



Australian Government

Department of Education, Employment and Workplace Relations

CHCMED419C Facilitate alternative dispute resolution processes

Release: 1

CHCMED419C Facilitate alternative dispute resolution processes

Modification History

Not Applicable

Unit Descriptor

Descriptor

This unit describes the knowledge and skills required for mediators to facilitate the agreed alternative dispute resolution process

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

- | | |
|---|---|
| <p>1. Facilitate the structure of the <i>alternative dispute resolution process</i></p> | <p>1.1 Achieve appropriate degree of party responsibility for the outcome and the process</p> <p>1.2 Support <i>parties</i> in outlining relevant issues within the dispute</p> <p>1.3 Demonstrate sincerity and integrity and thereby develop and maintain trust</p> <p>1.4 Outline and implement processes to ensure respect for parties safety and needs</p> <p>1.5 Outline options/need to move from one type of ADR to another</p> <p>1.6 Identify and take into account legislative and other constraints in advising on appropriate dispute resolution process</p> |
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ELEMENT

2. Assist parties to work to achieve resolution

PERFORMANCE CRITERIA

2.1 Assist parties to prepare for problem solving and negotiation

2.2 Support parties to identify real needs and goals

2.3 Support parties to identify options for decision-making

2.4 Assist parties to identify agreements and decisions made, and future action required

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This describes the essential skills and knowledge and their level required for this unit.

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 knowledge of:

- Availability of professional, academic, technical, community and educational resources for parties' use or referral
- Awareness of different cultural systems for dispute resolution and their impact on progress of the ADR
- Other dispute resolution procedures
- Relevant relationships, such as couple, family and group relationships
- The legal and social standards that would be applicable if the case was taken further to trial
- The legal, social, cultural, and economic and context within which the ADR practice is occurring
- The structures, resources, processes and requirements of the agency
- Understanding of the application of legislation including the Family Law Act, Property Law, the Privacy Act and Freedom of Information that may impact on the definition of the dispute
- Understanding of the Rules of Evidence

Essential skills:

It is critical that the candidate demonstrate the ability to:

- Use appropriate interpersonal skills knowledge of the Agency system to guide the ADR process
- Establish and maintain agreed procedures that meet the agency guidelines and the needs of the parties
- Demonstrate fairness and lack of bias at all times
- Apply the agency systems
- Apply accurate understanding of own work roles and responsibilities in relation to

REQUIRED SKILLS AND KNOWLEDGE

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:

- Assess individual cases to determine limitations of the mediation processes
- Recognise when a mediation process is not being effective
- Deal with non-compliance with the Family Law Act rules and regulation procedural requirements and other legislation as appropriate
- Ensure fairness within procedure
- Apply criteria for exercising discretion on procedural matters, for example, consultations with individual parties, and duration
- Demonstrate application of skills in:
 - questioning and active listening that establishes client confidence and facilitates disclosure
 - problem solving skills
 - literacy and communication applied to analysis, evaluation and presentation of information including preparing documents and reports related to legal requirements and client needs
- Maintain confidentiality and to deal effectively with breaches of confidentiality especially when client *safety is threatened*

Evidence Guide

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

- 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 GUIDE

competency:

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

EVIDENCE GUIDE

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

Related units:

This unit should be assessed after or in conjunction with related units:

- CHCMED418C Identify the need for alternative dispute resolution
- CHCCOM403A Use targeted communication skills to build relationships

Range Statement

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.

RANGE STATEMENT

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

Alternative Dispute Resolution

- ADR refers to processes, other than judicial determination, in which an impartial person (an ADR practitioner) assists those in a dispute to resolve the issues between them.
- ADR processes may be *facilitative, advisory, determinative or*, in some cases, a combination of these
- ADR may be used for different categories of dispute, for example, family and child mediation, community mediation, victim-offender mediation, equal opportunity conciliation, workers' compensation conciliation, tenancy conciliation or commercial arbitration
Multi-party mediation may involve several parties or groups of parties.

Statutory and procedural requirements may include

- Family Law Act
- Property law (for de facto disputes)
- Superannuation
- Procedures for accessing specialist advice
- Procedures for individual consultations
- Procedures for community consultation

RANGE STATEMENT

Alternative dispute resolution process refers to:

Knowledge of the procedures and requirements for dispute resolution within the Agency:

- The theory, systems and methods of dispute resolution processes:
 - 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 an ADR process is not effective
 - how to deal with non-compliance with the family law act rules and regulation procedural requirements
 - 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 children, youth, adults and the aged)
- Referred or self-referred clients
- Voluntary and involuntary clients

Unit Sector(s)

Not Applicable