



Aboriginal and Torres Strait
Islander Health Practice
Chinese Medicine
Chiropractic
Dental
Medical
Medical Radiation Practice
Nursing and Midwifery
Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Model Litigant Policy

1. Introduction

- 1.1 This policy applies to all National Boards, the Australian Health Practitioner Regulation Agency (AHPRA) and its Management Committee (collectively, National Law entities).
- 1.2 This Policy applies to litigation involving the National Law entities, including litigation before courts, tribunals, panel hearings, other legal proceedings and includes alternative dispute resolution related to such litigation.
- 1.3 The Chief Executive Officer of AHPRA is responsible for ensuring compliance with this Policy.
- 1.4 Any legal service provider to be engaged by AHPRA must agree to comply with this Policy.
- 1.5 This Policy is a statement of principles only. It is not capable of creating binding legal obligations on the National Law entities.

2. The obligation to act as a model litigant

- 2.1 The Policy requires the National Law entities to act honestly and fairly in handling litigation. This includes acting with complete propriety, fairly and in accordance with the highest professional standards.
- 2.2 This Policy requires National Law entities to:
 - 2.2.1 Avoid litigation by attempting to settle legitimate claims where possible without recourse to litigation,
 - 2.2.2 Only pursue litigation where there is a reasonable prospect of success,
 - 2.2.3 Not cause unnecessary delay or expense in handling litigation,
 - 2.2.4 Act consistently in handling litigation,
 - 2.2.5 Minimise the costs of litigation by not requiring another party to prove a matter the National Law entity knows to be true; and,
 - 2.2.6 Not taking advantage of a party who lacks the resources to litigate a legitimate claim.
- 2.3 Nothing in this Policy is intended to prevent a National Law entity from acting firmly and properly in defending, protecting or pursuing its interests and in doing so taking all legitimate steps in pursuing litigation.

2.4 Without limiting the generality of the above, nothing in this Policy is intended to prevent a National Law entity from enforcing a costs order or seeking to recover costs, from asserting a claim of legal professional privilege or public interest immunity.

3. Alternative Dispute Resolution

3.1 Subject to the provisions of the National Law requiring referral of matters to a responsible tribunal...” (e.g. s193 of the National Law) the National Law entities are only to commence litigation after considering other methods of dispute resolution.

3.2 When participating in alternative dispute resolution the National Law entities are to ensure that their representatives participate fully and effectively, and have authority to settle the matter so as to facilitate appropriate and timely resolution of the matter.

4. Where certifications are required

4.1 National Law entities should be aware of federal and state and territory legislation governing the conduct of civil litigation, particularly where there are requirements to certify that there is a proper basis for a claim or a defence. See the table below for guidance:

Jurisdiction	Legislation	Part/Provision/Chapter
Federal	<i>Civil Dispute Resolution Act 2011</i>	Part 2
Victoria	Civil Procedure Act 2010	Chapter 2
New South Wales	Civil Procedure Act 2005	Part 2A
Western Australia	<i>Rules of the Supreme Court 1971</i>	rr 1.4A, 1.4B

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