



Dispute Resolution Specialist Accreditation Assessment Requirements 2010

These notes should be read in conjunction with the Guide to Application and Assessment. They will assist practitioners interested in becoming accredited in Dispute Resolution to understand and to prepare for the assessment process.

Included are:

- A** The performance standard which is the benchmark for competent practice in this area
- B** The core skills and capabilities which form the basis for the assessment
- C** Knowledge areas required of applicants
- D** The methods and dates of assessment which applicants are required to undertake

Dispute Resolution Specialists

Dispute Resolution practitioners operate as process managers along the spectrum of ADR process; ranging from the facilitative, through advisory to the determinative. The range of processes also includes, facilitation, conferencing, Collaborative Law, pre-action protocols, mandatory pre-litigation mediation and other non-adversarial, problem-solving approaches. Whilst the processes implemented, the techniques employed and the knowledge required, may vary as a practitioner moves along the process spectrum, there are a number of core competencies and knowledge areas required by all dispute resolution practitioners.

This area of Specialist Accreditation covers the following bands of Dispute Resolution processes¹:

Facilitative Dispute Resolution Processes

Facilitative processes involve a third party providing assistance in the management of the process of dispute resolution. Generally the third party has no advisory or determinative role on the content of the dispute or the outcome of its resolution, but may advise on or determine the process whereby resolution is attempted.

For example mediation, conferencing, facilitation. More specifically, see legislation listed at pages 5-6.

Advisory Dispute Resolution Processes

Advisory processes involve a third party who investigates the dispute and provides advice as to the facts of the dispute, and, in some cases, advice regarding possible, probable and desirable outcomes and the means whereby these may be achieved.

For example conferencing, conciliation. More specifically see legislation at page 8.

Determinative Dispute Resolution Processes

Determinative processes involve a third party investigating the dispute (which may include the hearing of formal evidence from the parties) and making a determination, which is potentially enforceable, as to its resolution.

For example adjudication, statutory conciliation, expert determination

There are of course **Hybrid Processes** that span these bands.

For example concilio/arbitration, mediation/arbitration. More specifically see legislation listed at page 12.

Candidates are required to nominate which band they wish to be assessed in on FORM 1 - Application for Accreditation, and this nomination will form the basis of the assessment components.

¹ Definitions taken from: National Alternative Dispute Resolution Advisory Council (2003), **Dispute Resolution Terms**, Attorney-General's Department, Canberra.

A. PERFORMANCE STANDARD

The Standard of an Accredited Specialist in Dispute Resolution is that of a '***specialty competent practitioner***' in the core skills and practical capabilities in the selected area of practice, as assessed against the spectrum of capability of all practitioners in that area of practice. This standard is to be distinguished from the idea that the Scheme requires the highest technical legal knowledge across all aspects of the selected area of practice.

B. CORE SKILLS AND CAPABILITIES

Practitioners wishing to be accredited in Dispute Resolution should be able to:

- display knowledge of the law and procedure which underpins the performance of tasks in this area of practice; and
- perform each of the following tasks to the level of the performance standard:
 - 1. Identify issues and make process decisions, and assist the parties to consider and select options, consider alternatives and make appropriate decisions about future actions, based on principles of:**
 - (a) Analysis;
 - (b) Synthesis
 - (c) Application; and
 - (d) Evaluation.
 - 2. Develop a professional relationship with the parties by:**
 - (a) Summarising a given fact situation and clearly identifying all the relevant issues;
 - (b) Developing rapport and demonstrating understanding;
 - (c) Assisting the parties to consider options; and
 - (d) Communicating clearly.
 - 3. Establish and maintain an atmosphere conducive to resolution by:**
 - (a) Demonstrating non-partisanship in both verbal and non-verbal communication;
 - (b) Engaging in active listening;
 - (c) Responding appropriately to body language and other behaviour;
 - (d) Treating parties impartially and even-handedly;
 - (e) Behaving in a supportive and non-confrontational manner;
 - (f) Using appropriate strategies in joint and private sessions;
 - (g) Focusing parties on a problem-solving approach;
 - (h) Managing the process to maximise the parties' own decision making; and
 - (i) Affirming a client-centred approach as opposed to a lawyer-centred approach.
 - 4. Demonstrate the professional responsibilities of the Dispute Resolution practitioner including:**
 - (a) Competent knowledge of processes and skills, including explaining to the parties:
 - i. The process and the roles of the participants
 - ii. Costings
 - iii. Liability and immunity of the practitioner;
 - (b) Understanding of and compliance with ethical guidelines, including:
 - i. confidentiality and privilege; and
 - ii. impartiality within statutory guidelines (where necessary and/or appropriate);
 - iii. providing a process that ensures fairness to all participants
 - (c) Promoting participant self-determination;
 - (d) Awareness of intercultural issues;
 - (e) Inter-Professional relations in multi-disciplinary problem-solving processes;
 - (f) Ensuring *procedural fairness* (where necessary and/or appropriate); and
 - (g) If the particular process requires, exhibiting knowledge of and skilful application of relevant law, codes of practice and procedural rules, standards and policy guidelines.

C. KNOWLEDGE AREAS

The following knowledge underpins the performance of any aspect of Dispute Resolution.

Core knowledge expected of the Dispute Resolution Practitioner:

- (a) The principles of Dispute Resolution
- (b) The place of Dispute Resolution in the justice system
- (c) The spectrum of Dispute Resolution processes and understanding model adaptations
- (d) The stages of the major Dispute Resolution processes
- (e) The communication techniques and skills characteristically used by practitioners in Dispute Resolution processes
- (f) The models of negotiation
- (g) Ethics

Core Legislation:

Evidence Act 1995 (NSW) ss 131 and 135

Legal Profession Act 2004 (NSW) Part 4.3 Mediation ss 514 - 524

Solicitors Rules 1995, Rule 23.A.17A

Core knowledge by bands:

1. Facilitative Processes
2. Advisory Processes
3. Determinative Processes
4. Hybrid Processes

Candidates are required to nominate which band they wish to be assessed in on FORM 1 - Application for Accreditation, and this nomination will form the basis of the assessment components.

1. Facilitative Processes

Knowledge:

The nature of conflict, including the dynamics of power and violence
The appropriateness / inappropriateness of mediation
Pre-mediation preparation, screening and intake
Communication patterns in conflict and negotiation situations
Negotiation dynamics in mediation
Cultural issues in mediation and dispute resolution
The principles, stages and functions of a mediation process
The roles and functions of a mediator in the mediation process
The personal qualities of a mediator, including self-awareness and sensitivity to the participants, and an appreciation of emotional intelligence and common sense
The roles and functions of support persons, lawyers and other professionals in mediation
The law of mediation on confidentiality, enforceability of mediated agreements and liability of mediators

Skills:

Preparation and dispute diagnosis in mediation
Intake and screening of both the parties and the dispute to assess suitability for mediation
Collection and use of information
Analysis and definition of the issues in dispute
Conduct and management of the mediation process
Appropriate communication skills, including listening, questioning, reflecting and summarising, required for the conduct of mediation
Negotiation techniques and the mediator's role in facilitating negotiation and problem-solving
Mediator interventions appropriate for standard difficulties in mediation.
Potential responses to high emotion, power imbalances and violence
Management of the mediator's own value system and an appreciation of its impact in the mediation process
Use of separate meeting and shuttle mediation
Asking questions about or in the appropriate circumstances, drafting of mediated agreement
Concluding the process

Ethics:

Avoidance of conflict of interests
Marketing and advertising of mediation
Confidentiality, privacy and reporting obligations
Neutrality and impartiality / lack of bias obligations
Fiduciary obligations
Supporting fairness and equity in mediation
Withdrawal from and termination of the mediation process
An awareness of, and commitment to, the process of social responsibility.

LEGISLATION: Examples include

Civil Procedure Act 2005(NSW) , Part 4 Mediation of Proceedings ss 25-34 and Part 6 Div 1 Guiding Principles ss 56 & 60
Uniform Civil Procedures Rules 2005 (NSW) (UCPR)
Federal Court of Australia Act 1976 (Cth), Part VI ss 53A, 53B and 53C;
Federal Court Rules, Order 72; Practice Notes CM1 & CM8
Federal Magistrates Act 1999 (Cth), Part 4 ss20A,21,22,23,24,25,27,28,29,30,31,33,34
Federal Magistrates Court Rules 2001(Cth)
Supreme Court Practice Note 118, Mediation
Family Law Act 1975 (Cth), Part 2 Div 3 ss10F-10K
Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Cth)
Family Law Regulations 1984

Family Law Rules 1984
Native Title Act 1993 (Cth)
Administrative Decisions Tribunal Act 1997 (Cth)
Children and Young Persons (Care and Protection) Act 1998 (NSW) s37
Community Justice Centres Act 1983 (NSW) ss 11, Part 4 ss 20-25, Part 5, Schedules 2 & 3
Consumer Trader and Tenancy Tribunal Act 2001 (NSW) Part 5 Divs 1 & 2, Schedule 5
Farm Debt Mediation Act 1994 (NSW) as amended 2002, Parts 2, 3, 4 & Schedule 1
Legal Aid Commission Act 1979 (NSW) Part 3A ss60A - 60G
Legal Profession Act 1987 (NSW) ss 144(1), 145, 160(1)(b)
Residential Parks Act 1998 (NSW) Part 11
Retail Leases Act 1994 (NSW) as amended
Strata Schemes Management Act 1996 (NSW) Chapter 5 Part 2 ss 127 – 134

PRESCRIBED READING

Australian National Mediator Standards: For Mediators Seeking Approval Under the National Mediator Accreditation System November 2008

Boulle, L. (2001), Mediation: Skills and Techniques, Butterworths Skills Series

Boulle, L. (2005), Mediation: Principles, Process, Practice, 2nd Ed

Charlton, R and Dewdney, M, (2004) The Mediator 's Handbook: Skills and Strategies for Practitioners, LBC Information Services

Law Society of NSW, Charter of Mediation Practice – Law Society Guidelines for those who act in Mediations (online) available at <http://www.lawsociety.com.au/idc/groups/public/documents/internetcontent/026506.pdf>

Law Society of NSW, (2008) Law Society Mediation and Evaluation Kit, (online) available at <http://www.lawsociety.com.au/idc/groups/public/documents/internetcontent/026438.pdf>

Moore, CW, (1998), The Mediation Process - Practical Strategies for Resolving Conflict, Jossey-Bass Inc

Spencer, D & Brogan, M, (2006) Mediation Law and Practice, Cambridge University Press

RECOMMENDED RESOURCES

Astor, H "Rethinking neutrality: a theory to inform practice" - Parts 1 & 11, *Australasian Dispute Resolution Journal*, Thompson Lawbook Co, Sydney (2006) 17. Baruch Bush, R.A and Folger, J P, (2004) The Promise of Mediation: the transformative approach to conflict, Revised edition

Bond, J. "Liability of Mediators for Pressure, Drafting and Advice: *Tapoohi v Lewenberg*", *Bond Dispute Resolution News*, Vol 16, January 2004, available online at <http://www.bond.edu.au/law/centres/drc/newsletter.htm>

Hoffman, D.A and Bowling, D, Bringing peace into the room: how the personal qualities of the mediator impact the process of conflict resolution. 2003

Lanken, S. "Mediation: What cases will a court refer to mediation over the objection of one of the parties?" *Law Society Journal*, September 2002: p 66

Mayer, B.S., (2004) Beyond Neutrality: confronting the crises in conflict resolution

Spencer, D and Hardy, S, (2009) Dispute resolution in Australia: cases, commentary and materials, 2nd Edition, Thomson Reuters

Sourdin, T. (2008) Alternative Dispute Resolution, 3rd Edition, Law Book Company

Sourdin, T. (2004) Alternative Dispute Resolution and the Courts. (Ed), Law in Context Special Edition, Federation Press

Tillett, G & French, B. (2010) Resolving Conflict, 4th Edition, Oxford University Press

Venus, P. "Litigation: Advantages in mandatory mediation", *Law Society Journal*, November 2003: p 46

CASES

Aiton Australia Pty Ltd v Transfield Pty Ltd [1999] NSWSC 999 *ASIC V Rich* [2005] NSWSC 489

AWA Limited v Daniels t/as Deloitte Haskins & Sells 7 ACSR 463

Capolingua v Phylum Pty Ltd (WA)

Elizabeth Bay Developments Pty Ltd v Boral Building Services Pty Ltd (1995) 36 NSWLR 709

Hooper Baillie Associated Limited v Natcon Group Pty Limited (1992) 28 NSWLR 194

Hopeshore Pty Ltd v Melroad Equipment Pty Ltd [2004] FCA 1445

Idoport Pty Ltd & Anor v National Australia Bank Ltd & 8 Ors. [21] [2001] NSWSC 427

Ingott Capital Investments Pty Ltd v Macquarie Equity Capital Markets Ltd [2004] NSWSC 1091

Miller v Owners Corporation [2003] NSWCTTT 27

Rajski & Anor v Tectran Corporation Pty Ltd & Ors [2003] NSWSC 476

Ruffles v Chilman & Anor (unreported WASC FUL120 of 1996)

State Bank v Freeman & Ors; Freeman & Ors v NSW Rural Assistance Authority (31/01/96, NSWSC, Badgery Parker J)

State of New South Wales v Banabelle Electrical Pty Ltd (2002) 54 NSWLR 503

Tapoohi v Lewenberg (No 2) [2003] VSC 2, 410

The Silver Fox Co Pty Ltd ATF The Baker Family Trust v Lenards Pty Ltd [2004] FCA 1570

Unconventional Conventions Pty Ltd v Accent Oz Pty Ltd [2004] NSWSC 1050

Wentworth v. Rogers & Anor. [2004] NSWCA 109

789Ten Pty Ltd v Westpac Banking Corporation [2004] NSWSC 594

2. Advisory Processes

Knowledge:

The nature of conflict, including the dynamics of power and violence
Criteria for entering the process
Pre-process preparation, screening and intake
Communication patterns in conflict and negotiation situations
Negotiation dynamics
Cultural issues in dispute resolution
The principles, stages and functions of the advisory process
The roles and functions of the process manager in the process
The personal qualities of the process manager, including self-awareness and an appreciation of emotional intelligence and common sense
The roles and functions of support persons, lawyers and other professionals in the process
The relevant law on confidentiality, enforceability of agreements and liability / immunity of process managers

Skills:

Preparation and dispute diagnosis
Collection and use of information
Analysis and definition of the issues in dispute
Investigating the dispute
Conduct and management of the process
Appropriate communication skills, including listening, questioning, reflecting and summarising, required for the conduct of process
Negotiation techniques and the dispute resolution practitioner's role in facilitating negotiation and problem-solving
Dispute resolution practitioner's interventions appropriate for standard difficulties in process.
Potential responses to high emotion, power imbalances and violence
Management of the dispute resolution practitioner's own value system and an appreciation of its impact in the process
Providing advice on the facts and possible outcomes
Concluding the process
Reporting on progress to outcome

Ethics:

Avoidance of conflict of interests
Confidentiality, privacy and reporting obligations
Neutrality and impartiality / lack of bias obligations
Fiduciary obligations
Supporting fairness and equity in the process

LEGISLATION: Examples include

Administrative Appeals Tribunal Act 1975 (Cth)
Administrative Decisions Tribunal Act 1997 (Cth)
Ombudsman Act 1976 (Cth) ss 10A,11
Consumer Trader and Tenancy Tribunal Act 2001 (NSW) Part 5 Divs 1 & 2, Schedule 5
Consumer, Trader and Tenancy Tribunal Regulation 2009
Federal Magistrates Act 1999 (Cth) Part 4 ss20A,21,22,23,24,25,26,27,28,29,30,31,33,
Health Care Complaints Act 1993
Motor Accidents Compensation Act 1999 (NSW)
Native Title (New South Wales) Act 1994 Part 7
Residential Parks Act 1998 (NSW)
Retail Leases Act 1994(NSW)
Strata Schemes Management Act 1996 (NSW)
Workplace Injury Management and Workers Compensation Act 1998 (NSW) No 86

Workplace Relations Act 1996 & Workplace Relations Amendment (Work Choices) Act 2005 (Cth)
Workers Compensation Commission Rules 2003

PRESCRIBED READING:

Bryson, D. "And the Leopard shall lie Down with the Kid: A Conciliation Model for Workplace Disputes" *Australian Dispute Resolution Journal*, 1997, Vol 8 at 245

Dournay, N. "Conciliation in Residential Tenancy Disputes" *Australian Dispute Resolution Journal*, 1998, Vol 1 at 54

Gibson, F. "Alternative Dispute Resolution in Residential Tenancy Cases" *Australasian Dispute Resolution Journal*, 2007 vol 18 at 101

Gurley, A. "Conciliation of Health Care Complaints" *Australian Dispute Resolution Journal*, 1997 Vol 8 at 168

Sourdin, T. (2008), Chapter 6 "Advisory and Determinative Processes", in Alternative Dispute Resolution, 3rd Edition Thomson Reuters: pp 110 – 132

Sourdin, T. (2008), Chapter 8 "Court-based ADR", in Alternative Dispute Resolution, 3rd Edition Thomson Reuters

Spencer, D. and Hardy, S. (2009), Chapter 4 "Conciliation", Chapter 6 "Other Dispute Resolution Processes" in Dispute Resolution in Australia: Cases, Commentary and Materials, 2nd Edition, Thomson Reuters

See relevant institutional practice guidelines. For example:

Administrative Appeals Tribunal (Cth) at:
www.aat.gov.au/docs/ADR/ConciliationProcessModel.doc

Consumer, Trader and Tenancy Tribunal (NSW) at:
www.cttt.nsw.gov.au/Dispute_resolution/Conciliation_process.html

RECOMMENDED RESOURCES

Ball, J & Raymond, T "Alternative Dispute Resolution in the Context of Anti-Discrimination and Human Rights Law: Reflections on the Past and Directions for the Future" *Proceedings of the 5th National Mediation Conference*, (2000) Brisbane

Ball, J & Raymond, T "Facilitative or Advisory ADR?: A Discussion of the Issue of Conciliator Intervention in Settlement Terms" *Proceeding of the 7th National Mediation Conference* (2004) Darwin.

Howe, T QC "Alternative Dispute Resolution for Commonwealth Agencies" 88 *Legal Briefing* 1 Australian Government Solicitor, 18 August 2008

Jackson, D. "Meeting the Challenge of Institutionalising ADR: lessons from the Workers Compensation Resolution Service" *Australasian Dispute Resolution Journal*, 2001 vol 12 at 263

Meredith, F "Alternative Dispute Resolution in an Industrial Tribunal: Conciliation of Unfair Dismissal Disputes in South Australia" *Australian Journal of Labour Law*, (2001 vol 14 at 36

Raymond, T and Georgalis, S (2003) "Dispute resolution in the changing shadow of the law: a study of parties' views on the conciliation process in federal anti-discrimination law" *ADR Bulletin*, Vol. 6 Number 2, June 2003.

Shane, MB. "The Difference between Mediation and Conciliation" *Dispute Resolution Journal*, (1995 vol 50(3) at 311

Thornton, M "Equivocations of Conciliation: The Resolution of Discrimination Complaints in Australia" *Modern Law Review*, Nov 1989.

CASES: Relevant to specialist jurisdiction selected.

3. Determinative Processes

Knowledge:

The nature of conflict, including the dynamics of power and violence

Criteria for entering the process

Pre-process preparation and intake

Communication patterns in conflict and negotiation situations

Negotiation dynamics

Cultural issues in dispute resolution

The principles, stages and functions of the determinative process:

Information gathering;

Presentation of information;

Argument;

Distilling issues;

Analysis;

Reasoning and timing;

Making and conveying the decision.

The roles and functions of the dispute resolution practitioner in the process

The personal qualities of the dispute resolution practitioner, including self-awareness and an appreciation of emotional intelligence and common sense

The roles and functions of support persons, lawyers and other professionals in the process

The relevant law on confidentiality, enforceability of determinations and liability / immunity of dispute resolution practitioners

Skills:

Preparation and dispute diagnosis

Collection and use of information

Analysis and definition of the issues in dispute

Conduct and management of the process

Appropriate communication skills, including listening, questioning, reflecting and summarising, required for the conduct of process

The dispute resolution practitioner's role in facilitating problem-solving

Dispute resolution practitioner's interventions appropriate for standard difficulties in process.

Potential responses to high emotion, power imbalances and violence

Management of the Dispute Resolution Practitioner's own value system and an appreciation of its impact in the process

Concluding the process

Decision making

Writing and communicating decision

Ethics:

Avoidance of conflict of interests

Confidentiality, privacy and reporting obligations

Neutrality and impartiality / lack of bias obligations

Fiduciary obligations

Supporting fairness and equity in the process

LEGISLATION: Examples include

Arbitration (Civil Actions) Act 1983

Civil Procedure Act 2005 (NSW), Part 5 Arbitration of Proceedings ss 35 - 47 and Part 6 Div 1 Guiding Principles ss 56 & 60

Commercial Arbitration Act 1984 (NSW)

Consumer Trader and Tenancy Tribunal Act 2001 (NSW)

Family Law Act 1975 (Cth) Part II Div 4 ss10L -10P,ss13E -13K

Federal Court of Australia Act 1976 (Cth) Part VI ss53A ,53AA, 53AB,53C,54

Federal Magistrates Act 1999 (Cth) Part 4 ss 20A, 21, 22, 23, 24, 25, 28, 29, 30, 31, 33, 35, 36, 37, 38

Industrial Relations Commission Rules 1996
Land and Environment Court Act 1979 (NSW) Div 4 ss 34, 35,36
Motor Accidents Compensation Act 1999 (NSW) Part 4.4 Claims Assessment and Resolution
Native Title (New South Wales) Act 1994 Part 7
Residential Parks Act 1998 (NSW) Part 11
Strata Schemes Management Act 1996 (NSW) Chapter 5 Part 1 ss 123 -126, Part 4
Telecommunications (Arbitration) Regulations 1997
UNCITRAL Model Law
Workplace Injury management and Workers Compensation Act 1998(NSW)

PRESCRIBED READING

Sourdin, T. (2008), Chapter 6 “Advisory and Determinative Processes”, in Alternative Dispute Resolution, 3rd Edition Thomson Reuters: pp 110 – 132

Sourdin, T. (2008), Chapter 8 “Court-based ADR”, in Alternative Dispute Resolution, 3rd Edition Thomson Reuters

Spencer, D. and Hardy, S. (2009), Chapter 4 “Conciliation”, Chapter 6 “Other Dispute Resolution Processes” in Dispute Resolution in Australia: Cases, Commentary and Materials, 2nd Edition, Thomson Reuters

Waye, V (ed) (2001). A Guide to Arbitration Practice in Australia, University of Adelaide and Institute of Arbitrators and Mediators Australia Adelaide

See relevant institutional practice guidelines. For example:

Workers Compensation Commission guidelines at www.wcc.nsw.gov.au/PracticesAndGuidelines/Guidelines/default.htm
Motor Accident Assessors’ manual

RECOMMENDED READING

Jacobs, M Commercial Arbitration Law and Practice, Sydney: Law Book Company

Lord Mustill. “Arbitration, Imagination and the Culture of Compromise”, Address to the Banco Court, Supreme Court of New South Wales, 11 June 2002

Redfern, M. “The Mediation Provisions of Section 27 of the Commercial Arbitration Act” *Australasian Dispute Resolution Journal*, (2001) Vol12 at 195

Spencer, D IAMA’s Fast Track Arbitration Rules (2007) *Australasian Dispute Resolution Journal* 200

CASES: Relevant to specialist jurisdiction selection.

4. Hybrid Processes

For skills, knowledge and ethics of hybrid processes, refer to the notes above on the dominant process.

LEGISLATION: Examples include

Australian Human Rights Commission Act 1986 (Cth)

Consumer Trader and Tenancy Tribunal Act 2001 (NSW)

Fair Trading Act 1987 (NSW) s60Y: Compliance with Applicable industry code of conduct

Workers Compensation Commission Rules 2003

PRESCRIBED READING

Brewer, T.J and Mills, L.R. "Med-Arb: Combining Mediation [and] Arbitration" *Dispute Resolution Journal* 1999 vol 54(4) at 32

RECOMMENDED READING and CASES: Relevant to specialist jurisdiction selected.

D. METHODS OF ASSESSMENT

Candidates will be required to undergo the following forms of assessment:

1. TAKE HOME WRITTEN EXAMINATION

The written examination is in two parts:

Part A to examine core concepts and Part B to be stream specific.

Part A:

A selection of questions from which two are to be chosen.

The following have been identified as core concepts which can be assessed:

- a. Understanding disputes and conflict analysis
- b. Selection criteria for each of the dispute resolution processes
- c. Models of negotiation: Adversarial, Distributive, Integrative, and Principled
- d. Communication skills: Active Listening, Reframing, Questioning
- e. Problem analysis and problem-solving
- f. The principles of Dispute Resolution
- g. The place of Dispute Resolution in the justice system
- h. The spectrum of dispute resolution processes and understanding of model adaptations
- i. The stages of the major dispute resolution processes
- j. The communication techniques and skills characteristically used by practitioners in Dispute Resolution processes
- k. The models of negotiation
- l. Techniques for handling issues such as legal representation of the parties in the process, culture, capacity, language, gender.

Part B:

The candidate will provide band-specific answers to generic questions, according to the nomination on their application form.

For example:

Policies or codes of practice

Rules and practices relating to the powers and duties of the practitioner

Liability / immunity of the practitioner

Practice standards

Code of ethics

Knowledge of relevant law, practice and procedural rules

Practical considerations in this area of practice

Appropriate levels of intervention in process: impartiality, neutrality, advisory, determinative

Distribution Date:

Wednesday, 26 May 2010

Return Date:

Wednesday, 16 June 2010

Assessment criteria:

In your response you will be assessed on the following performance criteria. You will be required to perform each criterion to the level of the performance standard.

- (A) Depth of knowledge of the theoretical principles and concepts of dispute resolution.
- (B) Understanding the function and purpose of the stages of dispute resolution processes.
- (C) Depth of knowledge of skills relevant to dispute resolution practice.
- (D) Knowledge of procedural rules, practice and professional and ethical issues.

2. SIMULATED SESSION

Candidates will be required to conduct a simulated process between two parties in one of the 4 bands listed on page 2. The exercise will take approximately 2 hours, and will be recorded. The recording will be assessed by the Assessors. This exercise is intended to assess the practical skills of the candidate, including those relating to interaction between the dispute resolution practitioner and the parties.

Assessment criteria:

In your response you will be assessed on the following performance criteria. You will be required to perform each criterion to the level of the performance standard.

- (A) Ability to conduct and manage a process through all the requisite stages.
- (B) Ability to demonstrate appropriate communication skills.
- (C) Ability to demonstrate the role and function of the dispute resolution practitioner.
- (D) Ability to appropriately respond to, and intervene, when difficulties arise within a process.

3. WRITTEN REVIEW OF THE SIMULATED SESSION

Following the simulation, candidates will review a recording of their performance and provide a written response to a set of questions. The purpose of the review will be to assess the candidate's understanding of the process and the strategies they used in the simulation.

Assessment criteria:

In the response candidates will be assessed on the following performance criteria. Candidates will be required to perform each criterion to the level of the performance standard.

- (A) Understanding of what happened in the process.
- (B) Ability to give critical evaluation of their management of the process.
- (C) Capacity for self-reflection on role and skills.
- (D) Understanding of the dynamics that were operating in the process.

Date: Sunday, 1 August 2010
Venue: College of Law, 2 Chandos St, St Leonards

Applicants will be notified of the time in mid July.