves as a result. In this case, the parents managed to find a solution that worked for both of them.

About FairWay

FairWay is a nationwide provider of Family Dispute Resolution, with over 80 accredited mediators around New Zealand.

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