A **TOOLKIT** FOR DEVELOPING A DISPUTE MANAGEMENT PLAN

National Alternative Dispute Resolution Advisory Council

NADRAC

NATIONAL ALTERNATIVE DISPUTE
RESOLUTION ADVISORY COUNCIL

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Introduction

This toolkit has been designed by the National Alternative Dispute Resolution Advisory Council (NADRAC) to support the development of Dispute Managements Plans by Commonwealth departments and agencies. The document entitled 'Managing Disputes in Federal Government Agencies: Essential Elements of a Dispute Management Plan' should be regarded as the primary framework for developing a Dispute Management Plan.

The toolkit consists of a number of information sheets. These sheets can be read independently from each other, and provide practical information to assist departments and agencies in thinking about, developing and using their Dispute Management Plan. The information sheets do not deal with all of the issues which departments and agencies will need to consider when developing their Dispute Management Plan.

Each Dispute Management Plan will need to be adapted to suit the needs and specific circumstances of each agency and the toolkit suggests possible approaches and strategies to assist departments and agencies. NADRAC hopes to develop additional information sheets which will be informed by the experience gained by agencies in formulating and implementing their Dispute Management Plans.

Having a clear Dispute Management Plan will assist Commonwealth departments and agencies to effectively, flexibly and cohesively manage and resolve disputes.

Information Sheet 1:
What is a dispute?

Departments and agencies are encouraged to take a wide view of disputes. A Dispute Management Plan should apply to internal disputes (for example between staff and in the workplace), external business related disputes (for example with suppliers, contractors and others) and external service provision disputes. Disputes need not include expressions of dissatisfaction or concern, such as complaints about an issue, although such information can clearly be relevant from a quality control perspective and also assist in devising strategies for avoiding disputes altogether. A complaint may lead to a dispute. Departments and agencies may have separate, though related, complaints handling policies.

Disputants may raise a dispute in writing or may raise a dispute orally. Some disputants may require assistance to be able to raise and notify a department or agency about a dispute as a result of individual disability, literacy or other barriers.

Disputes can be about matters such as:

- communication – staff attitude, rudeness, misunderstanding
- statutory entitlements or benefits
- information – inadequate or incorrect information (including misleading information)
- process – inadequate procedures, failure to provide sufficient information, failure to warn, or a failure to consult in decision-making
- financial matters – costs and charges, government rebates
- costs and fees – billing practices, overcharging
- professional conduct.

Information Sheet 2:
Why dispute management is important

Disputes in the public sector provide information about the needs and perceptions of the community and stakeholders and the quality and standards that operate in different government settings. They play a critical role in improving government services and interactions with stakeholders.

Disputes can improve the conduct and decisions of an agency when:

- leaders and senior staff use dispute information in planning, quality improvement and to inform professional development
- senior management are quickly notified of all disputes with significant or severe risk and action is taken
- policies and practices about dispute management are regularly reviewed with stakeholders to ensure that they are effective.

Good dispute handling and reporting are essential components of effective risk management and quality control. The specific aims of dispute management include improving policy and administration, reducing error, and complying with government and community requirements or expectations. Identifying and managing disputes effectively can also prevent disputes from arising or becoming intractable, and help ensure that issues are promptly identified and analysed.

Effective dispute management can also provide an opportunity to:

- foster better relations
- enhance the reputation of government
- provide information about services
- address issues that may impact upon the well being of individuals, organisations and agencies.

Information Sheet 3:
Cultivating a positive culture towards dispute management

For disputes to be managed properly, a positive attitude towards disputes must be fostered. Agencies should work hard to build a culture of acceptance, resilience, and genuine responsiveness in relation to disputes. Disputes should be viewed as 'opportunities' to improve quality, identify risk or areas of improvement and to support agency values.

Government departments and agencies are strongly influenced by professional ethics, such as honesty and integrity. Staff are trained for a high level of efficiency and strive for effective decision-making practices. Some staff may have a strong emotional response to a dispute because they may feel that their competence or commitment has been questioned.

A common response is to see a dispute as unjustified and a distraction. Promoting positive attitudes to feedback about the quality of government services, including disputes, is therefore crucial. The way disputes are resolved can be as important as the outcome. Good communication about dispute resolution processes, and positive staff attitudes, are critical factors in successful dispute management.

In developing an effective Dispute Management Plan it is important to include clear strategies so that people working in government departments and agencies are committed to improving the quality of interactions with disputants.

Commitment to dispute management within agencies requires that:
- leaders in the agency promote, and are responsible for, effective dispute resolution as part of quality improvement
- all managers in the agency have assigned responsibility for effective dispute management
- the contents of an agency's Dispute Management Plan are understood and used by staff
- staff are trained, resourced and supported when handling disputes
- the agency has an appropriately skilled senior member of staff who has responsibility for the Dispute Management Plan and who reports to senior management.

Information Sheet 4:
Objectives of dispute management

Some common objectives of effective dispute management are to:

- resolve or limit disputes effectively and efficiently
- use a process which is considered by the parties to be fair and is proportionate to the matters in dispute
- achieve sustainable outcomes
- help preserve ongoing relationships and reduce future disputation
- use resources effectively.

Apart from improving services and playing an essential role in risk management, effective dispute management can also provide an opportunity to:

- enhance the reputation of government
- promote policies and processes to deal with disputes as part of a quality improvement program
- address issues that may impact upon the well being of individuals, organisations and agencies
- provide information about services.

In addition, in formulating the objectives of a Dispute Management Plan, agencies may want to include information that will help manage disputants' expectations of outcomes. This may include statements that:

- ensure timeframes are well understood
- a fair outcome may not necessarily be compatible with the outcome the disputant is seeking
- dispute management does not require an agency to delay legitimate action to protect its interests.

Information Sheet 5:
Responsive, informed dispute management

To be effective, a Dispute Management Plan should support responsive dispute management. Strategies to achieve this could include:

- responding promptly and sensitively to disputes. A Dispute Management Plan may include timeframes, for example: an agency might indicate all disputes not resolved at the point of service will be acknowledged within 7 days of any notification
- assessing all disputes to determine appropriate dispute management responses
- resolving disputes in a timely manner. For example, a Dispute Management Plan may set realisable guidelines about the resolution of disputes such as '80% of disputes will be resolved within 12 months'.

A major cause of dissatisfaction with dispute management is long timeframes and a lack of information about what is happening to those involved in a dispute. Responsive Dispute Management Plans will usually include policies on timeframes. If a dispute is not acknowledged at the point of service level, information should be provided to the disputant about the next steps, who to contact and what to do if the disputant is not satisfied.

Other timeframes can also be set by the agency in its Dispute Management Plan, which could make reference to how the agency will acknowledge communication and communicate with disputants.

It is important to keep disputants informed even when there is 'no news' or 'no change.' Disputants can become more anxious and even angry when they are not kept up-to-date.

In addition, a Dispute Management Plan should support an informed approach to dispute management. This requires the department and agency to consider how they might:

- record disputes, review and identify trends and risks, and report on improvements
- use disputes to improve services and evaluate the processes they use to manage disputes.

Information Sheet 6:
Roles and responsibilities in dispute management

It is essential that leaders in the government sector become involved and are responsible for Dispute Management Plans. The agency head or CEO should champion the development of and publicly endorse the finalised Dispute Management Plan. Either the CEO or another member of the senior management team should have overall responsibility for dispute management in the agency, including promotion and regular review of the Dispute Management Plan.

The staff responsible for dispute management may require specialist expertise and skills in conflict resolution.

A dispute manager needs to:
- have skills in assessing a dispute, gathering information, managing the process, communicating, negotiating and being impartial
- be ethical – in eliciting information, ensuring participation, exhibiting a lack of bias, maintaining confidentiality and impartiality
- have a cooperative approach to communication with all relevant staff and the disputant, and be able to identify and acknowledge concerns, show understanding through listening and questioning skills, and use appropriate language and terminology
- be accessible, well organised and consistent
- have sufficient authority and be in a senior enough position to ensure cooperation and to address issues
- report to senior management on a regular basis.

Appropriately trained staff members could also be delegated as champions for the agency's Dispute Management Plan and serve as mentors for frontline staff who may be engaged in disputes. Frontline staff may require specific training to assist them to deal with disputes.

Information Sheet 7:
NADRAC's National Principles for Resolving Disputes

Greater understanding of differences and communication about those differences at an early stage will help to prevent or minimise many disputes. Where disputes cannot be prevented, there are many ways to attempt to resolve them.

Methods of resolution range from informal discussion and negotiation to formal determination by a court, and include dispute resolution processes like mediation, conciliation and arbitration. NADRAC principles set out a fundamental approach to dispute resolution that is consistent with better access to justice.

The principles address people involved in dispute and government and service providers. For specific information on the principles, the differences between dispute resolution processes, and what to expect when using different dispute resolution processes, the Guide to the National Principles for Resolving Disputes should be consulted. The National Principles are:

1. People have a responsibility to take genuine steps to resolve or clarify disputes and should be supported to meet that responsibility.
2. Disputes should be resolved in the simplest and most cost-effective way. Steps to resolve disputes including using alternative dispute resolution processes, wherever appropriate, should be made as early as possible and both before and throughout any court or tribunal proceedings.
3. People who attend a dispute resolution process should show their commitment to that process by listening to other views and by putting forward and considering options for resolution.
4. People in dispute should have access to, and seek out, information that enables them to choose suitable dispute resolution processes and informs them about what to expect from different processes and service providers.
5. People in dispute should aim to reach an agreement through dispute resolution processes. They should not be required or pressured to do so if they believe it would be unfair or unjust. If unable to resolve the dispute people should have access to courts and tribunals.
6. Effective, affordable and professional alternative dispute resolution services which meet acceptable standards should be readily available to people as a means of resolving their disputes.
7. Terms describing dispute resolution processes should be used consistently to enhance community understanding of, and confidence in, them.

Information Sheet 8:
Dispute management strategies

When a dispute arises, it is important to determine what action should be taken. There are many strategies for managing disputes, the most appropriate of which will vary according to the nature and size of the agency and the types of disputes it commonly deals with.

Often the dispute can be resolved at the point of service or at the time it arises. This may be through:

- an apology

- explanation and/or copies of documents

- administrative correction.

Strategies for resolving disputes might include:

- internal review mechanisms

- referring disputes (see information sheet 8.1)

- alternative dispute resolution processes (see information sheet 8.2)

- negotiation using problem-solving approaches (see information sheet 8.3)

- assisted negotiation with a third party (this may involve an internal or external facilitator through mediation)

- advisory processes which may involve investigation and advice

- decision-making by an objective third party (for example, senior internal staff, external tribunal)

When assessing a dispute the most appropriate processes to resolve the dispute should be determined. Most disputes are resolved through a process of negotiation (this may follow an investigation) where two or more people attempt to work through their differences and reach a solution.

Whatever process is used to resolve the dispute, it should be:

- conducted in a fair and even handed way

- transparent and timely

- equitable – attention needs to be paid to any power imbalance that might exist.

Information Sheet 8.1:
Assessing and referring disputes

Disputes need to be assessed to ensure they are managed correctly and to ensure that internal or external referrals are made when appropriate. Initially, a decision may need to be made about whether the dispute can be dealt with at the point of service, what process should be used or if a further review or investigation is required.

To assess how to deal with a dispute, agency staff need to:

- be attentive and try to understand the problem

- assess the risk, severity and complexity of the dispute

- find out what the issues are and how many people are involved

- be informed about what processes are available, what the timeframes are likely to be, what the disputant wants and whether they have a capacity to negotiate.

Understanding the problem

Disputes may arrive in written or oral form. Sometimes what is said or written down may not reflect the real issues. To understand the issue, dispute staff need to:

- identify themselves and record details – **Listen**

- confirm what has been said – **Acknowledge**

- be attentive and courteous, not defensive or blaming others – **Empathise**

- explain the next steps, don't promise what can't be delivered – **Set a timetable**

- resolve the dispute or commit to ensuring that it receives attention – **Agree on the next steps**

- check whether the disputant is satisfied with the process – **Confirm**

Assessing risk and incident monitoring

The dispute needs to be assessed, using risk management strategies, if it is not resolved at the point of service or referred on for further action.

The Australian Standard on Risk Management (AS/NZ 4360) sets out numerous processes to assist with assessment of risk, to determine the likelihood of recurrence and the level of investigation required following an incident. An important tool is the Seriousness Assessment Code. Assessing disputes for risk helps them to be managed correctly and ensures that risks are identified and appropriate action is taken (see resource sheet 1).

It is important for staff in your agency to have a good knowledge of the arrangements for referring disputes including who to refer the matter to and under what circumstances.

External referral

All government agencies and organisations should ensure that they can access external dispute processes at any time. If you have been unable to resolve the dispute, and it is appropriate to refer the dispute to someone else, it is important to check with the disputant first and clarify that they agree to this action.

Many external referral agencies use assisted negotiation to help resolve disputes. It is important that each agency understands how the external bodies in each area operate and what timeframes are involved.

Information Sheet 8.2:
Alternative dispute resolution processes

Alternative Dispute Resolution or ADR is usually an umbrella term for 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 is commonly used as an abbreviation for alternative dispute resolution, but can also mean *assisted* or *appropriate* dispute resolution. To learn more about other ADR terminologies please see the glossary.

ADR processes may be *facilitative, advisory, determinative* or*,* in some cases, a combination of these. A process can be selected to best suit a particular dispute. The main types of ADR are mediation, conciliation and arbitration.

Facilitative dispute resolution processes are processes in which a dispute resolution practitioner assists the parties to a dispute to identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement about some issues or the whole dispute. Examples of facilitative processes are mediation, facilitation and facilitated negotiation.

Advisory dispute resolution processes are processes in which a dispute resolution practitioner considers and appraises the dispute and provides advice as to the facts of the dispute, the law and, in some cases, possible or desirable outcomes, and how these may be achieved. Advisory processes include conciliation, expert appraisal, case appraisal, case presentation, mini-trial and early neutral evaluation.

More information on mediation and conciliation can be found in NADRAC's publication, *A Fair Say.*

Determinative dispute resolution processes are processes in which a dispute resolution practitioner evaluates the dispute (which may include the hearing of formal evidence from the parties) and makes a determination. Examples of determinative dispute resolution processes are arbitration, expert determination and private judging*.*

The advantages of ADR

ADR can support a practical approach to resolving disputes early through communication, openness to other views, negotiation and reasonableness. These factors are important in many forms of ADR and should be part of the professional skill set of any dispute manager.

Compared to litigation, ADR can offer many benefits. Although not always appropriate, it can often be more advantageous than pursuing a litigation path. The main advantages are listed below.

- ADR can support the earlier and speedier resolution of disputes, and offer parties more privacy, confidentiality and cost-saving benefits.

- Resolving disputes through ADR can allow participants to have an element of control on the process and a say in the outcome. As a result, they are more likely to feel satisfied and empowered.

- Even if a dispute is not resolved in an ADR process, the process itself can help draw out facts, identify issues and explore new options. This means that even if litigation is ultimately commenced, its duration and distress can be reduced.

- The less adversarial nature of ADR processes can support personal and professional relationships. This is especially important in the public sector as government agencies need to assist in the maintenance of proper and effective relationships between the government and the public.

Issues in an ADR context

There are some central issues that agencies should be aware of when considering use of ADR processes. These are briefly outlined below.

- ***Consistency in terminology***

The lack of consistent use of ADR terms can be confusing for everyone involved in ADR. The term 'mediation' is a common example of a term that is misused. Similarly, 'alternative' and 'appropriate' are often used interchangeably but their different meanings can cause confusion. For more discussion on consistent terminology please see NADRAC's publications; Dispute Resolution Terms, ADR Terminology: A Discussion Paper and ADR Terminology - Responses to NADRAC Discussion Paper

- ***Standards and accreditation in ADR processes***

The need for consistent standards and accreditation in different ADR processes is an ongoing issue. Progress has been made in the area of mediation with the National Mediator Accreditation System (NMAS) and the Family Dispute Resolution Practitioner Accreditation. However, further development is needed for the other ADR processes in order to maintain and improve the quality and status of ADR and to protect consumers. For more information on the need for standards in ADR please see the Development of Standards and Framework for ADR Standards.

- ***Confidentiality and admissibility***

Confidentiality and admissibility are widely regarded as central features of many ADR processes. However, not all ADR processes are necessarily subject to the same 'rules' relating to

confidentiality and admissibility, and statutory provisions dealing with these issues vary depending on the particular context.

- ***Immunity from suit***

The issue of whether ADR practitioners should be afforded protections and immunities from suit is important and affects everyone involved in an ADR process. While there are currently no provisions of general application, there is a wide range of federal and state legislation that does confer immunity from suit on ADR practitioners.

- ***Conduct obligations***

Although there are some Federal, State and Territory laws that impose conduct obligations on participants in ADR processes, these laws are not uniform. Conduct obligations can include requirements for disputants to act in good faith and make a genuine effort. Please note that NADRAC is currently undertaking a review of the issues surrounding confidentiality, admissibility, immunity, and conduct obligations. NADRAC is due to report to the Attorney-General by 30 November 2010. This report is likely to be made publicly available.

Information Sheet 8.3:
Negotiation using problem solving approaches

Assisted negotiation involves another person who can help to facilitate discussion, clarify interests and develop options. A disputes coordinator may take on this role in a large organisation. In smaller organisations, a facilitator or mediator could be drawn from another area (such as another government entity) or an external facilitator or mediator could be used.

Problem solving negotiation requires staff within an agency to:

- prepare
- have knowledge about the subject matter
- be able to think and communicate clearly
- listen actively and ask questions – not just 'tell'
- identify the issues and interests (underlying motivations) – not just the positions (demands)
- separate the person from the content
- explore what would happen if there was no agreement
- develop a range of options
- ensure that any agreement is workable.

Information Sheet 9:
Recording information about disputes

Collecting information about disputes in a consistent and systematic way promotes quality improvement in terms of services provided and also can assist to improve dispute management practices.

For dispute information to be used effectively there needs to be high quality and useful information captured about disputes, and an assessment made about the value of the information.

Recording of dispute information enables:

- progress in the investigation of a dispute to be tracked
- necessary follow-up action or referral to be taken
- serious disputes to be identified, reported and referred
- trends and patterns to be identified and reported to staff management and government
- lessons from disputes to be learned and the impact of recommendations evaluated
- the Dispute Management Plan to be monitored.

The information recorded might include data about the:

- number of disputes
- seriousness and risk management information
- organisational level that the disputes were dealt with
- how long it took for disputes to be resolved or referred on?
- how the disputes were resolved?
- what action the agency took? (see information sheet 8)
- demographic data, if appropriate. This may include, for example, where the disputant comes from? What age groups complain? Are these disproportionate to your client population?
- the issues the dispute raises (see resource sheet 1).

Information Sheet 10:
Evaluating and monitoring Dispute Management Plans

Evaluating and monitoring a Dispute Management Plan can provide an agency with information about how to improve policies and procedures. A Dispute Management Plan should be reviewed at regular intervals and changes made to reflect new objectives and strategies.

A Dispute Management Plan may also require change and review if:

- the workload, organisational structure, staff and client base changes
- objectives are not being met
- best practice in the area changes, for example, there are changes to dispute resolution clauses for use in contracts or additional external service providers are available
- users indicate that there are problems.

Regular monitoring of the Dispute Management Plan can help ensure that it works effectively and fairly, that timelines are being met and recommended action has been taken. For a sample checklist for monitoring performance see resource sheet 3.

Monitoring may involve referring to statistics and files to check how a Dispute Management Plan is operating. Evaluating the Dispute Management Plan may involve looking at files, statistics, policies and seeking information from staff, users and potential users about their experiences and knowledge about the Dispute Management Plan.

Research into disputes has shown that even participants who felt they 'lost' may still have positive perceptions of the process, if it has been handled well. Open ended questions in a feedback form can also be helpful in ensuring that the Dispute Management Plan improves and is responsive to user needs.

Criteria that can be checked when evaluating the Dispute Management Plan include whether the processes are:

- **Accessible** – is the Dispute Management Plan available to all without barriers? What information is provided and how? Does the Dispute Management Plan use a range of appropriate techniques to resolve disputes? What do users and potential users think?

- **Accountable** – are systemic problems and risks identified? Are reports and information disseminated? Who knows about it?
- **Fair** – is procedural fairness followed? How do users view the Dispute Management Plan?
- **Efficient** – does the Dispute Management Plan keep track of disputes? Are timelines met? Are appropriate processes used? What disputes are resolved at the point of service, by negotiation and facilitation, following investigation? What do users think?
- **Effective** – are the policies and processes effective in terms of their scope? Is the Dispute Management Plan monitored and evaluated? What changes have occurred as a result of the Dispute Management Plan?

Information from the evaluation of the Dispute Management Plan is useful for agencies to understand:
- how others see the department or agency
- where the problems are
- where things may be working well
- how reporting and other structures are working
- why changes should be made
- what could be done to make the service more effective
- who may require additional support, training and professional development.

Information Sheet 11:
Reporting on the Dispute Management Plan

An effective Dispute Management Plan will enable an agency to report:

- de-identified case studies to staff and others

- statistics on dispute trends

- how changes have been implemented and what impact changes have had on risks and action taken.

Statistical information about the Dispute Management Plan should be available for management and staff to use on a regular basis.

Trends and patterns

Collating and analysing disputes may reveal issues that are not evident if disputes are dealt with on an ad hoc basis. Collecting information about the categories of disputes can be useful.

Dispute issue coding can be useful in determining trends and strategies to reduce disputes and problems (for example, to determine how many disputes arise out of communication or access difficulties). Issue coding can be particularly useful in large agencies.

How to report?

Reporting can take a number of forms. The reporting strategy should suit each department and agency. For example, reporting can focus on:

- the statistics and be part of a management and staff planning process

- narrative case studies which can be particularly helpful in assisting staff to consider what quality improvement measures could be undertaken

- public information about disputes can form part of a quality reporting strategy

- specific improvements, how your service has changed its approach as a result of feedback.

Information Sheet 12:
Promoting and raising awareness of the Dispute Management Plan

The Dispute Management Plan needs to be available to anyone who wants to raise a dispute about or within the agency. A Dispute Management Plan needs to be well promoted to stakeholders and staff. Strategies will vary according to the type and size of the agency. For example, agencies may have designated telephone numbers, web based information and advocates.

Dispute Management Plans can be promoted through a number of means including by:

- providing information through such mediums as web sites, brochures, notice boards, small cards, signs and telephone numbers
- ensuring that information about the Dispute Management Plan is presented in a clear, uncomplicated, large print form on how, when, where and to whom dispute issues can be raised.

Resource Sheet 1:
Assessing risk

		CONSEQUENCES				
		INSIGNIFICANT	MINOR	MODERATE	MAJOR	CATASTROPHIC
LIKELIHOOD		1	2	3	4	5
ALMOST CERTAIN	A					
LIKELY	B					
MODERATE	C					
UNLIKELY	D					
RARE	E					

Consequences

1	Insignificant	Little or no damage, none or low financial loss
2	Minor	Medium financial loss
3	Moderate	Outside assistance is involved, high financial loss
4	Major	Major financial loss
5	Catastrophic	Huge financial loss and significant detrimental effect.

Likelihood

A	Almost Certain	The event is expected to occur in most circumstances
B	Likely	The event will probably occur in most circumstances
C	Moderate	The event should occur at some time
D	Unlikely	The event could occur at some time
E	Rare	The event may only occur in exceptional circumstances

SEVERE RISK	**Detailed research and management planning required at senior levels**
SIGNIFICANT RISK	**Senior Management attention needed**
MODERATE RISK	**Management responsibility must be specified**
LOW RISK	**Manage by routine procedure**

Resource Sheet 2:
Issue coding

Where possible, coding disputes into categories can assist an agency to identify problem areas and work toward systemic improvements across the organisation. Examples of coding categories appear below.

Access to service - A variety of dispute types can be coded such as – an agency failing to keep an agreed appointment, unavailable services, transit issues or unreasonable waiting times for procedures.

Communication - Could refer to attitude (bullying, rude, negative or patronizing attitudes), inadequate information (including incomplete and incomprehensible information), misleading or incorrect information, or failure to provide interpretive or special needs support.

Corporate services - Could include a reference to administrative processes, car parking, cleaning, catering, unsanitary conditions, noise, lighting, security and accommodation.

Cost - Could include billing practices, insufficient or wrong information, government subsidy information, overcharging and other decisions.

Grievances - Relating to inadequate responses to disputes, action against consumers or staff in relation to disputes or lodging disputes.

Privacy and discrimination - Including restricting access to records, discrimination, failure to treat with respect or a failure to ensure personal privacy or confidentiality.

Professional conduct - Such as failure to provide certificates and reports or other information, bogus claims, sexual misconduct, incompetence, aggressive or violent actions as well as a failure to complete and maintain adequate and accurate records.

Resource Sheet 3: Self Audit Checklist

This checklist can be used as one tool to rate your performance. The checklist uses a 5 point rating and is intended to be used as a self assessment tool and to assess the impact of changes made to your system. The checklist is an example and may vary according to the Dispute Management Plan that your agency or department adopts.

1. A rating of 1 means that your agency or department is rating at the highest level and your processes are best practice in this area.

2. A rating of 2 means that your agency or department is meeting and exceeding the indicator.

3. A rating of 3 means that your agency or department is complying with the guidelines.

4. A rating of 4 means that you have not yet attained the benchmark areas but have policies and processes in place to reach the indicator.

5. A rating of 5 means that your agency or department has not yet met this indicator.

Commitment to improvement					
Are leaders in your agency or department promoting, and responsible for appropriate dispute processes?	1	2	3	4	5
Are there policies on effective communication and dispute management that are understood and used by staff?	1	2	3	4	5
Are staff trained, resourced and supported when handling disputes?	1	2	3	4	5
Do you make it easy for stakeholders to complain and is information made available on disputes processes?	1	2	3	4	5
Do you provide assistance to those who need it and encourage those who might not otherwise complain as a result of culture?	1	2	3	4	5
Do you ensure disputes can be made anonymously?	1	2	3	4	5
Is feedback actively sought from all stakeholders?	1	2	3	4	5
Accessibility					
Is information about the disputes system presented in a clear, uncomplicated, large-print format on how, when, where and to whom disputes can be made?	1	2	3	4	5
Are there simple and accessible arrangements for lodging disputes?	1	2	3	4	5
Are staff responsive and treat all disputes seriously?	1	2	3	4	5
Do you promote and advertise your disputes scheme and provide information for potential users?	1	2	3	4	5
Do you ask for feedback when talking to users?	1	2	3	4	5
Do you have verbal dispute forms and written dispute forms available?	1	2	3	4	5
Do you ensure that any information provided is simple and easy to understand?	1	2	3	4	5
Do you check who raises disputes and whether disputants are representative of your stakeholder base?	1	2	3	4	5
Responsiveness					
Can all staff recognise disputes and assist to avoid or minimise disputes?	1	2	3	4	5
Is it made clear that dispute handling is the responsibility of everyone in the organisation?	1	2	3	4	5

Are all disputes that are not resolved at the point of service acknowledged within a set timeframe and are disputants told about the system, what to expect and given external referral information?	1	2	3	4	5
Are disputes resolved within reasonable timeframes set out in your policy? Are all disputes tracked and complainants informed about what is going on?	1	2	3	4	5
Assessment and accountability					
Do you assess all disputes to work out which processes are most appropriate, taking into account complexity, seriousness and the wishes of the disputant?	1	2	3	4	5
Do you have a rapid notification system so that senior management can be notified quickly?	1	2	3	4	5
Does your policy set out when disputes will be referred to external dispute resolution?	1	2	3	4	5
Effective resolution					
Does your approach to dispute handling emphasise joint problem solving?	1	2	3	4	5
Are all disputes not resolved at point of service investigated to determine what happened, the underlying causes and any corrective strategies?	1	2	3	4	5
Is any investigation process clear so that everyone can follow it?	1	2	3	4	5
Are the processes fair and equitable?	1	2	3	4	5
Do you provide appropriate outcomes that are objectively fair?	1	2	3	4	5
Privacy and confidentiality					
Do you manage investigations in a confidential manner?	1	2	3	4	5
Do you ensure disputants know how their personal information will be used?	1	2	3	4	5
Do you store disputes records separately from other records and only use personally identifying information for dispute resolution?	1	2	3	4	5
Do you provide disputants and staff with known facts during an investigation, a summary of factors contributing to the dispute, information about what changes have been made (or will be made) and how those changes will be monitored?	1	2	3	4	5
Gathering and using information					
Do you record all disputes so that individual disputes can be tracked and to identify trends and patterns?	1	2	3	4	5
Do you monitor your system against the policy set out in your Dispute Management Plan ?	1	2	3	4	5
Do you regularly provide information to staff about disputes so that staff learn about how recommendations have been implemented and monitored?	1	2	3	4	5
Do you periodically report information to the public?	1	2	3	4	5
Monitoring and improvement					
Do leaders and senior staff use disputes information in planning, quality improvement and to inform professional development?	1	2	3	4	5
Are senior management quickly notified of all disputes with significant or severe risk and is action taken?	1	2	3	4	5
Are policies and practices on disputes regularly reviewed with stakeholders to ensure that they are effective?	1	2	3	4	5
Are disputants satisfied with the processes?	1	2	3	4	5
Do the dispute processes work and are they monitored and audited against criteria?	1	2	3	4	5

Resource Sheet 4:
Dispute Management Plan Checklist

Section of Plan	Notes and examples	Para No
1. Introduction	Proactive, fair, coordinated and consistent	6
	Endorsed by agency head	6
	Consistent with *Legal Services Directions*	7
	Consistent with APS values, Section 10 *Public Service Act 1999*	7
	Process of review	7
	Dealing with requests for assistance and information	7
2. Objectives of an Agency's DMP	Overriding objective/s of Dispute Management Plan	8
	Pragmatic short term objectives	9
3. Types of Disputes	Identify source, nature and extent of main areas of dispute affecting the agency	11
	Features of various categories of disputants	12
	Links or reference to documents, resources and knowledge regarding disputes	13
4. Key Principles	Agency's key or overriding principles	14
	Are there different types of disputes that require differing principles?	15
	APS values may be adapted as key principles for agencies (see Section 10 *Public Service Act 1999*)	16
	Reference to and relationship with NADRAC's National Principles for Resolution of Disputes	17
5. Regulatory Requirements	What regulatory frameworks apply to the agency?	18
	Financial or monetary regulation including: • *Financial Management and Accountability Act 1997* • *Commonwealth Authorities and Companies Act 1997* • Model Litigant requirements (*Legal Services Directions*) • *Legal Services Directions* (Appendix C) • Commonwealth's discretionary payments scheme • Commonwealth's Comcover scheme	18
	Other review mechanisms including: • Access to Merits review, if so how? • Judicial review • Other accountability mechanisms such as review by parliamentary committees, Auditor-General, Commonwealth Ombudsman	19
	Links to primary documents and resources that relate to the above	20
6. Dispute Management Strategies	General and specific strategies for managing disputes	21
	General strategies may include: • Use of a dispute assessment matrix • Form and style of communication with disputants • Setting responsiveness targets in communicating with disputants • Tracking of disputes • Development of a dispute resolution toolkit for use within an agency • Provision of appropriate training for staff	22
	Specific strategies may include:	23

	• Letters of engagement sent to an agency's lawyers including a standard paragraph seeking written advice on settlement and alternative dispute resolution options • Special reporting requirements for particular sorts of disputes • Trialing a pilot program in particular areas of disputation	
	Consideration of alternative dispute resolution in both general and specific strategies	25
	Allows flexibility	26
7. Roles and Responsibilities	Explicitly assign roles and responsibilities to • Achieve the Dispute Management Plan's overall objectives • Implementing general and specific strategies • Keep the Dispute Management Plan under review	27
	Generally stated roles and responsibilities for staff in relation to dispute management	28
	Specific roles and responsibilities assigned to staff, such as to whom disputes shall be referred when appropriate	29
	Roles and responsibilities to be incorporated into performance plans of relevant staff	30
8. Evaluation and Review	Include provisions to ensure the implementation of the Dispute Management Plan is properly evaluated	31
	Results from the evaluation to inform revision of all aspects of the Dispute Management Plan and assessment of the performance of staff with roles and responsibilities under the Plan	32
9. Awareness and Promotion	How will the content of the Dispute Management Planbe promoted to staff and stakeholders?	33
	Mechanisms for promotion may include: • A communication strategy • Integrating dispute management principles into agency training and publications • Providing the Dispute Management Plan as part of induction materials for new staff • Including the Dispute Management Plan on agency's intra-net sites • Requiring staff to pledge support for the Dispute Management Plan. Appointing a dispute management leader or 'champion' of the Dispute Management Plan within the agency.	34