

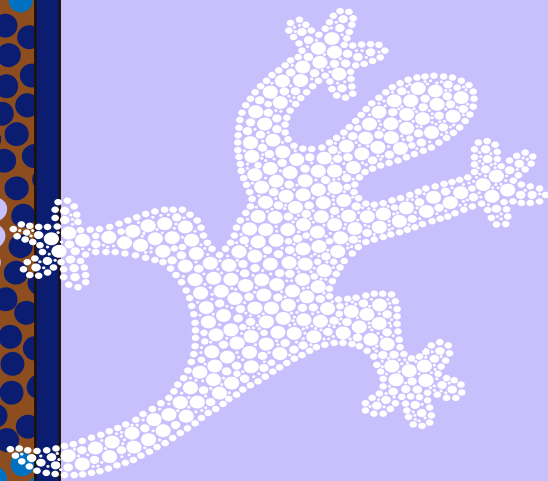


National **Aboriginal  
Wellbeing** Conference




# Legally Assisted and Culturally Appropriate Mediation

Jesse Porter  
Kelly Hatch



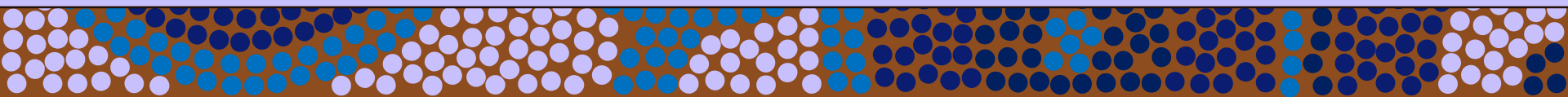


# Background

- Mediation is the first step in accessing the family law system.
  - Mainstream mediation models may not be adequate to address the needs of Aboriginal families who are experiencing family violence.
  - Aboriginal families accessing family dispute resolution services face a number of barriers.
- 

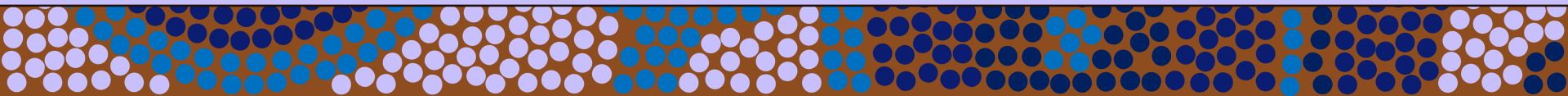
# Barriers to accessing mainstream mediation services

- Separation is a difficult time for families – conflict, keeping kids connected, distance, extended family
- Building rapport and trust
- Trying to sort stuff out on their own
- Distrust of services
- Disempowerment
- Lack of knowledge about family law system
- Transport, rural or remote locations
- Set timeframes and protocols in mainstream mediation services



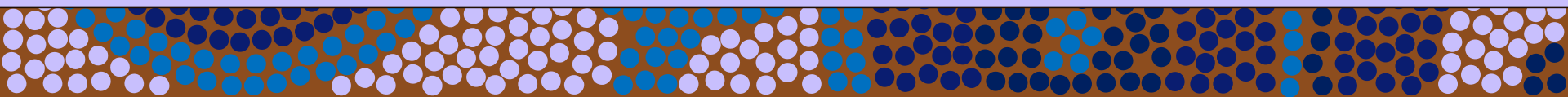
# Barriers to accessing mainstream mediation services

- Low literacy, drug and alcohol and mental health.
- Family violence
- Power imbalance
- Shame factor
- Mainstream services focus on traditional western family structures
- Intimidating physical spaces, clinical office, white walls, no windows
- Waiting lists



# New directions

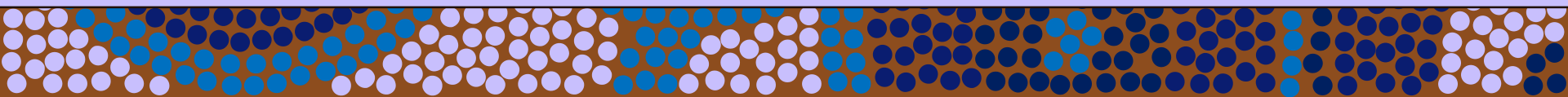
- There is a clear need to develop new family dispute resolution frameworks to improve access to services and outcomes.
- Centacare is one of eight sites nationwide rolling out the Legally Assisted and Culturally Appropriate Family Dispute Resolution (LACAFDR) pilot.
- Of the two pilot programs operating in NSW, we are the only program focusing on Aboriginal families.





# Implementing the Our Children, Our Choice Program

- Program named Our Children, Our Choice – emphasising empowering families to work together to make their own decisions regarding their kids.
- Around 60 families have been referred to the program so far.
- Constantly evolving model to respond to clients/community... involves addressing barriers, improving access to services and increasing knowledge around family law processes.
- To provide legally assisted and culturally appropriate family dispute resolution to support separating or separated Aboriginal families experiencing family violence to resolve their family law disputes without going to court.

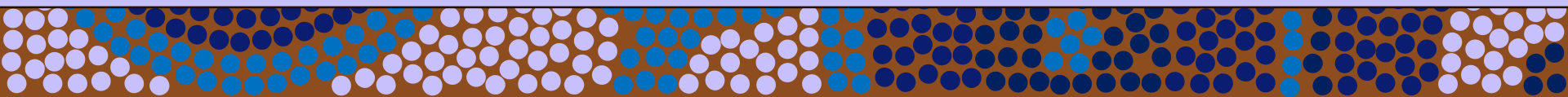


# Service Criteria

Families requiring dispute resolution services who:

- Have experienced or are experiencing family violence and:
- Identify as Aboriginal or Torres Strait Islander or are from a Culturally and Linguistically Diverse background and:
- Reside within the designated service area.

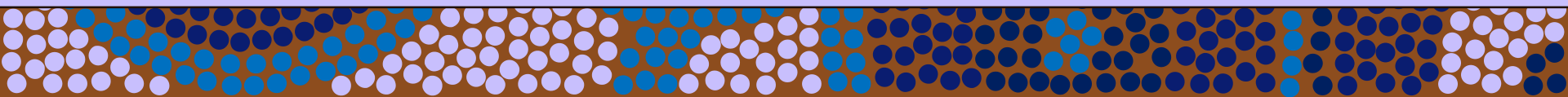
\* Note: Family violence is broadly defined





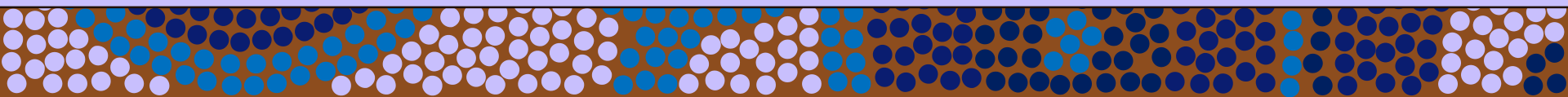
# Referral, Intake and Assessment

- Warm referral pathways
- Meeting with family members
- Assessing suitability for mediation, safety, support needs, barriers.



# Coordination of supports and mediation session

- Identifying and coordinating appropriate support services
- Education, group work or one on one (before or after mediation)
- Coordinating mediation sessions including appointing lawyers and mediators (registered mediators and cultural mediators)
- Follow up



# Implementing the Our Children, Our Choice Program



## Mediation

Mediation can help to sort out arrangements in relation to your children. Mediation is a safe way to encourage parents and carers to make their own decisions about their kids, rather than going to court.

### Legally Assisted

This program provides the parents or carers with a lawyer who can assist them in the Mediation. This allows the people involved to have access to legal advice when making decisions and to be supported throughout the mediation process. If both parties are willing, your appointed lawyer can formalise your agreement by applying to the court for consent orders.

### Culturally Appropriate

This program aims to acknowledge the cultural background of your family and to provide a service that is respectful and flexible. All of our employees and appointed solicitors attend cultural sensitivity training. We have culturally diverse and identified staff working together to deliver a safe and accessible service. We will provide interpreters and liaison officers at your request.

## It's your program

This program has been developed to respond to your family's unique needs. A worker will be appointed to assist you throughout your participation in this program and to organise appropriate supports to help you with the mediation process. This can include referrals to other services, transport and responding to any questions or concerns you have about mediation. We are here to help you and your family to work out safe, suitable and sustainable arrangements for your kids.



## The process

This is a flexible program that generally involves the following steps:

### Request for Service, intake and suitability assessment

This is a pre-mediation process where you will meet with program staff to identify the issues in dispute, ensure that safety needs are met and determine whether or not mediation is the right choice for your family.

### Referrals and supports

Your worker will appoint lawyers and mediators, coordinate services and help you to identify support people to assist you in mediation.



## Coordinating mediation sessions

Your worker will organise a safe venue for the mediation and a time that is convenient for you and your family. They will liaise with each member attending the mediation.

## Mediation sessions

Attended by your worker, support people, lawyer and facilitated by our registered FDR practitioner and culturally sensitive and appropriate mediator.

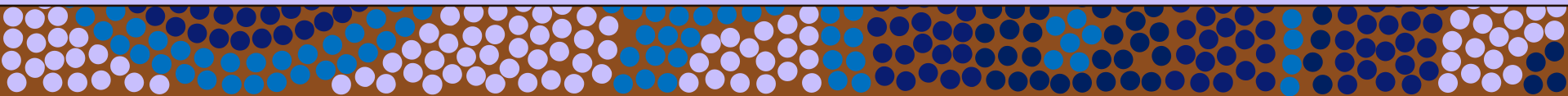


## Post Mediation

Your agreement may be formalised by consent orders. Your worker will make any post mediation referrals that you think are necessary, and stay in touch from time to time to make sure that your arrangements are still working well for you and your family.

# Program Model

- Consultation
- Staffing
- Service delivery

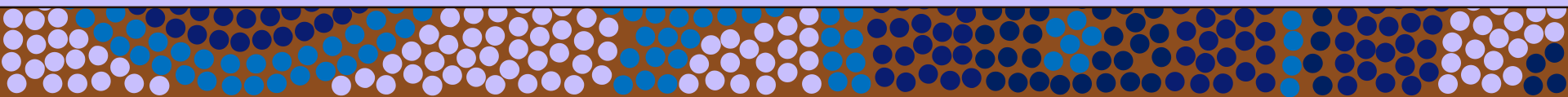


# The Program Model

We have developed our model in accordance with NADRAC\* principles:

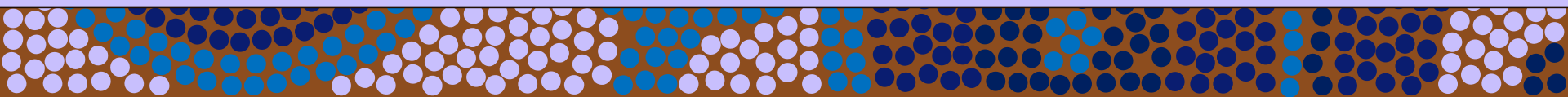
- Effective Service Delivery
- Continuing Consultation
- Acknowledgement of Aboriginal perspectives on dispute resolution and traditional dispute resolution practices
- Developing cultural competence
- Collaborative practice and addressing barriers
- Developing Cultural Dispute Resolution Network

\*National Alternative Dispute Resolution Advisory Council, Indigenous Dispute Resolution and Conflict Management, 2006. This report outlined several principles which were adapted to suit the needs of this particular program.



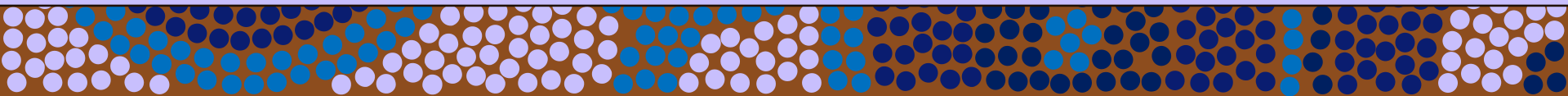
# Service Delivery

- One point of contact
- No need to retell story
- Coordination of appropriate referrals and supports
- Flexible mediation sessions
- Legally assisted
- Parenting plans
- Consent orders



# Continuing Consultation

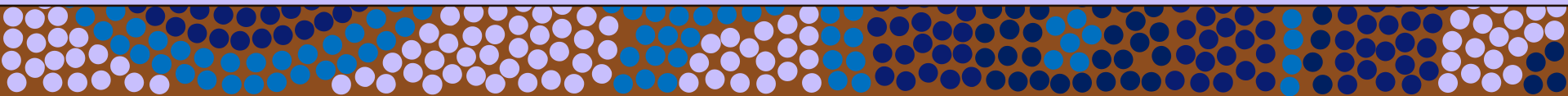
- Initial Consultation
- Community Development
- Formal and Informal
- Establishing and maintaining networks and community connections





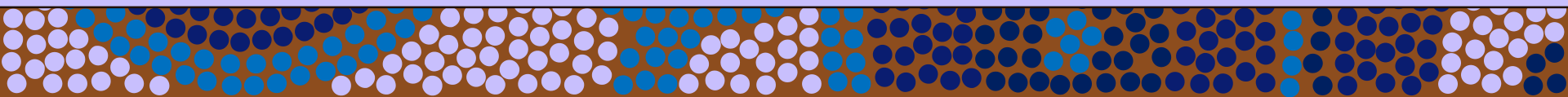
# Acknowledgement of Aboriginal Perspectives on Dispute Resolution

- Many Aboriginal families would prefer to sort out their own disputes in relation to children
- We recognise that this may depend on involvement of Elders or significant family members
- We aim to create a safe and inclusive space with adequate legal and professional support in an informal setting



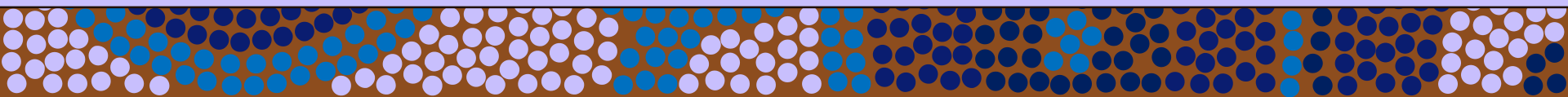
# Developing Cultural Competence

- This is a culturally appropriate mediation model. When working with families, we should do our best to learn about, and respect, that family's cultural background.
- Family structures, and how families deal with separation and resolve disputes are heavily influenced by culture.
- Program mainly staffed by Aboriginal workers, community members recruited and trained as casual mediators
- Ongoing cultural training for staff
- Local cultural training provided for all legal practitioners participating on our panel



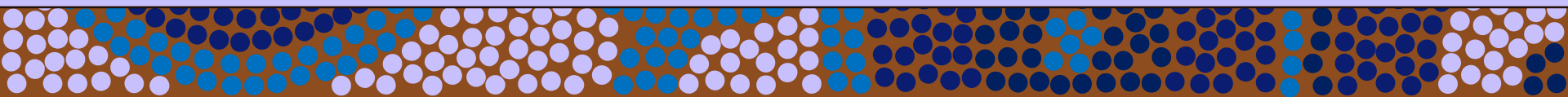
# Collaborative Practice and Addressing Barriers

- Constantly adapting model to suit needs of clients and community
- Working closely with service providers to increase knowledge and access to services
- Flexible, informal, responsive – working to client's time frames, quick response times
- Client focussed – taking into account client's individual needs when providing a service
- Taking time to build trust and rapport
- Matching clients with the right professionals to assist them in dispute resolution



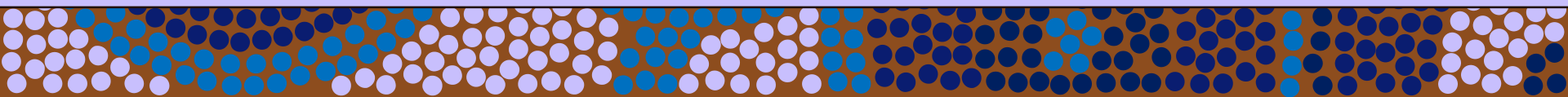
# Collaborative Practice and Addressing Barriers

- Warm referrals to support on a needs basis – prior to or after mediation
- Encouraging families to take responsibility/own their agreements
- Taking the service to the clients
- Trying to seek out more comfortable venues, bearing in mind any safety concerns
- Follow up phase and tracking outcomes



# Developing Cultural Dispute Resolution Network

- We are continuing to involve newly admitted legal practitioners, new programs and services to develop a network so that services can work together effectively to improve outcomes for Aboriginal families experiencing separation and family law issues.



# THANK YOU

Kelly Hatch and Jesse Porter  
Centacare: (02) 6762 9200  
[ourchildrenourchoice@centacare.com.au](mailto:ourchildrenourchoice@centacare.com.au)

