

Voice of the child in mediation

Background

In this case study, a teenage daughter had strong opinions about her desired living arrangements. Her parents had separated and moved to either sides of a large city. Dad wanted to move to a structured 50/50 care arrangement, and Mum wanted a more flexible arrangement where their daughter had a say in when and where she stayed. FairWay's Family Dispute Resolution (FDR) Provider and voice of child representative who is an accredited Lawyer for Child ensured the teenager's voice was heard in the mediation process.

Preparation

Before any mediation, FairWay's mediators will arrange to meet each of the parents individually. The mediator got in touch with both parents.

"It was clear that a major underlying issue was their teenage daughter's reluctance to stay over at Dad's house. Dad blamed Mum for this, claiming that she was alienating her against him. Mum claimed this wasn't the case, and that she suspected something more was going on for her daughter. I talked about options and ways to address this issue in the mediation process, and both parents agreed that it was important that their daughter's voice was heard," explains the mediator.

After discussing different options with the mediator, the parents chose to have a Lawyer for Child speak with their daughter and represent her views in the mediation.

A Lawyer for Child with extensive experience representing children, and who also works with FairWay as an FDR Provider chatted to the parents to gain a brief overview from them and arranged to meet their daughter.

"From experience, I find it's best to meet children somewhere neutral, so they feel they can talk more freely. I met with her at school, and she shared what was good and bad about her current arrangements. She came prepared with lots of notes about her life and living arrangements. She had ideas about what could change, what would be helpful and what was important in their family structure.

"Lots of things were going on for her – she wanted more time with her friends and more time to work on her school work, she loved both parents and didn't want to upset either, but she felt her Mum's house was more of a 'home.' This is consistent with research showing that teenagers in separated families do better having a home base and regular contact with the other parent. She liked that she could walk to school from her Dad's house but felt embarrassed to bring friends over there and didn't feel that he understood what she needed around her, as teenage girl. She was clearly very grateful that her parents had agreed that

her views were important enough to warrant meeting with me and she made the most of the opportunity to have her views presented to her parents together in a neutral way,” explains the Lawyer for Child.

Mediation

At the joint mediation session, the mediator invited the Lawyer for Child to share a summary from her conversation with their daughter. They could then ask questions to clarify anything that was unclear.

The parents talked about how they could address some of their daughter’s specific requests. For example, the Dad agreed to make the daughter’s room more girly by purchasing a special duvet cover to make the house a bit ‘more homely’. The Mum agreed to bring over more of the daughter’s things, so she would feel a bit more settled at the Dad’s house. Other issues were harder to tackle, but the mediators could keep the conversation focussed by reminding them to really listen to their daughters wishes and how else they could try to make their care arrangements work for their child.

“Coming into the mediation, neither parent really trusted or believed what the other was saying. I don’t think it was easy for either parent to hear some of the things raised, but their daughter needed them to listen. While there were sticking points, having the Lawyer for Child neutrally put forward their daughter’s voice and then being able to reflect on those points allowed them to make some progress,” explains the mediator.

On the day, the parents reached agreement on a plan for the immediate future on how they could better support their daughter through this period of change. Over the following weeks, the parents agreed to a structured care arrangement, with an understanding that both parents would be flexible depending on their daughter’s needs. They made a plan to take their daughter out for a hot chocolate together to explain what they had agreed, how she could make changes as needed and their plan to make her feel supported through the change.

About FairWay

FairWay is a nationwide provider of Family Dispute Resolution, with over 80 accredited mediators around New Zealand. Many families are entitled to 12 hours of fully-funded Family Dispute Resolution services.

Having a representative for a child in the FDR process is not an extra cost to parents, it can be part of the 12 hours available to parties in the FDR service.

Please get in touch with the Family Dispute Resolution team to find out more.

Phone: 0800 774 420
Website: www.fairwayresolution.com

