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CONSULTATION DRAFT

AUSTRALIAN FAMILY DISPUTE
RESOLUTION PRACTITIONERS

DRAFT PRACTICE STANDARDS

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AUSTRALIAN FAMILY DISPUTE RESOLUTION PRACTITIONERS

DRAFT PRACTICE STANDARDS

1 - APPLICATION

1. These practice standards apply to any practitioner who undertakes to act as a third party under the Family Law Act 1975 ('the Act') to assist families to manage, settle or resolve separation and divorce-related family disputes or conflict through the use of facilitative family dispute resolution processes ('a practitioner'). The practice standards are intended to govern the relationship of practitioners with their clients, their professional colleagues, courts and the general public so that all will benefit from high standards of practice in family dispute resolution practice.
2. The practice standards:
 - specify practice and ongoing education and training requirements for practitioners;
 - assist in informing participants and others of what they can expect from the process and approach of practitioners; and
 - promote public confidence in facilitative dispute resolution processes used to resolve, settle and manage family disputes and conflict.
3. Family dispute resolution practitioners who have sought or seek approval under the Act must comply with approval standards as well as these practice standards that specify ongoing practice requirements. For such practitioners, these practice standards should be read in conjunction with the approval standards.

2 - DESCRIPTION OF FAMILY DISPUTE RESOLUTION PROCESS

A family dispute resolution process is primarily a facilitative process designed to maximise participants' self determination whilst simultaneously recognising the interests of others, especially children, who are directly affected by the dispute.

1. A facilitated family dispute resolution process is a process in which the parties to a family dispute, with the assistance of a practitioner or practitioners, identify disputed issues, develop options, consider alternatives and endeavour to reach agreement and/or enhance their communication based upon the principle of self-determination. While facilitated processes aim at self-determination for separating parties they also promote the recognition of the interests of others, particularly children, who may be affected by the dispute.
2. Facilitated family dispute resolution processes may focus upon a broad range of areas in which families experience conflict. The specific application of these Practice Standards however is for disputes associated with current or past family separation and divorce.
3. Family dispute resolution practitioners who work in a facilitative role do not advise or determine disputes. They assist in managing the process of dispute and conflict resolution whereby the participants determine the outcomes. Such processes include mediation, conciliation, conferencing, facilitation and counselling (where the counselling process is directed at dispute resolution and involves two or more participants). The principle of self determination requires that these processes be non-directive in content.
4. Some processes used in the family dispute and family conflict area may involve a practitioner offering to provide expert information in the context of a primarily facilitative process which does not infringe upon participant self-determination. In children's matters, for example, an intervention is deemed to be primarily facilitative if parents request or accept an invitation to consider expert information concerning child-related issues, and if that information is couched in general terms and presented in a non-prescriptive way. Core information might include developmentally normative child responses to family breakdown and reformation and research-based information on the impact of ongoing unresolved conflict on children. These interventions act as a bridge between the principle of self-determination and the legislative requirements to consider the best interests of the child, and are often defined as conciliation. In the context of asset division also, the

practitioner, when invited, may offer information with respect to issues such as child support or superannuation. It is not the role of the practitioner, however, to advise on a particular outcome or range of outcomes. The Practice and Approval Standards apply to such processes where the participants continue to determine the outcome of the conflict or dispute and the expert information is provided to assist them to negotiate. More specific issues arising out of the practice of providing information are addressed in Section 11.

5. Some processes used in the family dispute and family conflict area may also involve a practitioner working directly or in separate sessions with a counsellor or therapist who, with the consent of the parties, explores communication and/or patterns of meaning that may be driving or influencing a dispute. These practice standards are intended to apply to such processes where the objective is to resolve the dispute or conflict (rather than a more expansive exploration of the nature of the relationship between the parties) and where the process continues to be informed by non-directive principles.
6. Facilitated family dispute resolution processes are not intended to be a substitute for family members' needs to obtain individual legal or other expert advice, or individual counselling or therapy. Further, it is recognised that such processes may not be appropriate for all families or all types of disputes.
7. The goal of family dispute resolution processes is to clarify what is in dispute and between whom, and to assist the parties to take appropriate action. Such assistance may include the articulation of a workable agreement and/or future patterns of communication that meet the participants' needs and interests, and the needs and interests of any children or dependent family members who are subject to or affected by the dispute.
8. The practitioner's role is that of a facilitator who:
 - helps the parties define and clarify the issues under consideration
 - assists communication and the exchange of relevant information between the parties
 - invites the framing of disputes so as to increase the range of options
 - encourages mutual interpersonal understanding
 - facilitates an awareness of common interests
 - helps the parties generate and evaluate various options
 - promotes a focus on those children or dependent family members who are subject to or affected by the dispute.

3 - AGREEMENT TO ENTER INTO FACILITATIVE PROCESS AND PREPARATION

The family dispute resolution practitioner should explain the process and stages clearly to the participants before agreeing to facilitate the dispute, and parties must give their informed consent to participate.

1. The family dispute resolution practitioner should at the outset of the process:
 - a) define and explain the process to be used and distinguish it from other processes such as individual counselling or therapy, assessment, advocacy, adjudication and arbitration;
 - b) discuss the appropriateness of the process for the participants in light of their particular circumstances, the benefits and risks of the process, and the other alternatives open to the participants;
 - c) discuss the confidentiality of the process and any limitations on such confidentiality;
 - d) advise the participants that either they or the practitioner has the right to suspend or terminate the process at any time;
 - e) make explicit the costs of the process and reach an agreement with the participants regarding payment of these costs;
 - f) advise the participants of the practitioner's role in relation to the provision of advice or other services:
 - i) If the family dispute resolution practitioner is also a lawyer, he or she shall inform the participants that he or she cannot provide legal advice or represent either or any of the participants in any related legal action.
 - ii) If the family dispute resolution practitioner is a counsellor or therapist, inform the participants that she or he cannot counsel or practice therapy with either or any of the participants.
 - g) discuss with the participants the family dispute resolution practitioner's specific procedures and practices, such as:

- i) When separate sessions may be held, including any rules relating to the confidentiality of such sessions
 - ii) That the participants may seek information and advice from a variety of sources during the process
 - iii) How participants may withdraw from the process at any time and are not required to reach an agreement
 - iv) Opportunities for separate communications with the participants and their legal representatives
 - v) Circumstances in which other persons can be involved in the process – for example, the participation of a child consultant or counsellor or therapist, if ‘therapeutic mediation’ has been agreed to.
2. Wherever possible, the agreement to enter into the process should be in writing and signed by the participants and the practitioner. Any agreement with respect to the confidentiality of the family sessions, or any waiver of such confidentiality, should be acknowledged in writing by all participants.
 3. Practitioners should provide the parties with a copy or a summary of these Practice Standards, or a way to access them, in a manner that is appropriate to their needs.

4 - CHILDREN

Family dispute resolution practitioners shall actively and respectfully assist adult participants to keep the needs of any child impacted upon by a family dispute at the centre of discussions about future parenting and care arrangements.

1. Family dispute resolution practitioners should be familiar with and able to speak about core research findings that point to the detrimental effects on dependent children of ongoing unresolved parental or carer conflict. Family dispute resolution practitioners should develop skills that allow them to simultaneously acknowledge the aspirations and feelings of parents or carers and at the same time remain focused on the needs of each child in dispute. They shall be skilled in inviting parents or carers to see the situation from each child’s point of view.
2. In accordance with the participation requirements of Article 12 of the United Nations Convention on the Rights of the Child, family dispute resolution practitioners should consider the appropriateness of discussing with adult

participants, the extent to which it may be useful or desirable to involve some or all of the children in the dispute resolution process. Engaging with children over their needs, perceptions and attachments, and negotiating with each child, on how and to what extent this information can be transmitted to their parents or carers, is a complex task. Practitioners should carefully consider their capacities to undertake such tasks.

3. When child consultation occurs, practitioners should in any case consider working with a consultant other than the dispute resolution practitioner(s) assigned to that particular case. This permits the consultant to represent the needs, perceptions and attachments of each child to each parent or carer in dispute. While fully respecting the central role of each parent or carer, a child consultant who is not simultaneously attempting to mediate, remains in a strong position to represent each child's account of the impact of the separation from his or her point of view.
4. When child consultation occurs, it shall be with the consent of each parent and each child and be conducted by an individual with a sound knowledge of child development and appropriate skills in working with children. Age-appropriate facilities and support services should be available. Though child consultation may have a therapeutic impact in its own right, its primary objective is not therapy. The objective is to assist parents or carers who may be distracted by their own interpersonal disputes or conflicts, to re-focus on their caring and parental roles.
5. Where it appears to the family dispute resolution practitioner that any child is suffering, or is likely to suffer significant harm, the family dispute resolution practitioner must advise participants to seek help from an appropriate agency. Family dispute practitioners should have received training that enables them to recognise clearly or explore a family situation that may involve child abuse or neglect (see also Sections 5 and 8). Building on such training, steps must be taken to shape the family dispute resolution process appropriately. It is noted that:
 - a) As used in these Practice Standards, child abuse or neglect is defined by applicable state law. A family dispute resolution practitioner should not undertake a family dispute resolution process where an assessment has shown child abuse or neglect, without appropriate and adequate training; and
 - b) If the family dispute resolution practitioner has reasonable grounds to believe that a child of the participants is abused or neglected within the meaning of the jurisdiction's child abuse and neglect laws, the family

dispute resolution practitioner shall comply with applicable child protection laws.

9. 6. Where it appears to a family dispute resolution practitioner that the participants are acting or proposing to act in a manner likely to be seriously detrimental to the best interests of any child in the family, the family dispute practitioner should raise issues about the interests of the relevant child(ren). In the event of the unsatisfactory situation continuing, the family dispute resolution practitioner should consider withdrawal from the process and explain to the clients, the reason(s) for the decision to withdraw.

5 - FAMILY VIOLENCE AND ABUSE

Family dispute resolution practitioners shall have completed training that enables them to recognise a family situation involving abuse and take appropriate steps to manage the family dispute resolution process accordingly. While they are engaged in the family dispute resolution process, they must also create an environment that supports the physical and emotional protection of vulnerable parties.

1. As used in these Practice Standards, family abuse includes family violence as defined by applicable state law and issues of control and intimidation.
2. Without appropriate and adequate training as set out in Section 8, a family dispute resolution practitioner shall not conduct a screening process to assess suitability for a family dispute resolution process or undertake a family dispute resolution process in which the family situation has been assessed to involve family abuse.
3. Some disputes are not appropriate for family dispute resolution processes because of safety, control or intimidation issues. A family dispute resolution practitioner should be trained in, and have familiarity with, standard protocols that screen for the existence of family violence. Such protocols are required to be in place before entering into an agreement to act as a third party. The family dispute resolution practitioner should continue to assess for family violence throughout the family dispute resolution process.
4. If at any time family abuse is present or threatened, the family dispute resolution practitioner shall take appropriate measures to insure the safety of participants in the family dispute resolution process. Options include:

- a) activating appropriate pre-determined security protocols
- b) using video conferencing or other personal protective and screening arrangements
- c) requiring separate sessions with the participants
- d) enabling a friend, representative, advocate, or legal representative to attend the family dispute resolution sessions
- e) referring the participants to appropriate community resources
- f) suspending or terminating the family dispute resolution session, with appropriate steps to protect the safety of the participants.

6 – FAIR, IMPARTIAL AND ETHICAL PRACTICE

A family dispute resolution practitioner must conduct the dispute resolution process in an impartial manner and adhere to ethical standards of practice.

1. Impartiality means freedom from favouritism or bias either in word or action or the omission of action, or the appearance of such favouritism or bias. A family dispute resolution practitioner shall disclose actual and potential grounds of bias and conflicts of interest that are reasonably known to the family dispute resolution practitioner. The participants shall be free to retain the family dispute resolution practitioner by an informed, written waiver of the conflict of interest. However, if a bias or conflict of interest impairs a family dispute resolution practitioner's impartiality, the family dispute resolution practitioner shall withdraw regardless of the express agreement of the participants.
2. A family dispute resolution practitioner should identify and disclose any potential grounds of bias or conflict of interest that emerge at any time in the process. Clearly, such disclosures are best made before the start of a process and in time to allow the participants to select an alternative family dispute resolution practitioner. Practitioners should take reasonable steps to minimise the chances of being in a position of potential bias or conflict of interest before the process commences.
3. A family dispute resolution practitioner must avoid conflicts of interest, or the perception of a conflict of interests, in recommending the services of other professionals. Where possible, they should provide several alternatives if recommending referrals to other practitioners and services.

4. A family dispute resolution practitioner shall not use information about participants obtained in family dispute resolution process for personal gain or advantage.
5. The perception by one or both of the participants that the family dispute resolution practitioner is partial does not in itself require the family dispute resolution practitioner to withdraw. In such circumstances, however, the family dispute resolution practitioner must remind all parties of their right to terminate the family process.
6. A family dispute resolution practitioner must not become involved in relationships with parties that might impair the family dispute resolution practitioner's professional judgment or in any way increase the risk of exploiting clients. Except where culturally required, family dispute resolution practitioners must not normally facilitate family disputes involving close friends, relatives, colleagues/supervisors or students.
7. Family dispute resolution practitioners should adhere to the recognised code of ethics that govern their own primary profession. They should be familiar with the requirements of core ethical issues such as multiple relationships, professional-client boundaries, and obligations and limits to confidentiality. Specific issues relating to confidentiality in the practice of family dispute resolution are also dealt with in Section 7. In the absence of a fully developed code of ethical practice for family dispute resolution practitioners, practitioners without adherence to a primary profession such as law, psychology, counselling or social work, should identify and familiarise themselves with, and adopt, an appropriate code of ethical professional practice.

7 - CONFIDENTIALITY

A family dispute resolution practitioner must respect the confidentiality of client information.

1. A family dispute resolution practitioner shall not voluntarily disclose to anyone who is not a party to the family dispute resolution process any information obtained through the family dispute resolution process except:
 - a) non-identifying information for necessary administrative, research, supervisory or educational purposes; or

- b) with the written consent of the participants to the family dispute resolution process contract; or
 - c) when required to do so by legislation or other legal requirement; or
 - d) when the information discloses an actual or potential threat to human life or safety.
2. The family dispute resolution practitioner should discuss with the participants' their expectations of confidentiality before undertaking the family dispute resolution process. Any written agreement to enter into the process should include provisions concerning confidentiality.
 3. Before undertaking the family dispute resolution process the family dispute resolution practitioner should inform the participants of the limitations of confidentiality such as statutory, judicially or ethically mandated reporting.
 4. To the extent permitted by relevant law, the family dispute resolution practitioner shall disclose a participant's threat of suicide or violence against any person to the threatened person and/or the appropriate authorities if the family dispute resolution practitioner believes there is a reasonable possibility that such threat may be acted upon.
 5. If the family dispute resolution practitioner holds private sessions with a participant, the obligations of confidentiality concerning those sessions should be discussed and agreed upon before the sessions.
 6. If subpoenaed, or otherwise notified to testify or to produce documents, the family dispute resolution practitioner should inform the participants as soon as reasonably practicable. The family dispute resolution practitioner should not testify or provide documents in response to a subpoena without an order of the court or tribunal if the family dispute resolution practitioner reasonably believes doing so would violate an obligation of confidentiality to the participants.
 7. With the participants' consent, the family dispute resolution practitioner may discuss the family dispute resolution process with the participants' lawyers and other expert advisors.
 8. Where the participants reach an agreement in a family dispute resolution process, the substance of the proposed agreement may, with the permission of clients, be disclosed to their respective representatives.
 10. The family dispute resolution practitioner must maintain confidentiality in the storage and disposal of client records and must ensure that office and administrative staff maintain such confidentiality.

8 - COMPETENCE

Family dispute resolution practitioners must seek to ensure that they are competent in a range of relevant areas and ensure that they have relevant skills and knowledge..

1. Family dispute practitioners must receive regular professional supervision to address practice issues of at least a baseline of 26 hours per year for full-time practitioners or seven hours for part-time practitioners. In addition, they must have participated in at least two training/development opportunities related to their professional development each year if working full-time, and one if working part-time. Where possible, practitioners should also participate in programs of peer consultation and should help train and mentor the work of less experienced family dispute resolution practitioners.
2. Family dispute resolution practitioners must be competent and have the capacity to apply knowledge, skills and an ethical understanding and commitment in the areas listed below. A family dispute resolution practitioner demonstrates competence by showing that they have the requisite knowledge and skills and can apply them. Family dispute resolution practitioners are required to ensure that ongoing professional development is focused on achieving and maintaining competencies in the following areas:
 - a) KNOWLEDGE - in areas such as:
 - I. The range of conflict management processes that could be available or that support the process being used, for example, negotiation, conciliation and mediation (including differences among settlement oriented, facilitative, therapeutic and evaluative forms of mediation)
 - II. Family, couple, and child dynamics in normal developmental and abnormal forms
 - III. The range of impacts of separation, divorce and conflict on parents, children and other family members
 - IV. The 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

- V. The impact of poverty on parents, especially single parents, and children
- VI. Age-appropriate methods of relating to and eliciting perceptions, information and responses from children
- VII. Child protection laws
- VIII. Basic legal concepts and the law pertaining to the issues being discussed, including separation and divorce, asset division, maintenance, residence and contact, privacy and confidentiality (and their limits), breaches of the law and major trends in case law relating to the issues referred to above
- IX. An in-depth 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
- X. Indicators of family violence or abuse
- XI. Procedures and instruments to screen for abuse before and during the dispute resolution process
- XII. Safety planning requirements and procedures for clients and staff, as well as their limitations
- XIII. Community, educational or other resources for referral outside or for use within the dispute resolution process
- XIV. Other dispute resolution options such as litigation or community-based interventions, as well as their strengths and limitations
- XV. Current research in and critiques of the range of dispute resolution practices
- XVI. Cultural issues in managing disputes
- XVII. Exploitation of facilitative processes by one party to gain advantage
- XVIII. Self-knowledge, including personal and cultural attitudes towards family conflict and the impact of self on the parties and process

b) SKILLS - in dispute diagnosis, communication, relationship, content management and process areas.

Dispute diagnosis skills include, and are not limited to skills in identifying:

- I. Common indicators of family violence and abuse to partners, children and older generations
- II. Common indicators of substance abuse
- III. Impact of family conflict on any children concerned
- IV. Cultural dimensions of the conflict
- V. Personal reactions to the dispute and/or disputants that might impair practitioner ability to conduct a fair process

Communication skills include, and are not limited to, skills in the following areas:

- I. Active, effective and appropriate listening
- II. Reframing positional statements in terms of underlying interests, such as needs, fears and concerns
- III. Clarifying information and assumptions
- IV. Summarising communications and consolidating areas of agreement
- V. Questioning to elicit information, feelings, fears and perspectives
- VI. Giving constructive feedback
- VII. Working effectively with an interpreter
- VIII. Speaking clearly, simply and effectively at the communication and comprehension level of the participants
- IX. Effective liaison with other professionals.

Relationship skills include and are not limited to:

- I. Creating and maintaining rapport with clients
- II. Establishing and maintaining trust
- III. Respecting the clients
- IV. Encouraging client self-determination
- V. Working with allied professionals

Content management skills include, and are not limited to, skills in the following areas:

- I. Obtaining, identifying, organising, analysing, prioritising and evaluating information
- II. Assessing the issues and options and reasoning logically
- III. Reading, comprehending and using relevant written materials
- IV. Writing clearly and concisely, using neutral language
- V. Creating, maintaining and organising records and materials in an appropriate manner and at an appropriate level
- VI. Eliciting information from other professionals (such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers) in the dispute resolution process
- VII. Using and exchanging information in a manner that broadens rather than limits the participants' options.

Process skills include and are not limited to:

- I. Conducting appropriate intake procedures
- II. Ascertaining whether mediation is suitable for the participants and whether the third party is an appropriate practitioner for the participants and the dispute

- III. Assisting the participants in negotiating the process, ground rules and agenda for dispute resolution sessions
- IV. Assisting the participants to articulate their concerns and produce an effective list of issues to discuss
- V. Assisting the participants to adhere to or renegotiate their agenda
- VI. Assisting the participants in converting positions into interests
- VII. Assisting the participants to explore their own underlying interests and become aware of those of others, particularly where children are concerned
- VIII. Working effectively with any child psychologist or other professional who has interviewed any children as part of a child-inclusive process
- IX. Assisting parents to understand and incorporate the needs, perceptions and attachments of any children concerned in both child-focused and child-inclusive processes
- X. Knowing when and how to use and manage individual sessions
- XI. Encouraging participants to focus on future options and contingencies
- XII. Assisting participants to create and assess workable options
- XIII. Helping the participants understand the best and worst alternatives to an agreed settlement
- XIV. Assisting participants to understand the consequences of their suggestions and plans
- XV. Assisting participants to arrive at a workable agreement by reality testing their needs and those of any other person who may be affected by the dispute
- XVI. Knowing when and how to terminate the sessions or the dispute resolution process safely and in a manner that assists client to take their own next step

- XVII. Knowing when and how to use co-facilitation techniques and processes
- XVIII. Recognising and appropriately managing power imbalances to ensure that inequities are not exacerbated and that participants are not prevented from obtaining support, redress or assistance that might otherwise be available
- XIX. Managing the process without overriding participant self-determination
- XX. Managing high levels of conflict
- XXI. Providing for the security of participants and staff, where violence is an issue
- XXII. Assisting participants to work with other professionals/experts in the dispute resolution process as required
- XXIII. Providing feedback to assist professionals and colleagues, including co-mediators, in an appropriate manner
- XXIV. Reflecting on one's own actions and practice in order to enhance future performance.

9 - INTER-PROFESSIONAL RELATIONS

A family dispute resolution practitioner should respect the complementary relationships among legal, human service, mental health and other social services.

1. The family dispute resolution practitioner should promote cooperation with other professionals and encourage clients to use other professional resources when appropriate.
2. When family disputes involve more than one facilitative or other decision-making process, family dispute resolution practitioners have a responsibility to keep themselves informed and to keep other professional colleagues informed about the processes taking place and the purpose of those processes. In other words, in such cases, family dispute resolution practitioners should consider and respond to any consultative responsibilities

that extend beyond more narrowly defined obligations to facilitate a process directly between the disputants. For example, in family dispute resolution processes where more than one family dispute resolution practitioner or service is assisting in a particular conflict, each has the responsibility to keep the other(s) informed of developments in the family dispute resolution process.

10 - PROCEDURAL FAIRNESS

A family dispute resolution practitioner has the duty to conduct the family dispute resolution process in a procedurally fair manner.

1. A family dispute resolution practitioner should endeavour to ensure that the participants reach agreement freely, voluntarily, without undue influence and on the basis of informed consent.
2. The family dispute resolution practitioner has to ensure procedural fairness so that each participant has an opportunity to speak and to be heard in the family dispute resolution process, and to articulate his or her own needs, interests and concerns.
3. A family dispute resolution practitioner should explore whether the participants are capable of engaging in the family dispute resolution process. If a family dispute resolution practitioner believes that the participants are unable or unwilling to participate meaningfully in the process, the family dispute resolution practitioner may suspend or terminate the family dispute resolution process and should encourage the participants to seek alternative professional help if appropriate.
4. The family dispute resolution practitioner has a duty to ensure balanced negotiations and must understand how manipulative or intimidating negotiating tactics can be employed. While family dispute resolution practitioners must be impartial towards the participants, impartiality does not imply neutrality on the issue of procedural fairness.
5. A family dispute resolution practitioner should ensure that each party has had an opportunity to understand the implications and ramifications of available options. In the event that a participant needs either additional information or assistance, in order for the negotiations to proceed in a fair and orderly manner or for an agreement to be reached, the family dispute

resolution practitioner must ensure that participants have sufficient time and opportunity to access sources of advice or information.

6. Where financial or property issues are involved, the family dispute resolution practitioner should obtain an undertaking from the participants to disclose their financial and related circumstances.
7. Every family dispute resolution practitioner has an ongoing obligation to advise participants of the desirability and availability of independent legal advice. Participants should be encouraged, where appropriate, to obtain independent legal advice or information.
8. It is a fundamental principle of family dispute resolution process that competent and informed participants can reach an agreement which may differ from litigated outcomes, or not correspond to legal guidelines contained in the relevant statutes or case law, or that may not correspond with general community expectations and standards. The family dispute resolution practitioner, however, has a duty to assist the participants to assess the feasibility and practicality of any proposed agreement in both the long- and short-term, in accordance with the participant's own subjective criteria of fairness, taking cultural differences and the interests of children into account.
9. The primary responsibility for the resolution of a dispute rests with the participants. At no time should the family dispute resolution practitioner pressure participants into an agreement or make a substantive decision on behalf of any participant.

11 – INFORMATION PROVIDED BY THE PRACTITIONER

The family dispute resolution practitioner has no advisory or determinative role in regard to the content of the dispute or its outcome, but may advise on or determine the process whereby resolution is attempted.

1. Consistent with the standards of impartiality and preserving participant self-determination, a family dispute resolution practitioner may, with the clearly informed consent of the participants, provide the participants with information that the family dispute resolution practitioner is qualified by training or experience to provide.

2. While family dispute resolution practitioners may have a diversity of education and training, a family dispute resolution practitioner must refrain from providing information outside the limits of his or her qualifications and competence while conducting a dispute resolution
3. Family dispute resolution practitioners' core skills consist of accurate and empathic reflection of participants' statements and interests, summarising, asking appropriate questions and attending to issues of process. Practitioners shall not explore or provide interpretations of behaviour or statements, with the aim of providing assistance of a psychotherapeutic or counselling nature nor shall they provide legal advice.
4. The family dispute resolution practitioner has a responsibility to facilitate the participants' awareness of the interests of others affected by the dispute, and by the proposed agreement, and to assist the participants to consider the separate and individual needs of other such persons. The most common responsibility in this regard is the interests of any children upon whom proposals or decisions may impact.
5. Family dispute resolution practitioners should have information about their relevant training, education and expertise that can be provided to the participants.

12 - TERMINATION OF FAMILY DISPUTE RESOLUTION PROCESS

It is the duty of the family dispute resolution practitioner to suspend or terminate a family dispute resolution process whenever continuation of the process is likely to harm or prejudice one or more of the participants, such as when family dispute resolution process is being misused, or when the usefulness of the process has been exhausted.

1. Family dispute resolution practitioners should be alert to situations where parties or their advisors seek to misuse the family dispute resolution process to achieve other ends such as:
 - a) delaying proceedings in the hope of reinforcing the continuation of an existing arrangement with respect to assets or children;
 - b) 'buying' time in order to dissipate or conceal assets; or
 - c) where in the opinion of the family dispute resolution practitioner, one or both participants is in some other way acting in bad faith.

2. A family dispute resolution practitioner must suspend or terminate the family dispute resolution process when it is clear that it is being used for a purpose other than a mutual attempt to arrive at a fair resolution or its usefulness has in some other way been exhausted. On the other hand, family dispute resolution practitioners have a duty not to withdraw their services except for a good cause and upon reasonable notice to the participants.
3. The family dispute resolution practitioner may withdraw from the family dispute resolution process when any agreement is being reached by the participants that the family dispute resolution practitioner believes is unconscionable. If terminating or withdrawing from a family dispute resolution process, the family dispute resolution practitioner should assist the parties in assessing further process options for dealing with their dispute.

13 - CHARGES FOR SERVICES

The family dispute resolution practitioner must make explicit to parties all charges related to the practitioner's services and how they are calculated.

1. At the outset, the family dispute resolution practitioner must explain the fees to be charged for the family dispute resolution process and any related costs. The family dispute resolution practitioner must also obtain agreement from the participants as to how the fees will be shared and the method of payment.
2. Any written agreement with the participants about the dispute resolution process should include a description of any fee arrangements with the family dispute resolution practitioner.
3. No commissions, rebates or similar forms of remuneration shall be given or received for referral of parties for family dispute resolution services.
4. It is unethical for a family dispute resolution practitioner to base fees on the outcome of the family dispute resolution process.
5. If any retainer has been collected before family dispute resolution services were rendered, any unearned fees should be returned promptly to the clients upon termination of the family dispute resolution process.

14 - MAKING PUBLIC STATEMENTS AND PROMOTION OF SERVICES

The family dispute resolution practitioner must ensure public statements made by the practitioner, especially those promoting business, are accurate and relevant to the family dispute resolution practice.

1. The purpose of public statements concerning family dispute resolution processes should be to:
 - educate the public about the process, and in order to help the public make informed judgments and choices,
 - present the family dispute resolution process objectively, as one seeking to empower clients directly and one of several methods of dispute resolution.
2. Public communications should not mislead the public, misrepresent facts or contain any:
 - false, fraudulent, misleading or unfair statements;
 - statements likely to mislead or deceive by making only a partial disclosure of relevant facts; or
 - statements intended or likely to create false or unjustified expectations of favourable results.
3. When advertising professional services, family dispute resolution practitioners should restrict themselves to matters which educate and inform the public. These could include the following information; to describe the family dispute resolution practitioner and the services offered: name, address, telephone and facsimile numbers, email address, office hours, relevant academic degree(s), relevant training and experience in family dispute resolution process, appropriate professional affiliations and membership status, advantages of a facilitated family dispute resolution process, and any additional relevant or important consumer information. In particular:
 - Family dispute resolution practitioners should refrain from promises and guarantees of results. A family dispute resolution practitioner should not advertise statistical settlement data or settlement rates; and
 - Family dispute resolution practitioners must accurately represent their qualifications.

4. Family dispute resolution practitioners should, where possible, promote the advancement of family dispute resolution processes by encouraging and/or participating in research, publishing and other forms of professional and public education.