

**From:** Toni Bauman  
**Sent:** Friday, 12 March 2010 1:54 pm  
**To:** Beresford-Wylie, Serena  
**Subject:** Confidentiality: Still interested on feedback?

Hi Serena

Just a quick comment – it is often assumed that the entire mediation process is confidential – but confidentiality should be a matter of negotiation between the parties. Whilst the mediator might generally observe confidentiality, there may even be situations where the parties don't require this. It's especially relevant in indigenous mediations where signing the parties up to confidentiality is tantamount to making them lie – often they have responsibilities to report back to other family members or are representing a broader group. Other negotiations might be required for example around use of the media. That is, blanket confidentiality provisions can be very unhelpful – at the moment such agreements are tying up all sorts of documents in native title which practitioners need access to including connection reports for building capacity in young researchers and to which claimants themselves require access. Negotiations could mean for example that such documents are confidential until an agreement is reached.