



Australian Government

Department of Education, Employment and Workplace Relations

CHCDISP802B Implement family dispute resolution strategies

Release: 1

CHCDISP802B Implement family dispute resolution strategies

Modification History

Not Applicable

Unit Descriptor

Unit Descriptor

This unit of competency describes the skills and knowledge required to apply essential processes in family dispute resolution, specifically in the family law context

Issues for dispute may be related to relationships, children, property and/or assets

This unit expands on basic dispute resolution and outlines dispute resolution strategies specific to *family* dispute resolution in the family law context

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

1. Respect and utilise other professionals

PERFORMANCE CRITERIA

- 1.1 Promote cooperation with other professionals
- 1.2 Encourage clients to use *other professional resources*
- 1.3 Inform co-facilitators and others involved of developments in the family mediation process

ELEMENT

2. Conduct the family dispute resolution process in a procedurally fair manner

PERFORMANCE CRITERIA

- 2.1 Ensure that participants reach agreement freely, voluntarily, without undue influence and on the basis of informed consent
- 2.2 Ensure each participant has equal opportunity to speak, be heard and present needs, interests and concerns
- 2.3 Assess the *capacity for participants to engage* in the dispute resolution process
- 2.4 Assist participants to understand the implications and ramifications of available options
- 2.5 Provide sufficient opportunity for participants to access advice and information from *other experts*
- 2.6 Intervene in *manipulative or intimidating* negotiation tactics
- 2.7 *Obtain an undertaking* from participants in financial and/or property disputes to disclose financial and related circumstances
- 2.8 Advise participants of the desirability and availability of independent legal advice
- 2.9 Encourage participants, where appropriate to obtain independent legal advice
- 2.10 Assist participants to assess the feasibility and practicality of any proposed agreements in both the long term and short term

ELEMENT**PERFORMANCE CRITERIA**

3. Advise on and/or determine the process whereby resolution is attempted

- 3.1 Inform participants of own qualifications and experience in dispute resolution
- 3.2 Facilitate disputes within own limits of competence
- 3.3 Refer participants to professional experts for psychological, counselling and/or legal interventions
- 3.4 Facilitate participants' awareness of the interests of others affected by the dispute and proposed agreement
- 3.5 Assist participants to consider the needs and interests of other parties, especially children, to the dispute
- 3.6 Make available information about own training, education and expertise to aid participants' self determination in the dispute resolution process

4. Respect confidentiality of participant information

- 4.1 Discuss with participants their expectations of confidentiality before undertaking the family dispute resolution process
- 4.2 Include provisions for confidentiality in any written agreements to enter the process
- 4.3 Inform participants of the *limitations of confidentiality*
- 4.4 Explain obligations of confidentiality and seek agreement for private sessions with participants
- 4.5 Inform participants of any subpoena, or other notification to testify or to produce documents as soon as possible.
- 4.6 Obtain participants' consent to discuss the content of dispute resolution process with parties' lawyers and/or other expert advisors
- 4.7 Disclose to participants' representatives substance of agreements reached only after obtaining permission from the respective parties
- 4.8 Maintain confidentiality in the storage and disposal of client records

ELEMENT**PERFORMANCE CRITERIA**

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| 5. <i>Terminate a family dispute resolution process</i> whenever continuation of the process is likely to harm or prejudice one or more participants | 5.1 Respond to issues of <i>misuse of the dispute resolution process</i> |
| | 5.2 Terminate or suspend the dispute process when it is being used for purposes other than mutual attempt to arrive at a fair solution or its usefulness has been exhausted |
| | 5.3 Withdraw from the dispute resolution process when a proposed agreement is being reached that is considered by the practitioner to be unconscionable |
| | 5.4 Assist participants to access further process options for dealing with their dispute |

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
- 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.

REQUIRED SKILLS AND KNOWLEDGE

- 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:

- Apply dispute diagnostic skills including:
 - recognising indicators of substance abuse
 - recognise and respond 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
 - recognise 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
- Apply process skills including

REQUIRED SKILLS AND KNOWLEDGE

- 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.
- encouraging clients to focus on future options and contingencies and to create and assess workable options
- assisting 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

EVIDENCE GUIDE

- 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:*
- 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 person

EVIDENCE GUIDE

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

Related units:

This unit is most recommended but not required to be assessed with

- CHCDISP801B Facilitate dispute resolution in a family law context

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.

Other professional resources may include:

- Lawyers
- Counsellors
- Community Health
- Mental Health
- Community Welfare agencies
- Child Support Agency
- Centrelink
- Child Protection agencies
- Children's Contact Services
- Family Relationship Centres
- Parent Educators
- Domestic violence services

Capacity for participants to engage in the process may include:

- Unwilling
- Intellectual and/or other disability or special needs
- Cultural or religious factors
- Language
- Legal requirements

RANGE STATEMENT

Manipulative or intimidating tactics may include:

- Coercion by one party over another
- Aggressive body language
- Inappropriate expressions of emotions
- Real or perceived threatening behaviour or language
- Silence, stalling, sabotage and dominance of time in the process
- Withdrawing with intent terminate the session before agreements reached as a matter of abuse of power
- Refusing to negotiate on any issue

Obtain an undertaking for disclosure of financial and related circumstances:

- Obtaining disclosure only if relevant to the issue of dispute resolution and only in accordance with the provisions of the Family Law Act

Limitations of confidentiality may include:

- Statutory, judicially or ethically mandated reporting
- Potential and/or real risk of harm to self or others disclosed during the dispute resolution process

Terminate a family dispute resolution process may relate to reasons which include but are not limited to :

- When the process is being misused by participants
- When the usefulness of the process has been exhausted

Misuse of the dispute resolution process may include:

- Delaying proceedings in the hope of reinforcing the continuation of an existing arrangement with respect to assets and children
- Buying time in order to dissipate or conceal assets
- The dispute resolution practitioner is of the opinion that one or both parties is in some way acting in bad faith

Unit Sector(s)

Not Applicable