



Resolving disputes in the .nz domain name space.

A Domain Name Commission
strawperson proposal.



domain name
commission nz



Strawperson proposal

To support our paper **Internet Domain Name Dispute Resolution Review**, the Domain Name Commission has developed a straw person proposal.

What is a strawperson process proposal?

The strawperson process proposal is a high-level draft designed to generate discussion and to prompt suggestions about the processes to support the delivery of dispute resolution services by the Domain Name Commission. It is not the answer but could contain elements of possible solutions.

The Commission will make final decisions regarding the operation and design characteristics for the dispute resolution service after public consultation, detailed further evidence building and targeted meetings to further inform our analysis. Depending on feedback received and further analysis to be completed, the final design may closely resemble the strawperson or may vary from it.

How to read this alongside the paper

The Dispute Resolution Services paper provides background context and information about the current approach to handling domain name disputes at the Commission.

It compares and considers:

- I. How other jurisdictions have tackled the same or similar problems.
- II. What constitutes best practice when it comes to handling disputes and assuring access to justice.
- III. Details possible options for resolving domain name disputes more efficiently and effectively into the future.

This strawperson proposal is solely about dispute resolution as a possible process.

How will the strawperson be used?

In addition to being a guide for submitters, the Commission will also be hosting in person 1-day codesign workshops in both Auckland and Wellington with the help of Creative HQ .

An output of the workshops will be creative ideas to improve the dispute resolution process. The strawperson has also been uploaded to online tool <https://mural.co/>

Based in the cloud, MURAL enables people to research, brainstorm and design ideas that deliver better experiences in less time, no matter where in the world. It's more than just another sticky note environment.

Mural will support brainstorming around the dispute resolution strawperson.

What is the paper about?

The paper draws on global best practice in alternative dispute resolution, an approach to justice that aims to resolve disputes between the parties before they reach the courts.

It considers whether ubiquitous or new, emerging technologies could and should be engaged to reduce the time and lower the cost of accessing natural justice.

The paper provides historical background to the development and operation of the dispute resolution service, alternative approaches to resolving disputes, and the context for this review.

What are the key points from the paper?

Discussion centres on what alternatives look like, and whether:

- ❑ Current procedures are satisfactory and meeting stakeholder needs.
- ❑ Fees payable are being levied fairly or could be adjusted upwards or downwards.
- ❑ The process is simple enough for an ordinary person¹ to understand and successfully navigate.
- ❑ There are barriers to people lodging disputes that the Commission should address.
- ❑ The principle of natural justice is being met.
- ❑ Innovation may be possible and is advisable: for example, do technologies such as BlockChain, and automated decision support / indicative answers have a role to play?
- ❑ The process of registration can prevent disputes occurring.

The paper raises key areas for discussion, including fees payable, and the prospect of:

- ❑ Tightening point of registration controls to lower the risk of a complaint occurring.
- ❑ Providing 'without prejudice' early indicative judgments to people lodging a complaint modelled on international best practice.
- ❑ Emerging technologies and whether they represent an excellent opportunity to innovate and/or revisit our core assumptions about what we do, and how and why we operate the way we do.
- ❑ Leveraging offshore schemes and/or providing reciprocal arrangements to others on a competitive basis that promotes international certainty.

Dispute resolution strawperson

There are five suggested stages: triage, conflict resolution, mediation, determination and appeal.

The suggested process starts with the applicant lodging a dispute and then suggests a range of options, first an enquiry referral process where the parties have an opportunity to discuss the matter between themselves.

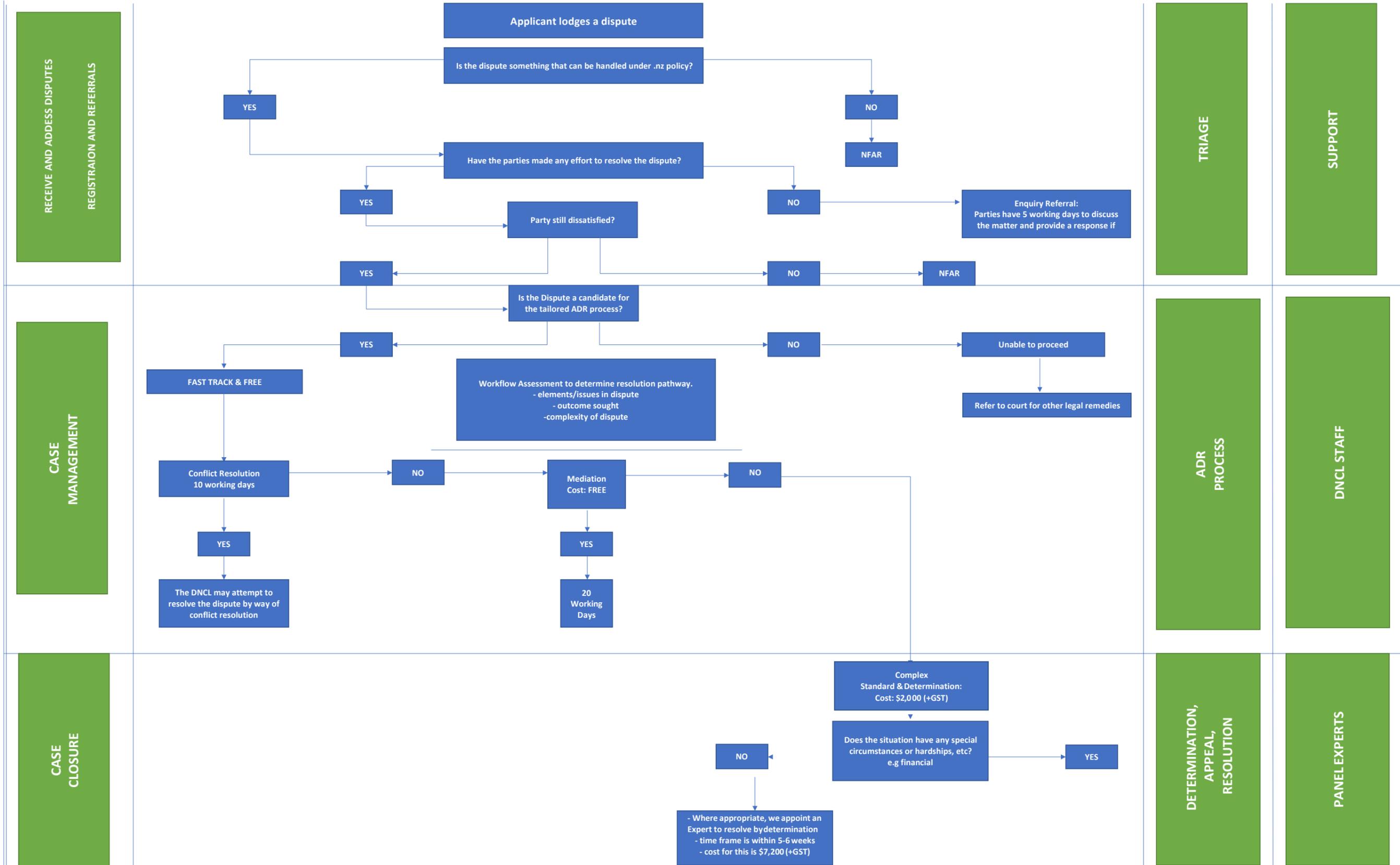
Depending on the discussion, where the parties are still dissatisfied the Commission has an opportunity to either close the complaint as no further action is required, suggest ADR processes or expert determination.

In the ADR processes workflow, there is an option for a fast-tracked and free service, which takes up to ten working days, or a 20-day mediation process.

A visual representation of this high-level workflow is available on the following page.

¹ An ordinary person is someone who doesn't have a law degree or any experience with statutory, regulatory, legal or quasi-legal frameworks as an administrator, investigator or litigant.

DISPUTE RESOLUTION SERVICE



RECEIVE AND ADDRESS DISPUTES
REGISTRATION AND REFERRALS

TRIAGE

SUPPORT

CASE MANAGEMENT

ADR PROCESS

DNCL STAFF

CASE CLOSURE

DETERMINATION, APPEAL, RESOLUTION

PANEL EXPERTS