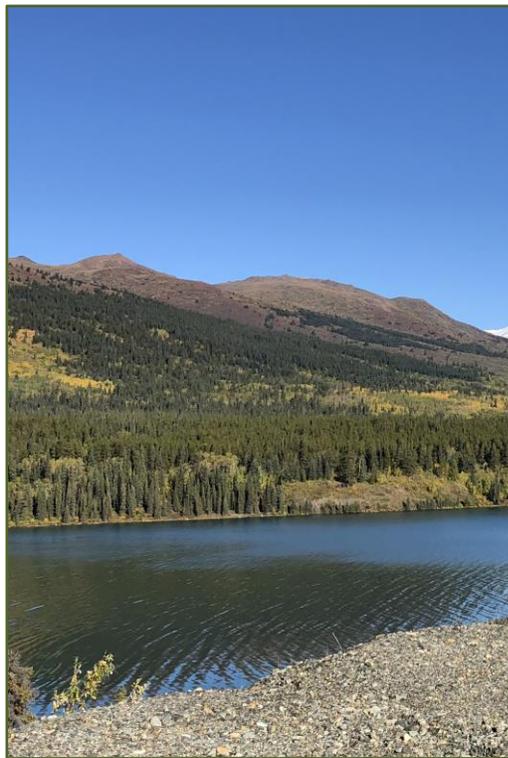




MRP Dispute Resolution Model

Training Exercises



Overview

The Centre of Excellence for Matrimonial Real Property (COEMRP) has developed these On-Reserve Matrimonial Real Property Dispute Resolution Models: Training Exercises (Training Exercises) to assist in providing training to First Nations in developing dispute resolution mechanisms to resolve matrimonial real property disputes on separation or survivorship in accordance with either their matrimonial real property law or the *Family Homes on Reserve and Matrimonial Interests or Rights Act* (FHRMIRA) and the Provisional Federal Rules.

Two on-reserve Matrimonial Real Property Dispute Resolution Models were developed – one for use where First Nations hold real property in accordance with the *Indian Act* or a Land Code, and the other for use where First Nations hold real property in accordance with customary or traditional land holdings. Each Dispute Resolution Model also has a corresponding Workbook to aid First Nations in developing their dispute resolution mechanisms.

The Training Exercises can be used to provide training to all First Nations in developing their dispute resolution mechanisms, regardless of how they hold their real property. The Training Exercises provide instructions on the use, customization and implementation of the models. The Training Exercises use interactive exercises that include individual and group exercises which allow participants to work through the Dispute Resolution Models and Workbooks, to dialogue with one another, to consider different approaches, and to apply the exercises to common development considerations.

The Training Exercises are to be used in conjunction with the PowerPoint Presentation ‘Matrimonial Real Property Dispute Resolution Models – Designing A Dispute Resolution Mechanism’.

Participants will require a copy of their First Nation’s matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook to complete the Training Exercises.

Exercise #1 – Planning and Development

Objectives:

In this exercise, participants will work through questions to assist in determining the process that their First Nation will use to plan, develop, and approve a dispute resolution mechanism.

Process:

Participants will answer the questions individually or may answer as a group if they are from the same First Nation.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

1 hour

Outputs:

Process to plan and develop a dispute resolution mechanism.

5. How will the dispute resolution mechanism be approved?

6. Are there any other factors to consider in the planning and development process? If so, please explain.

Exercise #2 – Structure

Objectives:

In this exercise, participants will work through questions to assist in determining the structure of the dispute resolution mechanism.

Process:

Participants will answer the questions individually or may answer as a group if they are from the same First Nation.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

1 hour 30 minutes

Outputs:

Design the structure of the dispute resolution mechanism.

4. Are there any foreseeable challenges that your First Nation may encounter in developing its own dispute resolution mechanism (i.e.: it has a very small population)? If so, what are the challenges? How might the challenges be addressed in designing the structure (i.e.: working with other First Nations to design and deliver dispute resolution services)?

Note: To answer the following questions, you will need to review the dispute resolution mechanism set out in Part Three – Dispute Resolution Process of the Dispute Resolution Model.

5. Would the three main stages process set out in the Dispute Resolution Model work for your First Nation to resolve matrimonial real property disputes?

- Yes
 No
 Not Sure

Please explain your response.

6. What changes may be required for your First Nation to use Stage One: Circle Process?

- No changes required, use as is.
 Some changes required.
 Would not use this stage.

If you checked 'Some changes required,' please explain what changes would be required.
If you checked 'Would not use this stage,' please explain why not.

7. What changes may be required for your First Nation to use Stage Two: Mediation Process?

No changes required, use as is.

Some changes required.

Would not use this stage.

If you checked 'Some changes required,' please explain what changes would be required.
If you checked 'Would not use this stage,' please explain why not.

8. What changes may be required for your First Nation to use Stage Three: Hearing Process?

No changes required, use as is.

Some changes required.

Would not use this stage.

If you checked 'Some changes required,' please explain what changes would be required.
If you checked 'Would not use this stage,' please explain why.

9. If your First Nation would use Stage Three: Hearing Process, are any changes required in section 41 that sets out the types of decisions that the Hearing Panel can make? If so, what changes? Are these types of decisions consistent with what is in your First Nation's matrimonial real property law?

10. If your First Nation would not include Stage Three: Hearing Process, who would make the types of decisions set out in section 41 (i.e.: determining what the matrimonial real property is and its value, determining occupancy, awarding costs, etc.)?

11. Would your First Nation develop any additional stages? If so, please explain what they would be.

12. Does your First Nation want decisions of the Hearing Panel (if applicable) to be final and not appealed? Or would decisions be appealed to a court of competent jurisdiction?

13. Does your First Nation want decisions of the Hearing Panel (if applicable) to not be subject to judicial review? Or would decisions be subject to judicial review?

14. How will your First Nation customize the dispute resolution model structure to make it reflect your customs, traditions and laws?

15. Are there other factors to consider in developing the structure for your First Nation's dispute resolution mechanism? If so, please explain.

Exercise #3 – Using the Services

Objectives:

In this exercise, participants will work through questions to assist in determining the process and requirements for using the dispute resolution mechanism.

Process:

Participants will answer the questions individually or may answer as a group if they are from the same First Nation.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

30 minutes

Outputs:

Design the process to request and use the dispute resolution mechanism.

Exercise #4 – Financial Resources

Objectives:

In this exercise, participants will work through questions to assist in determining what financial resources are available and will be required to develop, use, and implement the dispute resolution mechanism.

Process:

Participants will answer the questions either individually, as a group if they are from the same First Nation, or as part of a large group exercise.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

45 minutes

Outputs:

Determine the financial resources required to develop and operate the dispute resolution mechanism.

- c. Will people be charged a fee to use it? If so how much?

 - d. If people are charged a fee, will they have the resources to pay for it?
5. What start up costs might be required? How much might they cost?
- a. Costs to develop the dispute resolution mechanism policy?

 - b. Legal costs to review the dispute resolution mechanism policy?

 - c. Costs to approve the dispute resolution mechanism policy?

 - d. Development costs (i.e.: infrastructure, training, educational resources, other costs)?

6. Will the Dispute Resolution Tribunal members be paid or volunteers? If they are paid, how much?

7. Are there other financial considerations that need to be taken into account? If so, please explain.

Exercise #5 – Human Resources

Objectives:

In this exercise, participants will work through questions to assist in determining what human resources are available and will be required to develop, use, and implement the dispute resolution mechanism.

Process:

Participants will answer the questions individually or as a group if they are from the same First Nation.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

1 hour

Outputs:

Determine the human resources required to develop and operate the dispute resolution mechanism.

Exercise #5

1. Do you foresee any human resource challenges that your First Nation may have in developing and offering a dispute resolution mechanism (i.e.: your First Nation has a small population and may not have people that would be interested in being a Dispute Resolution Tribunal member)? If so, how can these challenges be addressed?
2. Does your First Nation have members that would be interested in being a Dispute Resolution Tribunal member?
3. What challenges may be encountered in recruiting and keeping Dispute Resolution Tribunal members?
4. Will the Dispute Resolution Tribunal members be paid or volunteers? If they are volunteers, will this cause any challenges to recruit and keep them?
5. Will the Dispute Resolution Tribunal members be full-time, part-time, or as needed?

9. The model states that the selection process for members of the Dispute Resolution Tribunal will be by an application process and overseen by the Council. Will this work for your First Nation? Why or why not? If not, what will your First Nation need to change?

10. Are there other human resource considerations that need to be taken into account? If so, please explain.

Exercise #6 – Capacity and Training

Objectives:

In this exercise, participants will work through questions to assist in determining what capacity and training requirements are necessary to develop, use, and implement the dispute resolution mechanism.

Process:

Participants will answer the questions as a large group exercise.

Materials Required:

Participants will require a copy of their First Nation's matrimonial real property law (if applicable), the applicable Matrimonial Real Property Dispute Resolution Model, and the applicable Workbook.

Instructions:

Participants are to answer each question in the space provided and may add more pages if necessary.

Time:

45 minutes

Outputs:

Determine the capacity and training requirements to develop and operate the dispute resolution mechanism.

Exercise #6

1. What initial training will the Dispute Resolution Tribunal members require (i.e.: structure and process, the First Nation's matrimonial real property law (if applicable), decision making and writing, ceremonial and traditional, etc.)?
2. What ongoing training will be required for the Dispute Resolution Tribunal members?
3. How often will training be required?
4. Who would provide the training?
5. What training and education will be required for the First Nation and members to understand and use the dispute resolution mechanism?

6. How will the services of the Dispute Resolution Tribunal be promoted and communicated to people?

7. Is there other capacity and training considerations that need to be taken into account? If so, please explain.