

Alternate dispute resolutions

Family day care providers are encouraged to access the Alternative Dispute Resolution (ADR) service to resolve general disputes with licensees. It is recommended that licensee's of Family Day Care schemes develop and implement a grievance procedure to ensure that natural justice principles are met.

1. What is alternative dispute resolution?

Alternative Dispute Resolution (ADR) is a free mediation service provided by the Department of Justice. The process involves people involved in a dispute coming together to discuss the matter in the presence of one or two trained mediators. If a resolution can be found through mediation both parties can avoid the possibility of lengthy and costly legal proceedings.

2. How does it work?

If you are involved in a dispute you may ring your local Dispute Resolution Centre to ask about mediation. The Centre will advise you whether your case is suitable for mediation. If you choose to go ahead the centre will send a letter to the other party involved in the dispute inviting them to take part in mediation. Since Alternative Dispute Resolution is voluntary the other party may choose not to participate and equally you may choose to withdraw from mediation at any time.

If the other party agrees to take part, a date will be set to suit both parties. Mediation usually takes three to four hours and often results in people reaching an agreement. These agreements are not legally binding however they should reflect the wishes of both parties to reach a resolution and are therefore usually respected.

3. What is the role of the mediator?

The mediator guides and facilitates a process for people to talk with each other and reach an agreement about how to resolve issues. The mediator is neutral and impartial, they do not advise parties about options nor do they decide the final resolution.

4. How can ADR be of use to home based care providers and licensees?

ADR can be used to resolve many differences between carers and licensees including disputes about the quality of care or compliance.

A carer may turn to ADR if they feel the licensee has unfairly suspended or revoked an

arrangement to provide home based care. ADR may provide the carer with an opportunity to negotiate an agreement with the licensee, which would allow them to continue to provide care on the proviso that they commit to complying with the licensee's expectations. ADR may also be a useful and constructive way for licensees to address concerns they may have about the quality of care being provided by one of their carers.

5. Disputes arising from a licensee's decision to cancel an arrangement with a home based care provider.

There is no legislative provision for home based care providers to appeal a licensee's decision to revoke an arrangement with a care provider. This means that carers who have their agreements cancelled by a Family Day Care scheme licensee do not have a legislated right to have their cases reviewed under the *Child Care Act 2002*. In this case ADR can provide an opportunity for the two parties to discuss the case and possibly come to a mutually satisfactory agreement.

6. What are the benefits of alternative dispute resolution?

ADR allows each party the chance to air their point of view and discuss the issue in a safe and respectful way. Since ADR is **free** and has a high success rate it is a good idea to try ADR before resorting to the legal system. Should ADR fail, or should you change your mind at a later date, ADR does not in anyway affect your right to pursue a matter through the legal system.

How to contact a Dispute Resolution Centre

South East Queensland 3239 6007

Freecall (outside Brisbane) 1800 017 288

Townsville and Mt Isa 4799 7870

Freecall (outside Townsville) 1800 809 605

Cairns 4039 8742

Freecall (outside Cairns) 1800 671 680

Rockhampton 4938 4249

Freecall (outside Rockhampton) 1800 817 927

Mackay 4967 4404

Freecall (outside Mackay) 1800 501 576

Wide Bay (Hervey Bay) 4125 9225

Freecall (outside Hervey Bay) 1800 681 109

These questions and answers have been prepared by the Department of Communities to assist users of the *Child Care Act 2002* and the *Child Care Regulation 2003* in understanding the requirements of important provisions. If there are any inconsistencies between this document and the legislation, the legislation must be followed. You should refer to the legislation to properly understand its requirements.

For a list of Department of Communities regional office contacts please call the Child Care Information Service on 3224 4225 or freecall outside of Brisbane 1800 637 711.

Department of Communities

Office for Children

GPO Box 806

BRISBANE QLD 4001

Telephone: 3224 4225

Freecall outside of Brisbane: 1800 637 711

Email: ccis@communities.qld.gov.au

Website: www.communities.qld.gov.au/childcare