



Australian Government

Department of Education, Employment and Workplace Relations

CHCDISP801B Facilitate dispute resolution in the family law context

Release: 1

CHCDISP801B Facilitate dispute resolution in the family law context

Modification History

Not Applicable

Unit Descriptor

Unit Descriptor

This unit of competency describes the skills and knowledge required to facilitate family dispute resolution with the aim of assisting families to reach mutual agreement on issues related to relationships, children, property and assets

This unit requires a candidate to have experience and competence in the facilitation of a basic mediation process

It expands on basic mediation principles and process and outlines dispute resolution skills specific to *family dispute resolution* in the family law context, including, mediation, conciliation, facilitation and conferencing

Application of the Unit

Application

This unit applies to Dispute Resolution Practitioners performing complex family dispute resolution using a variety of facilitative processes within the Family Law environment

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. Obtain participants' agreement to enter into facilitated dispute resolution | <ul style="list-style-type: none">1.1 Explain the facilitated dispute resolution process to potential participants1.2 Advise participants of the <i>practitioner's role and any limitations</i> in relation to the provision of advice or other services1.3 Discuss with the participants the family dispute resolution practitioner's specific procedures and practices1.4 Explain <i>limitations on confidentiality</i> and obtain written agreement to participate in dispute resolution process |
| 2. Assist participants to define and clarify the issues | <ul style="list-style-type: none">2.1 Engage with participants using a range of <i>interpersonal and effective communication skills</i> and organisation resources to identify <i>parenting and property or assets issues</i> for consideration2.2 Screen for family violence using a range of <i>tools</i> prior to the commencement of the dispute resolution process2.3 Identify the most appropriate <i>dispute resolution process</i> for the client's presenting circumstance2.4 Explain the practitioner's chosen process for dispute resolution2.5 Document information and actions according to organisation policy and/or relevant legislation |
| 3. Assist communication and information exchange between participants | <ul style="list-style-type: none">3.1 Use a broad <i>range of facilitation skills</i> to encourage active listening between participants3.2 Manage the interactions between participants to ensure fair and respectful engagement3.3 Conduct separate sessions where appropriate3.4 Manage power imbalances in the dispute resolution session |

ELEMENT**PERFORMANCE CRITERIA**

- | | |
|--|---|
| 4. Invite the framing of disputes so as to increase the range of options | 4.1 Assist participants to develop agendas for the process that consider the broader range of issues
4.2 <i>Provide expert information in a facilitative role, whilst maintaining impartiality, and client self determination, refraining from advising on a particular outcome</i>
4.3 Assist parties to communicate on issues that impact on children, with regard to practitioner's legislative requirements to consider best interests of the child |
| 5. Encourage mutual personal understanding between participants | 5.1 Encourage participants to acknowledge each other's needs, fears and concerns using <i>communication techniques</i>
5.2 Identify and encourage cooperative behaviour and demonstrated and/or expressed intentions to commit to resolving disputes
5.3 Monitor and manage any disruptive behaviours and communications |
| 6. Assist participants to generate and evaluate options | 6.1 Use techniques and strategies to aid participant to generate potential options for dispute resolution
6.2 Encourage discussion about the effects of each option on parties involved in the dispute, with particular consideration for children affected by the agreement to be made
6.3 Promote and monitor the best interests of the child in participants' agreements, including <i>assessment of risk to vulnerable parties</i>
6.4 Document outcomes and agreements according to organisation and legislative requirements.
6.5 Explain any legal obligations of agreements reached, if applicable
6.6 Provide participants with appropriate referral supports post dispute resolution |

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:

- Contemporary research and approaches in the provision of conflict management
- Contemporary research and approaches in responding to needs of Aboriginal and Torres Strait Islander families and communities
- Contemporary research and approaches in responding to needs of culturally and linguistically diverse families and communities
- Thorough understanding of the provision for children and property in the Family Law Act, Child Support (Assessment) Act
- Impact of conflict, particularly high and/or ongoing conflict, on children, and the use of child focused and child inclusive techniques to address and minimise these impacts where required in job role
- Understanding and relevant application within job role context of main concepts of family, couple and child dynamics in normal developmental and abnormal forms
- An understanding of the sources of power imbalances in relationships and an ability to recognise and respond appropriately to the indicators of such imbalances in their clients.
- Procedures and instruments to screen for abuse before and during the dispute resolution process in addition to safety planning requirements and procedures for clients and staff as well as limitations.
- Community, educational or other resources for referral or use within the dispute resolution process
- Other dispute resolution options such as litigation or community based interventions, as well as their strengths and limitations
- Self knowledge, including personal and cultural attitudes toward family conflict and the impact of self on the parties and process
- Range of impacts of separation and divorce on couples, parents, children and other family members

Essential skills:

It is critical that the candidate demonstrate the ability to:

REQUIRED SKILLS AND KNOWLEDGE

- Apply dispute diagnostic skills including:
 - recognising indicators of substance abuse
 - recognising and responding appropriately to the indicators of domestic and family violence and abuse and power imbalances in client situations
 - identifying, responding to and managing cultural dimensions of the conflict
 - recognising own reactions to the dispute and/or disputants that might impair practitioner ability to conduct a fair process
- Apply relationship skills including:
 - effective liaison and working relationships with other allied professionals
 - establishing and maintaining trust and respect
 - encouraging client self determination
 - recognising own reactions to the dispute and/or disputants that might impair practitioner ability to conduct a fair process
 - applying age appropriate methods of relating to and eliciting perceptions, information and responses from children who have experienced high levels of parental conflict
- Apply content management skills including:
 - obtaining, identifying, analysing, prioritising and evaluating information
 - assessing the issues and options and reasoning logically
 - reading, comprehending and using relevant documentation
 - writing clearly and concisely using neutral language
 - creating, maintaining and organising records and materials in an appropriate manner
 - eliciting information from other professionals in the dispute resolution process
 - using and exchanging information in a manner that broadens rather than limits the participants' options.
 - recognise issues that may undermine the dispute resolution process, like mental health, alcohol and other drug issues
- Apply process skills including:
 - conducting appropriate intake procedures and ascertaining appropriateness of mediation for participants
 - assisting participants to articulate concerns, negotiate and develop an agenda
 - assisting participants in converting positions of interest and to explore own underlying interests and become aware of others, particularly children
 - work within a child focused approach.
 - encourage clients to focus on future options and contingencies and to create and assess workable options
 - assist clients to understand consequences of their suggestions and plans

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 competency:

- The individual being assessed must provide evidence of *specified* essential knowledge as well as skills.
- Observation of workplace performance is essential for assessment of this unit
- Consistency of performance should be demonstrated over the required range of client situations or scenarios relevant to the workplace including:
 - facilitated family dispute resolution
 - family conciliation
 - co-facilitated dispute resolution
 - with voluntary and involuntary participants
 - case of parenting and property disputes
 - multiparty dispute resolution
 - complex cases

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

EVIDENCE GUIDE

Context of and specific resources for assessment:

- In cases where the learner does not have the 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
- Assessment of this unit of competence will usually include observation of processes and procedures, oral and/or written questioning 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 workplace settings, any evidence should be authenticated by colleagues, supervisors, clients or other appropriate persons

Method of assessment may include:

- Observation in the workplace
- Written assignments/projects or questioning should be used to assess knowledge
- Case study and scenario as a basis for discussion of issues and strategies to contribute to best practice

Dispute resolution skills involving actual client contact are to be assessed *initially* in simulated settings

- If successful, further assessment is to be conducted during workplace application under direct supervision of an experienced and qualified dispute resolution practitioner
- The assessment environment should not disadvantage the candidate
- Assessment practices should take into account any relevant language or cultural issues related to Aboriginality, gender or language barriers other than English
- Where the candidate has a disability, reasonable adjustment may be applied during assessment
- Language and literacy demands of the assessment task should not be higher than those of the work role

EVIDENCE GUIDE

Related units:

This unit is most appropriately assessed in conjunction with related unit:

- CHCDISP802B Implement dispute resolution strategies

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.

Appropriateness of process may include:

- Parties' particular circumstances
- Benefits and risks of the process
- Alternatives open to the participants

Practitioner's role and any limitations may include:

- Legal advice
- Legal representation
- Therapeutic intervention limitations

Limitations on confidentiality may include but are not limited to:

- Mandatory obligations on matters of child abuse and/or domestics and family violence
- Criminal matters with risk to self and/or others
- Duty of Care to self, client, community and colleagues
- Disclosed risks of harm for client, staff, community
- Other applicable legislation and regulations within work role and jurisdictions

RANGE STATEMENT

Interpersonal and effective communication skills may include:

- Approach is non-judgemental
- Displaying empathy to for all participants before, during and after the process
- Active, effective and appropriate listening
- Clarifying information and assumptions
- Speaking clearly, simply, effectively at the communication and comprehension level of the participants
- Establish rapport with each of the participants and demonstrating respect for individual difference
- Questioning to elicit information, feeling, fears and perspectives
- Working effectively with interpreters

Parenting and property or assets issues may include but is not limited to:

- Asset division
- Child support payments
- Residency of children
- Contact with non resident parents
- Variations and/or review of existing agreements

Tools for screening for family violence may include:

- Documented questionnaires and procedures for gathering information in relation to risk
- Scripts and preambles
- Defined questions
- Measures and rating scales of risk

Dispute resolution process may include but is not limited to:

- Forms of mediation:
 - facilitative
 - settlement oriented
 - therapeutic
 - evaluative
 - narrative

RANGE STATEMENT

Range of facilitation skills may include:

- Mirroring strategy
- Role modeling cooperation and listening through co-facilitation/mediation
- Reframing issues
- Respectful interruptions
- Encouraging active listening
- Formulating transition statements for clarification
- Recognising power imbalances and manage high levels of conflict
- Managing risk issues if necessary and terminate the process of dispute resolution safely
- Knowing how and when to use individual sessions

Provide expert information in a facilitative role may include:

- Expert information which does not infringe upon participant self determination, however, assist the participants to view situations more broadly with the aid of expert information
- The expert information provide is considered an intervention or facilitative strategy which acts as a bridge between the principle of self determination and any legislative requirements

Client self determination means:

- Managing the process of dispute resolution in a non directive manner whereby participants determine the outcome
- The facilitative role does not include the provisions of advice or determination of dispute resolution.

Communication skills to encourage effective participation may include:

- Reframing positional statements in terms of underlying interests, such as needs, fears, and concerns
- Clarifying information and assumptions from both participants
- Summarising communications and consolidating areas of participants' agreements
- Giving constructive feedback
- Working effectively with interpreters

RANGE STATEMENT

Assessment of risk to vulnerable parties may include:

- Processes for evaluating the nature of specific risks to safety for individual clients using tools and structured clinical judgement
- The content of risk may relate to:
 - exposure to violence
 - mental health issues
 - children's and parenting issues

Risk may include but is not limited to:

- Being physically hurt, intimidated, bullied, harassed or controlled
- Threatened with physical harm, intimidation, bullying or harassment
- Harm or threat of harm to children
- Harm or threat of harm to pets and loved ones
- Harm or threat of harm to property
- Inability to fully participate in significant events such as court ordered mediations
- Having residential address known by a person who uses violence against you

Unit Sector(s)

Not Applicable