



DISPUTE MANAGEMENT STRATEGY

The overarching purpose of the department's Dispute Management Plan is to **ensure we adopt a coordinated, consistent and effective approach to preventing and managing disputes**. Preventing and managing disputes well reflects our commitment to excel in providing quality service to our clients, interest groups, companies and individuals. Excellent dispute prevention and management is the AGD way.

The department's Dispute Management Plan describes ways of doing our work that can help us to prevent and manage disputes and avoid some matters unnecessarily escalating into formal legal disputes. The Plan presents a recommended approach to dispute management organised around three practical Objectives:

Objective 1: Identify and manage complaints early

As departmental officers, we have a responsibility to minimise the escalation of issues and complaints into disputes by being:

- interested and courteous, and an active listener, and
- fair and flexible, and engaging with concerns as early as possible (within the bounds of applicable laws, Government requirements and other relevant considerations).

Objective 2: Foster a culture of active dispute management, where we truly engage with people in dispute

As departmental officers, we have a responsibility to:

- assess (and continue to assess) each dispute (including risks for the department) promptly and identify the most appropriate way to manage it
- take genuine steps to resolve or clarify disputes
- in the simplest, most appropriate and most cost-effective way
- using dispute resolution processes, including as early as possible and both before and throughout any court or tribunal proceedings, except where it is not appropriate.

Objective 3: Record and use information about disputes in an appropriate and meaningful way

As departmental officers, we have a responsibility to:

- accurately record and report information about disputes
- analyse information collected about disputes to assist in improving policies and practices about dispute management.

For more information, including access to the simple dispute information collection template, please visit the department's Dispute Management Knowledge Base site <http://showroom.agdnet.ag.gov.au/knowledgebase/business/disputemanagement/> or contact the Dispute Resolution Section in the Access to Justice Division.

Dr Karl Alderson
Assistant Secretary
Justice Policy and Administrative Law Branch

(02) 6141 4180

karl.alderson@ag.gov.au

Allison Wood
Principal Legal Officer

(02) 6141 3106

allison.wood@ag.gov.au

Amrita Das
A/g Senior Legal Officer

(02) 6141 3016

amrita.das@ag.gov.au

ATTACHMENT A REMEMBER THE PEOPLE IN YOUR DECISION-MAKING PROCESS

GOOD DECISION MAKING OUTCOMES START WITH GOOD PEOPLE MANAGEMENT

1. Make information accessible

Consider whether:

- it easy for people to access information about how to apply and what to include in their application
- there is too little or too much information available
- the information is presented in accessible language (avoid dense text and legalese)
- a contact point could be offered to answer any questions

3. Ask for additional information if you need it

Consider:

- whether all components of the application have been included
- *If not, is it possible to advise the applicant early on that more information is needed, rather than rejecting the application outright?*

6. Communicate your decision effectively

Consider:

- the best way to tell the applicant (a phone call as well as a letter?)
- offering people an opportunity to provide feedback on the process and/or the application materials
- give reasons (fact and law) for the decision, particularly where an application is not approved
- advise the applicant of their review rights (including internal review, and external merits review)

8. If there are no existing internal review processes, consider putting some in place

Times where applicants who are likely to exhibit challenging behaviours could be dealt with by higher level officers and/or officers with well-honed communication skills

Josephine Public accesses information about getting a permit to make mobile phone applications (using content from departmental publications) (1)

We receive her application (2)

We send her application to an assessor (3)

We assess her application against certain criteria (4) (5)

5. Discuss your thinking with someone else

Where there are discretionary criteria and the application is unlikely to be approved, consider:

- * discussing the application with the decision maker or a senior official (i.e. an internal check)*

We don't approve her application!

We advise her of our decision
(6)(7)

She doesn't like our decision and asks us to review it internally (8)

Josephine goes to the Administrative Appeals Tribunal (9)

Then, like 80% of all matters that proceed to the AAT, we resolve our dispute with her at the first conciliation conference

2. Acknowledge receipt and manage expectations

Consider:

- notifying people that their application has been received
- offering a contact point for queries
- giving people an estimate of when their application is likely to be considered or a decision made

4. Give people a chance to withdraw their application if it is unlikely to be successful (where they do not meet non-discretionary criteria)

Consider:

- *arranging a preliminary assessment*
- informing people early if they do not meet the criteria and give them an opportunity to withdraw their application (and reapply if they wish) or continue to a formal decision

7. Give an unsuccessful applicant some options

Consider options such as:

- reapplying
- talking to an officer about the outcome
- having an officer review the *decision making process*
- having an officer review the *decision/reassess the application (internal review)*
- using **ADR**

9. Consider using ADR

Ensure any external law firm you engage is aware of our dispute management plan

ADR (alternative dispute resolution): processes, other than a court hearing, where an impartial person helps people in dispute resolve the issues between them. More information about ADR is available at www.ag.gov.au/adr.