

Core competencies and training

Question 41 What core competencies should be expected of professionals who work in the family law system? What measures are needed to ensure that family law system professionals have and maintain these competencies?

Question 43 How should concerns about professional practices that exacerbate conflict be addressed?

I make this submission in response to Questions 41 and 43. My submission is limited to family dispute resolution practitioners.

Firstly, the core competencies to be expected of FDRPs are that they are:

1. To do no harm
2. Be empathetic
3. Be respectful
4. Be unbiased and impartial
5. Be able to maintain a professional distance
6. Have the knowledge and skills to conduct family dispute resolution competently

It is, therefore, important that the teaching and training of FDRPs is done to ensure that those learning to be FDRPs are taught the necessary skills and given the appropriate level of knowledge necessary for them to be competent FDRPs.

However, it is not sufficient for FDRPs to be competent in skill and knowledge. FDRPs must also recognise that they must do no harm while conducting mediation in the family law system. FDRPs are exposed to the most extreme of human emotions and conflict.

Against that background, the principle of doing no harm is paramount. Harm can be done in many ways. For the purposes of this submission and in response to Question 43, I limit my submission to the teaching and training that aspiring FDRPs undergo.

It is important that conflict recognition and conflict reduction methods and techniques are an essential part of the teaching and training curriculum. Training as a mediator does to some extent address this but not to the extent that it should. As part of this aspect of teaching and training, conflict avoidance is also key.

This conflict reduction and avoidance practice must recognise aggressive behaviour, aggressive words and confrontational conduct, for example, shouting, belittling, sarcasm, cutting off in mid-sentence, lack of empathy, lack of respect, allowing inappropriate facial expressions and body language, and the student be taught to avoid such conduct and behaviour.

The teaching and training stage of an aspiring FDRP is the foundation on which the FDRP will base his or her mediation method. Bad behavioural practice is developed during training, where senior practitioners exemplify this bad behaviour to the trainee FDRPs. These trainee FDRPs then take that same behaviour with them when they start providing FDR services thinking that it is acceptable practice.

It must be noted that being a senior practitioner does not mean that they are senior in age. The senior practitioner could be young in age but senior in terms of the number of years that he or she has been an FDRP. This means that they do not necessarily have the maturity, life experience and the necessary respect of another individual's circumstance. The problem that arises is the

impatience and aggression seeps through during family dispute resolution mediation. This is an unprofessional stance that conveys bullying, intolerance and perhaps, even discrimination in the case of an increasingly cultural and linguistic diverse community in the Australian demographic landscape.

To overcome this, practical training sessions must be conducted vigilantly, with correct policy guidelines given to coaches prior to commencement of teaching. Also, feedback from students must be sought, in particular, to aggressive behaviour. The use of recordings can assist in identifying negative behaviours, but it must be borne in mind that this is reactionary.

If there is to be a panel of family dispute resolution practitioners, then it is important that the panel members are carefully vetted and chosen to sit on the panel to ensure that the panel members do not bring this bullying school yard mentality to the panel.

It is also important that the principle of not doing harm is incorporated in the ethical guidelines of Registered Mediator Accreditation Bodies.