



**Mining and
Automotive**
Skills Alliance

Dispute Resolution Policy

Version 1.0

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2. Purpose

This policy outlines the Australian Mining and Skills Alliance (AUSMASA) approach to resolving disputes arising between stakeholder groups in relation to the content of training products in a fair, transparent, and timely manner.

The purpose of this document is to outline:

- the expectations of AUSMASA with respect to dispute resolution
- the principles that guide the resolution of disputes
- the options for managing disputes relating to training products, processes, and conduct
- the options relating to alternative dispute resolution (ADR) which may be used by AUSMASA in exceptional circumstances.

3. Audience

This policy applies to AUSMASA's:

- Board
- Advisory Committees or Panels
- Sub-committees
- Employees
- Employers
- Members
- Training organisations
- Industry experts
- Peak and workforce bodies
- Government
- The community

4. Policy

AUSMASA is committed to developing training products that are informed by extensive stakeholder engagement. We will undertake broad and deep consultation with key stakeholders through a variety of means in line with our consultation strategy. Every effort will be made to incorporate feedback from stakeholders and to ensure the final product reflects broad consensus. We will publish a consultation log allowing all stakeholders to see what feedback has been provided, how it has been addressed and why AUSMASA has adopted the approach it has. Stakeholders are to understand that not all elements of all training products will be preferred by all stakeholders.

4.1. Principles guiding dispute resolution.

In managing disputes between stakeholder groups in relation to the content of training products we will:

- resolve disputes as early as possible
- use resources efficiently
- limit the issues in dispute
- act fairly
- handle information relating to disputes sensitively

- be transparent such that the dispute resolution process is clear to all
- resolve disputes in a manner that enhances stakeholder understanding of, and confidence in, the training product development process.

4.2. Issues relating to content of a training product.

There may be circumstances where:

- stakeholder groups have polarised views on certain issues
- broad consensus on the training product is not readily able to be achieved
- AUSMASA is unable to reach agreement on key elements of a training product.
- state or territory governments have concerns about a training product such that one or more Ministers may not be able to endorse the training product

In such circumstances AUSMASA will seek to resolve the issues in dispute by:

- undertaking further consultation
- seeking further advice of a Technical Advisory Group (TAG)
- undertaking further research into the impacts of a training product
- working with a small group of stakeholders to develop a consensus position on an issue.

It is expected that these routine processes will enable the resolution of the vast majority of disputes.

In other cases, AUSMASA will be able to settle on an agreed training product, even if all of the details of that training product are not agreed by all stakeholders. Where this is the case, AUSMASA will detail (as part of their submission to the Assurance Body) the areas where broad consensus has not been reached and the justification for this.

4.3. Role of Alternative Dispute Resolution (ADR)

It is recognised that there are some exceptional cases where disputes can be so significant (or impactful) that this delays the development of the training product or may undermine confidence in the training product.

To address this scenario, AUSMASA may engage an ADR practitioner to assist in the resolution of the dispute.

AUSMASA will engage an ADR practitioner that is:

- an independent person skilled in mediation and conciliation and able to bring ‘fresh eyes’ to an issue
- able to resolve the issue such that the training product can be finalised.

The ADR practitioner would consider the relevant information, may speak with stakeholders, and may gather further information to enable them to make a recommendation to AUSMASA. The recommendation would not be binding on AUSMASA but would be highly persuasive.

Where an ADR is engaged, AUSMASA will make a public notification that the ADR process has been triggered as this will impact on timeframes for finalisation of the training product. The issues in contention or dispute would also be identified publicly. The outcomes of the ADR process would also

be included in the summary of feedback that is provided to stakeholders when the training product is finalised.

In all instances the ADR process would be conducted in a timely manner, taking no longer than 2 months from when the ADR is triggered.

4.4. Triggering ADR

An ADR may be engaged if:

- it is requested by the Commonwealth or a state or territory, or
- AUSMASA determines that this is necessary to enable the finalisation of a training product.

In either of the above cases, the relevant jurisdiction or AUSMASA must be satisfied that the circumstances warrant the engagement of an ADR practitioner. It is expected that the ADR process be reserved for those exceptional circumstances where one or more of the following criteria applies:

- AUSMASA makes a judgement that broad consensus cannot be reached regarding the content of the training product, such that this is likely to impact confidence in the training product.
- There is a significant concern by one or more major stakeholders such that this is impacting confidence in the training product.
- There is a significant concern by one or more regulators, including licensing bodies, such that the training product may not be able to be relied upon for licensing or might not meet relevant regulation.
- There is a significant concern held by the Commonwealth or one or more states or territories such that the training product could not be reasonably supported by that jurisdiction.
- The Strategic Workforce Advisory Panel (SWAP) cannot agree on key elements of the training product.

4.5. Preparing for ADR

Where the Commonwealth or a state or territory has requested ADR, or AUSMASA has formed the judgment that it is necessary (for one of the reasons detailed above), there needs to be clarity about the issue in dispute and the relevant considerations.

To support such clarity (and enable the engagement of an ADR practitioner) AUSMASA will put together a brief including:

- the reason why ADR is required
- the issue or issues in dispute
- the timeframe for the ADR process (up to a maximum of 2 months)
- any considerations of relevance to an ADR practitioner
- contact details of the key stakeholders that may be able to contribute further information
- relevant documents (including the outcomes of previous consultations in relation to the issues in contention)
- the budget for the ADR process.

4.6. Engagement of an ADR practitioner

AUSMASA will directly engage the ADR practitioner.

The ADR practitioner will be:

- accredited in mediation and/or conciliation
- independent (not having an actual or perceived conflict of interest in relation to AUSMASA, the training product or the issue in dispute)
- familiar with VET but need not be an industry expert or representative.

The ADR practitioner should be provided with:

- a copy of the brief created by AUSMASA
- a report and recommendations template, including any instructions for the ADR practitioner about the format AUSMASA will expect outcomes to be captured in (e.g., reasons, etc).

When an ADR practitioner is engaged, the AUSMASA is responsible for updating the website to reflect:

- that an ADR process has been triggered
- the reason that an ADR process has been triggered
- the party who triggered the ADR process (being either AUSMASA or the Commonwealth, or a state or territory)
- the issues in contention
- an indicative timeframe for the ADR process.

Once completed, the outcomes of the ADR process would be published on AUSMASA's website as part of the Training Product Submission that is published on their website at the time of submission to the Assurance Body.

4.7. Determining the most appropriate ADR process

While AUSMASA may provide guidance to an ADR practitioner about a preferred approach to the ADR (informed by our knowledge of stakeholders and the previous efforts at reaching consensus), the ADR practitioner will determine the most appropriate ADR method in the circumstances.

An ADR practitioner may do one or more of the following:

- review submissions and documents provided and determine a resolution on the papers
- request additional information from stakeholders (where identified) about matters that are missing from the brief, but which are critical to the resolution of the issue
- meet with and/or speak to stakeholders (including members of the Jobs and Skills Council) to gain further insights about the issues and possibilities for resolution
- mediate or conciliate between stakeholders to explore solutions to an issue (where they agree to participate).

The role of the ADR practitioner is not to re-prosecute consultation submissions or to determine if AUSMASA sufficiently considered feedback as part of complying with the Policy in relation to process; rather it is to help identify solutions and provide recommendations to AUSMASA about ways to resolve difficult issues.

The ADR process would generally be expected to take between 3-4 weeks with a maximum timeframe of 2 months.

4.8. Outcomes of the ADR process

ADR practitioners will be expected to complete a short report, which summarises:

- the issues that were referred to them (including any additional issues that were identified)
- the process undertaken by the ADR practitioner (including who was spoken with, what information was provided and considered, what ADR methods were used etc.)
- their recommendations to the AUSMASA and accompanying reasoning.

Recommendations may be presented as a single position or offered with options for consideration by AUSMASA.

Recommendations are not determinative and will not be binding on AUSMASA or on the stakeholders (if any) spoken with as part of the ADR process.

AUSMASA will consider the recommendations and use them to make an informed decision about how to settle the dispute.

While AUSMASA may seek clarification from the ADR practitioner regarding the recommendations, AUSMASA cannot direct the ADR practitioner to re-examine the issue or to undertake another ADR process.

4.9. Submission to the Assurance Body

Where an ADR process has been utilised, it will be noted in the Training Product Submission prepared by AUSMASA for the Assurance Body and published on our website.

The Assurance Body will check that AUSMASA's consultation strategy is consistent with relevant requirements, that consultation was reasonably consistent with the consultation strategy, the public consultation was undertaken for a minimum four-week period and that a consultation log reflects the outcome of stakeholder consultation. The Assurance Body will provide advice back to AUSMASA if we have not met the requirements of the Policy and need to take further actions before resubmitting the Training Product Submission.

4.10. Submission for endorsement to Skills Ministers

Ministers retain the right not to endorse a training product or to issue directives for AUSMASA to undertake further consultation or other work before returning a training product for endorsement.

Skills Ministers may direct AUSMASA to engage an ADR practitioner if they consider it necessary to assist in resolving an issue of concern. If an ADR process has already occurred before the product is presented to Skills Ministers for endorsement, it is not expected that Skills Ministers would again direct the same process.

4.11. Issues relating to the process or conduct of AUSMASA

If stakeholders have concerns regarding AUSMASA's process or conduct such as:

- the period of consultation

- the way stakeholder views were sought
- the number and type of stakeholders engaged with, or
- perceived conflicts of interest within the Jobs and Skills Council.

These concerns should be raised with AUSMASA directly and as early as possible. This will allow us to address the issues in a timely manner and to continuously improve. If stakeholders have ongoing concerns or do not wish to raise their concerns with AUSMASA, concerns may also be raised with the Commonwealth department.

4.12. Monitoring dispute resolution

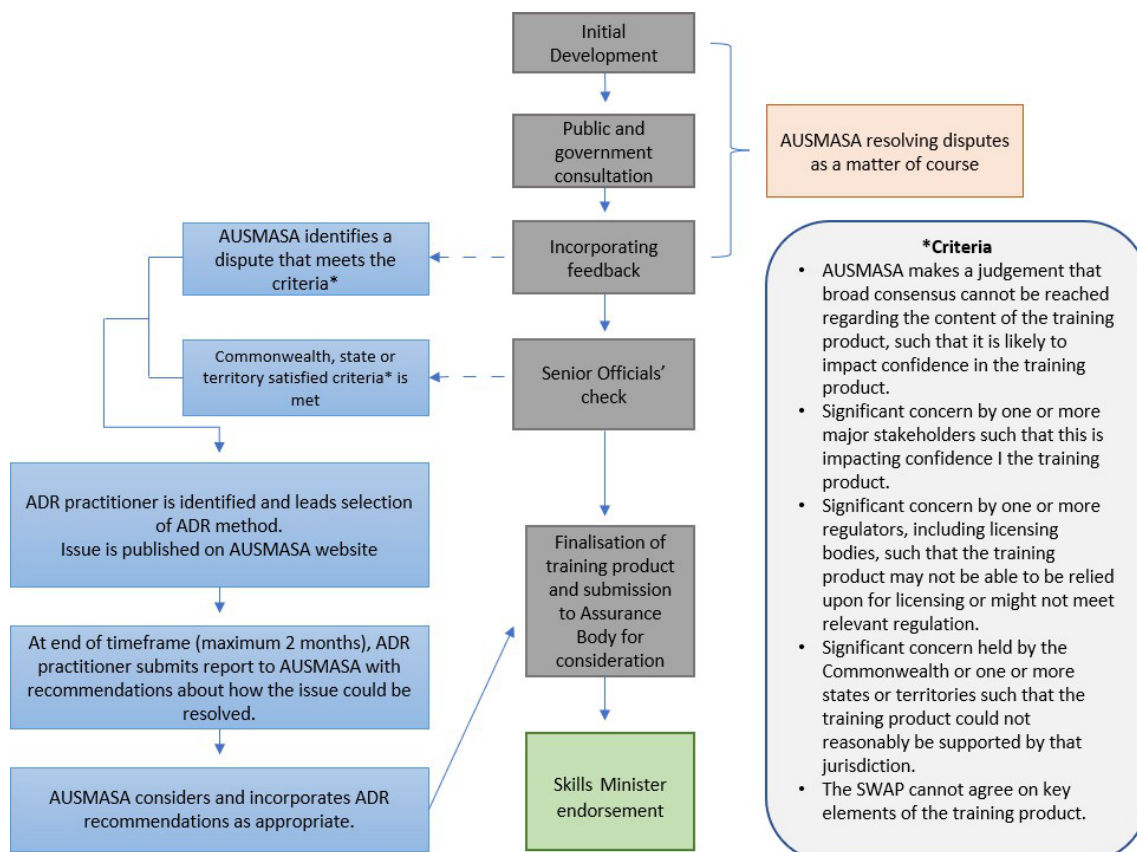
The Commonwealth department is responsible for:

- monitoring the performance of AUSMASA
- responding to complaints about the conduct of AUSMASA and process concerns about the development of training products.

As part of these functions, the department will consider and review:

- the effectiveness of AUSMASA in resolving disputes early in the development process
- the use (including any over-use) of ADR practitioners where issues arise that meet the relevant criteria.
- how AUSMASA engages with ADR recommendations to inform our decision-making opportunities to improve this policy.

4.13. Overview of AUSMASA dispute resolution



5. Definitions

ADR - alternative dispute resolution: The ADR process is used to resolve disputes at the request of the Commonwealth, state, or territory, or when deemed necessary by the AUSMASA. It involves an independent ADR practitioner who reviews a brief prepared by AUSMASA, gathers information, and meets with stakeholders to find solutions. Their role is to provide recommendations for resolutions. The ADR process takes 3-4 weeks, up to a maximum of 2 months.

SWAP - Strategic Workforce Advisory Panel: AUSMASA will work with industry to establish SWAPs. Each SWAP will have 12-15 members, including an Independent Chair and a mix of employer representatives and employee representatives. The SWAPs will draw on intelligence and insight from across the mining and automotive industries to provide information and advice that informs our development of Workforce Plans and Annual Training Product Development Plans. See [Strategic Workforce Advisory Panel \(SWAP\) Terms of Reference](#) for more information.

TAG - Technical Advisory Group: AUSMASA will use TAGs for specific periods of time to operationalise the activities arising from the annual Workforce Plan and Training Product Development Plan. TAGs will be made up of subject matter experts from industry, unions, and Registered Training Organisations (RTOs), State Training Authorities and regulators as relevant.

6. Document History and Contact Details

Version

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Contact details

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