

# Disputes Resolution SOP

## Purpose

This procedure defines the steps to manage any disputes arising between Forest Enterprises and contractors or external stakeholders where a specific dispute resolution process is not available.

The procedure ensures a fair and transparent approach by accurately recording the dispute, clearly describing each party's position, and documenting all actions taken.

Where appropriate, Forest Enterprises is committed to a quick and efficient resolution of disputes which arise regarding any aspect of the company's business. Disputes invariably arise due to uncertainty about processes available to avoid them in the first instance and secondly may become escalated because of a lack of understanding around the need to carefully document and manage the dispute through a formal process. This Policy defines the steps to be taken with the management of all disputes, no matter the view that any party to the dispute takes about the seriousness of the disputed matter.

## Scope

This procedure covers all activities associated with Forestry Management and its operations at any level including:

- Management of contractors and other service providers
- Management of stakeholders including community groups, neighbours, regulatory authorities, government agencies
- Management of landowner, lease grantor, joint venture partner

This policy does not cover disputes that are dealt with a more specific dispute resolution process elsewhere, such as:

- **Staff disputes;** addressed using the dispute clause in their employment contracts
- **Investor disputes:** addressed in the separate process for Investors found on the Forest Enterprises website - Legal, under "Making a Complaint".
- **Contractors:** addressed in the specific Dispute Resolution clauses of their respective contracts.

All disagreements, conflicts and disputes between parties have the potential to escalate out of control and cause lasting and damaging effects.

## References

- Community Consultation Procedure for Forest Operations
- Incidents and Compliments/Complaints procedure
- Compliment/complaints database and files

## Definitions

<b>Dispute</b>	A dispute is an expression of dissatisfaction by an external contractor or stakeholder relating to activities where a response is expected.
<b>Dispute of Substantial Magnitude</b>	A dispute of substantial magnitude is a dispute that involves one or more of the following: <ul style="list-style-type: none"><li>• Affects the legal or customary rights of the Tangata Whenua and local communities;</li><li>• Where the negative impact of activities is of such a scale that it cannot be reversed or mitigated;</li><li>• Physical violence;</li><li>• Destruction of property exceeding \$10,000 (GST exclusive) in repair or replacement cost, or any deliberate or reckless conduct likely to cause such loss;</li><li>• Acts of intimidation against forest workers and stakeholders.</li></ul>



	<ul style="list-style-type: none"> <li>• A serious health and safety breach that creates an immediate or significant risk of harm;</li> <li>• Significant environmental harm, including material breaches of consent conditions or NES-CF rules;</li> <li>• Dishonesty, fraud or corruption affecting Forest Enterprises, landowners or investors;</li> </ul> <p>Material regulatory or contractual non-compliance by the contractor that exposes Forest Enterprises to legal or reputational risk.</p>
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## Responsibilities

Managers are responsible for managing disputes relevant to their business area. This includes investigating, reporting, monitoring and reviewing disputes and the handling and resolution of those disputes.

All staff, contractors and their employees are responsible for reporting disputes.

Forest Enterprises is responsible for recording forestry after-hour reports of disputes.

Forest Enterprises will use customary and traditional protocols and institutions, legal requirements, and internal procedures regarding any disputes with Tangata Whenua.

Forest managers will aim to resolve on-going disputes with Tangata Whenua in an open, fair, and equitable manner where such disputes are considered minor.

Forest Enterprises aims to implement all agreements and legally verified third party directions to the dispute resolution.

## Procedure

### Reporting and investigating disputes

- Complaints and disputes must be reported to the appropriate managers who in turn report disputes to their Regional Manager.
- The Regional Manager is responsible for determining whether the dispute is a Dispute of Substantial Magnitude or Duration. If they determine the dispute is of Substantial Magnitude or Duration, they will refer the dispute to the Legal Services Director.
- If the Legal Services Director agrees that the dispute is substantial in magnitude or duration, they will report the dispute to the Board. They will also report progress of the dispute including any potential for mediation, adjudication or litigation. The Legal Services Director working with the Regional Manager will also direct for all activities relating to the dispute to cease.
- Disputes must always be investigated and reported on

### Managing Disputes

Managing disputes can be challenging. There is seldom a standard way of addressing them.

1. Disputes need to be managed carefully. What may start as a minor difference of opinion can quickly become a major disagreement.
2. Disputes are often best acted upon swiftly to stop the problem from compounding.
3. Start the dispute resolution process by:
  - a. Identifying who or what is in dispute.
  - b. Identifying what is the problem.
  - c. What are the effects of the problem?
  - d. What are the reactions arising from the conflict?
  - e. Determine whether it is a Dispute of Substantial Magnitude or Duration at which time the related activity must be ordered or mandated to be ceased to ensure there is no further risk of harm or damage.



4. If possible, resolve the dispute. It is best to resolve it positively. This could mean both parties agree to disagree, negotiate an outcome, or resolve their grievance through compromise. An unresolved dispute is likely to strain a relationship.
5. If a dispute needs to be resolved and it cannot be resolved directly between the parties, then a third party may need to be involved to help the parties find a solution.
6. Take all steps possible to resolve a conflict so that it does not get to litigation. Alternative dispute resolution approaches that may be useful are mediation and arbitration. In mediation and arbitration, the third party determines the outcome. A suitable mediator or arbitrator is a professional acceptable to both parties.

### Process for Handling Disputes

The following table outlines the process for handling disputes.

Stage	Who	Does this
1	3 <sup>rd</sup> Party	Most disputes will be initiated with a complaint from a third party that may be delivered in a number of forms e.g., phone call, email, person to person discussion, letter or through another party (legal representative or regulatory authority).
2	Initial Recipient	<ul style="list-style-type: none"> <li>• Does not accept liability, partly or wholly</li> <li>• Records as much information as possible</li> <li>• Acknowledges receipt of the complaint from the complainant</li> <li>• Checks SOP to see if complaint can be resolved immediately*</li> <li>• Advises complainant of initial course of action including indicative timelines of actions to be taken</li> <li>• Investigates the complaint</li> <li>• Advises Forest Enterprises</li> </ul> <p><b>Note:</b> *Where the issue is resolved at this point i.e. both parties agree the complaint is justified and agreement is reached, this is documented, and the solution conveyed to the complainant in a formal documented manner. There is no dispute.</p>



3	Forest Enterprises Administration	<p>Reviews the dispute and determines what resolution needs to be taken. Assess whether the dispute is a Dispute of Substantial Magnitude or Duration. If so, refer the dispute to the Legal Services Director.</p> <p>The Legal Services Director will inform the Board of the dispute and advise on the potential for mediation, adjudication or litigation,</p> <p>Seeks additional information as required- investigates</p> <p>Reaches agreement with complainant or decides to escalate the complaint to a formal dispute</p> <p>Checks formal contractual documents if relevant e.g. for service providers (harvesting contractor, log cartage, supplier of stores etc)</p> <p>Activate contractual clause if present and advise complainant</p> <p><b>Note 1:</b></p> <p>Where there is no contractual agreement to follow a particular dispute resolution course, suggest and pursue alternative dispute resolution pathways. These are likely to include:</p> <ul style="list-style-type: none"> <li>• Negotiation</li> <li>• Facilitation</li> <li>• Mediation</li> <li>• Arbitration</li> <li>• Investigation</li> <li>• Expert determination</li> <li>• Litigation</li> </ul> <p><b>Note 2:</b></p> <p>As each of these pathways is taken the process moves from consensual to adjudicative.</p>
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## Feedback and Policy Review

This policy will be available on the Forest Enterprises' website.

Forest Enterprises welcomes any feedback that contractors or external stakeholders have on the dispute resolution process. This can be provided to the Legal Services Director, on an anonymous basis, if preferred. Regardless, any feedback will be handled with respect for privacy and with integrity.

Feedback received will be reviewed and reported to the Forest Enterprises Executive Team who will make changes to the policy where appropriate.

This policy will also be reviewed on an annual basis to ensure it continues to be relevant.

