



Australian Government

Department of Education, Employment and Workplace Relations

CHCMED411B Conduct a sound assessment of a dispute in preparation for mediation

Release: 1

CHCMED411B Conduct a sound assessment of a dispute in preparation for mediation

Modification History

CHC08 Version 3	CHC08 Version 4	Description
CHCMED411A Conduct a sound assessment of a dispute in preparation for mediation	CHCMED411B Conduct a sound assessment of a dispute in preparation for mediation	Unit updated in V4. ISC upgrade changes to remove references to old OHS legislation and replace with references to new WHS legislation. No change to competency outcome.

Unit Descriptor

Descriptor

This unit describes the knowledge and skills required for mediators to prepare for the mediation process and to assist parties to be aware of their roles and responsibilities in mediation

Application of the Unit

Application

This unit may apply to mediation work in a range of community service contexts

Licensing/Regulatory Information

Not Applicable

Pre-Requisites

Not Applicable

Employability Skills Information

Employability Skills

This unit contains Employability Skills

Elements and Performance Criteria Pre-Content

Elements define the essential outcomes of a unit of competency.

The Performance Criteria specify the level of performance required to demonstrate achievement of the Element. Terms in *italics* are elaborated in the Range Statement.

Elements and Performance Criteria

ELEMENT

PERFORMANCE CRITERIA

- | | |
|---|---|
| 1. Provide information about the <i>mediation process</i> | 1.1 Provide accurate, timely and relevant information about the mediation processes available |
| | 1.2 Identify co-mediation needs |
| | 1.3 Clarify co-mediation roles and use according to agency guidelines |
| | 1.4 Verify that all <i>parties</i> to the mediation understand the sequential steps of mediation |
| | 1.5 Ensure parties are clear on own, mediator, and agency roles |
| | 1.6 Ensure boundaries of confidentiality and privacy are clear to parties |
| 2. Clarify information presented relating to the dispute | 2.1 Accurately and concisely analyse <i>issues presented</i> prior to the mediation to assess most suitable case management options |
| | 2.2 Clarify the need to seek advice on legal or factual complexity of the matter |
| | 2.3 Note court orders, identify potential risks and formulate responses using relevant knowledge of safety procedures |

ELEMENT**PERFORMANCE CRITERIA****3. Assess readiness to participate**

- 3.1 Prepare and counsel parties in preparation for a mediation process
- 3.2 Assess power differentials between parties
- 3.3 Assess *cultural perspectives* that may affect the mediation process
- 3.4 Use security and safety guidelines in accordance with legislative and industry procedures
- 3.5 Ensure timely and effective exclusion of mediation is achieved where appropriate
- 3.6 Provide accurate and effective referral of parties as required to others within or external to the agency

4. Clarify commitment to the process

- 4.1 Clarify emotions and expectations of parties in order to estimate their capacity to commit
- 4.2 Consider parties' capacity to negotiate
- 4.3 Determine parties' readiness to consider and commit to the mediation processes
- 4.4 Consider adequacy of intake procedures

5. Prepare venue and resources for mediation

- 5.1 Analyse needs of parties and prepare venue accordingly
- 5.2 Select language to accommodate specific needs of the parties
- 5.3 Engage interpreters according to agency guidelines to best promote understanding between all parties and mediators
- 5.4 Organise equipment, tools and any other resources required to support mediation process when needed

Required Skills and Knowledge

Essential knowledge:

The candidate must be able to demonstrate essential knowledge required to effectively do the task outlined in elements and performance criteria of this unit, manage the task and manage contingencies in the context of the identified work role

These include:

- Understanding of the application of relevant legislation
- Awareness of different cultural systems for dispute resolution and how these may interact with the agency system
- The legal, social, cultural, and economic and context within which the ADR practice is occurring
- Other dispute resolution procedures within the Agency
- Relevant relationships, such as couple, family and group relationships
- Availability of professional, academic, technical, community and educational resources for client use or referral
- Legal, ethical and associated standards that may be applicable if the case were taken further to trial
- The structures, resources, processes and requirements of the agency

Essential skills:

It is critical that the candidate demonstrate the ability to:

- Use appropriate interpersonal skills and knowledge of the agency system to guide the mediation process, in particular to:
 - establish confidence with parties through using appropriate interpersonal styles and methods
 - accurately identify parties' issues
 - apply the agency systems
 - refer parties to appropriate others as required to match needs
 - interpret accurately and comply with legal and procedural requirements
 - apply accurate understanding of own work roles and responsibilities in relation to service delivery

In addition, the candidate must be able to effectively do the task outlined in elements and performance criteria of this unit, manage the task and manage contingencies in the context of the identified work role

These include the ability to:

- Maintain confidentiality and to deal effectively with breaches of confidentiality especially when personal safety is threatened
- Apply questioning and active listening skills that establishes client confidence and

facilitates disclosure

- Apply problem solving skills
- Apply literacy and communication skills in relation to analysis, evaluation and presentation of information including preparing documents and reports related to legal requirements and client needs
- Maintain documentation as required, including effective use of relevant information technology in line with work health and safety (WHS) guidelines

Evidence Guide

The evidence guide provides advice on assessment and must be read in conjunction with the Performance Criteria, Required Skills and Knowledge, the Range Statement and the Assessment Guidelines for this Training Package.

Critical aspects for assessment and evidence required to demonstrate this unit of competency:

- The individual being assessed must provide evidence of specified essential knowledge as well as skills
- Evidence of competency in this unit will need to be assessed over a period of time in order to gather evidence of consistent performance
- This will include contexts applicable to the work environment, such as actual or simulated workplace situations involving a combination of direct, indirect and supplementary forms of evidence
- Evidence will be determined by selection from the Range Statement, justified in terms of work requirements, work roles and responsibilities and occupational specialisations

- Access and equity considerations:*
- All workers in community services should be aware of access, equity and human rights issues in relation to their own area of work
 - All workers should develop their ability to work in a culturally diverse environment
 - In recognition of particular issues facing Aboriginal and Torres Strait Islander communities, workers should be aware of cultural, historical and current issues impacting on Aboriginal and Torres Strait Islander people
 - Assessors and trainers must take into account relevant access and equity issues, in particular relating to factors impacting on Aboriginal and/or Torres Strait Islander clients and communities

- Context of and specific resources for assessment:*
- This unit can be assessed independently, however holistic assessment practice with other community services units of competency is encouraged
 - Where assessment is conducted within the workplace there are no resource implications above those normally available in the workplace
 - Where assessment is conducted in a simulated or non-workplace environment then access to the necessary equipment and research resources should be provided
- Access to simulated exercises, case studies related to mediation service delivery issues is also required if non-workplace assessment paths are utilised

Method of assessment:

- Demonstration of competency within the working environment in preparing for the mediation process
- Where there is not an opportunity to cover all relevant aspects in the work environment, the remainder should be assessed through realistic simulations, projects, previous relevant experience or oral questioning on 'what if?' Scenarios
- Observation of processes and procedures, oral and/or written questions on Essential knowledge and skills and consideration of required attitudes
- Where performance is not directly observed and/or is required to be demonstrated over a period of time and/or in a number of locations, any evidence should be authenticated by colleagues, supervisors, clients or other appropriate persons
- Review of any documentation produced by the candidate related to the preparation for mediation

Range Statement

The Range Statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Add any essential operating conditions that may be present with training and assessment depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts.

Knowledge refers to:

- The understanding of relevant theories, principles, practices their application and other aspects of knowledge, which may be desirable or necessary in order to practice effectively an ADR process

Mediation process refers to knowledge about the procedural and understanding of requirements for dispute resolution within the agency, and may include:

- The theory, systems and methods of dispute resolution processes and the place of the Agency within these
- The management and conduct of a dispute resolution process
- Stages of a dispute resolution process, and how they can be used most effectively
- Assessment of individual cases to determine limitations of the ADR processes
- Recognition of when a ADR process is not being effective
- How to ensure fairness within procedure
- Criteria for exercising discretion on procedural matters, for example, consultations with individual parties, and duration
- How to identify who may be significant others and how to manage their appropriate involvement
- How to enable parties to consider all relevant information and work towards their own decisions

Parties may include:

- Individuals (including youth, adults and the aged)
- Referred or self-referred clients
- Voluntary and involuntary clients

Issues presented by parties may be further clarified through:

- Interviews with parties, family, significant others and carers
- Applications and other forms
- Case documentation
- Using specialist communicators
- Information from professionals
- Information from service providers
- Previous file records
- Client consent (verbal and written)

Cultural perspectives involve:

- The significance of the diversity of the parties involved in ADR, including gender, religion, age, culture, language, race, education, socioeconomic status, and disability
- Different cultural attitudes of members within a family
- Cultural variations on the agreed norms and range of behaviours accepted as 'family practices'
- The relevance of culture in relation to problem-solving and dispute resolution
- The relevance of culture in relation to negotiation, concessions and compromise
- Cultural variations in relation to written, spoken and non-verbal communication
- Cultural attitudes towards physical space, venue and time
- Cultural attitudes towards the role of outsiders in dispute resolution
- Cultural attitudes in relation to the role of law, the courts, lawyers and professional advisers

Unit Sector(s)

Not Applicable