

NADRAC ANNUAL REPORT

2001-2002

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The National ADR Advisory Council (NADRAC) is an independent body, which provides advice on ADR to the Commonwealth Attorney-General. Its reports and publications cover standards for ADR, diversity, ADR in courts and tribunals, family law PDR, ADR and small business and on-line ADR.

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Year in Review

In 2001–2002 a revitalised Council identified five key priorities for alternative dispute resolution in Australia. These were the effective use of ADR by courts and tribunals, promoting the appropriate use of ADR, enhancing quality and consistency in ADR, supporting diversity and innovation in ADR, and improving ADR research, evaluation and data collection.

These priorities guided NADRAC's activities during the year, including the continuation of work from previous years and the initiation of new projects. Continuing work included consideration of the development of standards for ADR, criteria for referral to ADR, technology and ADR, ADR terminology and ADR research. NADRAC initiated several new projects including a review of statutory provisions for ADR, examination of the use ADR by Indigenous people, advice on dispute resolution in the family law system and recommendations on raising community and business awareness of ADR. As this report shows, significant progress was made in these activities.

This year NADRAC:

- published a brochure on ADR terms, *What is ADR?*
- launched a discussion paper on ADR terminology
- collated statistics on ADR in Australia and placed these on its web-site
- drafted and published principles in relation to good practice on information technology and dispute resolution, and
- prepared submissions on primary dispute resolution in the family law system, on ADR in e-commerce, ADR research and Government use of ADR.

Council held four meetings in 2001–2002. In conjunction with these meetings, NADRAC arranged consultative forums with ADR practitioners and other groups with an interest in ADR. These forums contribute enormously to NADRAC's work by ensuring that it is kept up to date with local developments and providing it with diverse perspectives on current ADR issues.

The Attorney-General appointed eight new members during the year. These were Ms Helen Bishop, Mr Alan Campbell, Dr Mary Edmunds, the Hon. John Hannaford, Ms Norah Hartnett, Professor Tania Sourdin, Mr John Spender QC and Ms Lynn Stephen. I am delighted to welcome these new members who have brought fresh ideas and perspectives. Each has considerable expertise in their own field of endeavour. Together with continuing members, they provide an excellent balance of qualifications, background and experience. I also wish to take the opportunity to thank outgoing members, John Steele and Danny Ford, for their contributions to Council.

I anticipate that the year ahead will be at least as busy and rewarding as 2001–2002. I thank the Attorney-General for his support and acknowledge the work of all who have contributed to NADRAC’s advice on ADR.

Professor Laurence Boulle
Chair



(Photo: Bica Prolab)

NADRAC meets with the Attorney-General in Canberra on 7 February 2002. Pictured from from left to right are: Ms Norah Hartnett, Ms Helen Bishop, Dr Mary Edmunds, Ms Dhayani Yogesvaran, Mr Ian Govey, the Hon. Daryl Williams AM QC MP, the Hon John Hannaford, Professor Laurence Boulle, Mr David Syme, Ms Barbara Filipowski, Mr Alan Campbell.

Not present were Mr Warwick Soden, Professor Tania Sourdin, Mr John Spender QC and Ms Lynn Stephen (shown below).



Photos (except for Mr Soden): Clifford Woodroffe

1. About NADRAC

1.1 Establishment

NADRAC was established in October 1995 to provide independent advice to the Commonwealth Attorney-General on policy issues relating to ADR. The need for a national body to advise the Commonwealth on issues relating to the regulation and evaluation of alternative dispute resolution was identified in the 1994 report of the Access to Justice Advisory Committee (the ‘Sackville Committee’) entitled *Access to Justice - an Action Plan*. NADRAC’s charter is outlined below.

1.2 Charter

NADRAC is an independent advisory council charged with providing the Attorney-General with coordinated and consistent policy advice on the development of high quality, economic and efficient ways of resolving disputes without the need for a judicial decision.

The issues on which NADRAC will advise will include the following:

- minimum standards for the provision of alternative dispute resolution services
- minimum training and qualification requirements for alternative dispute resolution practitioners, including the need, if any, for registration and accreditation of practitioners and dispute resolution organisations
- appropriate professional disciplinary mechanisms
- the suitability of alternative dispute resolution processes for particular client groups and for particular types of disputes
- the quality, effectiveness and accountability of Commonwealth alternative dispute resolution programs
- ongoing evaluation of the quality, integrity, accountability and accessibility of alternative dispute resolution services and programs
- programs to enhance community and business awareness of the availability, and benefits, of alternative dispute resolution services
- the need for data collection and research concerning alternative dispute resolution and the most cost-effective methods of meeting that need
- the desirability and implications of the use of alternative dispute resolution processes to manage case flows within courts and tribunals.

In considering the question of minimum standards, the council will examine the following issues:

- the respective responsibilities of the courts and tribunals, government and private and community sector agencies for the provision of high quality alternative dispute resolution services
- ethical standards for practitioners
- the role of lawyers and other professional advisers in alternative dispute resolution
- legal and practical issues arising from the use of alternative dispute resolution services, such as the liability or immunity of practitioners, the enforceability of outcomes and the implications of confidentiality
- the accessibility of alternative dispute resolution services.

The council may make recommendations of its own motion to the Attorney-General on any matter relevant to the Council's Charter. In addition, the Attorney-General may, from time to time, refer particular issues to the Council for consideration and report.

As the council's time and resources permit, it may provide comment on matters relevant to its charter to any Commonwealth, State and Territory or private organisations with an interest in alternative dispute resolution. A copy of any submission must be provided to the Attorney-General as soon as possible after the submission is dispatched.

In performing its functions, the council will consult broadly with alternative dispute resolution organisations, service providers and practitioners, courts and tribunals, government, the legal profession, educational institutions, business, industry and consumer groups, and community organisations as well as the Family Law Council, when appropriate.

The council will develop a forward work plan, including reporting dates, for each year and provide a copy of that work plan to the Attorney-General.

The council will provide the Attorney-General with a report of its operations as soon as possible after 30 June each year.

2. Council Membership

The Attorney General appoints members to the Council on the basis of their individual expertise, and not on the basis of their membership of any organisation. Members come from around Australia, and bring to the Council a broad range of experience in the area of dispute resolution. There are currently 12 members, including the Chair.

Membership during 2001–2002 was:

Name	Position
Prof Laurence Boulle	Chair
Ms Helen Bishop	Member
Mr Alan Campbell	Member
Dr Mary Edmunds	Member
Ms Barbara Filipowski	Member
Mr Ian Govey	ex officio
The Hon. John Hannaford	Member
Ms Norah Hartnett	Member
Mr Warwick Soden	Member
Prof Tania Sourdin	Member
Mr John Spender QC	Member
Ms Lynn Stephen	Member
<i>Outgoing members</i>	
Mr Danny Ford	Member
Mr John Steele	Member

2.1 Appointments during 2001–2002

On 9 July 2001, the Attorney-General re-appointed Professor Laurence Boulle as Chair of NADRAC for an additional two years. On 9 July 2001, he also extended the appointment of Ms Barbara Filipowski as a member for an additional three years. On 29 April 2002, he re-appointed Mr Warwick Soden for an additional three years.

Mr Danny Ford's term expired on 1 August 2001. Mr John Steele's term expired on 31 January 2002.

The Attorney-General appointed eight new members during 2001–2002. On 30 August 2001, he appointed Ms Helen Bishop, Mr Alan Campbell, Dr Mary Edmunds, The Hon. John Hannaford and Ms Norah Hartnett. On 29 April 2002, he appointed Professor Tania Sourdin, Mr John Spender QC and Ms Lynn Stephen.

The appointment of new members increased NADRAC membership from 10 in 2000–2001 to 12 in 2001–2002.

2.2 Profile of members as at 30 June 2002

Professor Laurence Boulle (Chair)

Professor of Law, Bond University; Director, Independent Mediation Services Pty Ltd (Qld); former member of the Law Council of Australia's ADR Committee; Consultant to government and the private sector on dispute resolution issues; Broad expertise in mediation practice and training; Member of Mediation Panels for Qld Settlement Weeks, Qld Building Tribunal, Legal Aid Office Qld, Qld Community Justice Program and Retail Shop Leases Tribunal. Professor Boulle has published extensively on ADR and mediation. He is the author of 'Mediation: Principles, Process, Practice' 1996, which has been published in local editions in New Zealand, South Africa, Singapore, Canada and the United Kingdom, and 'Mediation Skills and Techniques' published in 2001. He is editor of the ADR Bulletin and the dispute resolution title in Laws of Australia. He has been chair of NADRAC since 1988.

Ms Helen Bishop

Manager, Aboriginal Alternative Dispute Resolution Service, Ministry of Justice WA; formerly team leader, Aboriginal Affairs Department, WA, case manager, National Native Title Tribunal and area manager Palm Island Community Corrections, Queensland, and other community work positions in Queensland. Ms Bishop has expertise in community mediation, and in dispute resolution within Indigenous communities.

Mr Alan Campbell

Consultant, mediator and PhD candidate researching child centred practice issues in family law through the University of SA; formerly Director of the Family Mediation Centre in Victoria, Executive Director of Family Services Australia, President Family Services Australia, Director of Mediation, Family Court of Western Australia, and a mediator and psychologist in private practice. Mr Campbell has broad practical, policy and research experience in family and child mediation.

Dr Mary Edmunds

Member, National Native Title Tribunal; formerly Director of Research, Australian Institute of Aboriginal and Torres Strait Islander Studies; research fellow, South East Arnhem Land Collaborative Research Project (Wollongong University funded by Rio Tinto); research fellow in native title, Australian Institute of Aboriginal and Torres Strait Islander Studies. A social anthropologist, Dr Edmunds has extensive practical experience in the resolution of complex native title claims, in the management of cases in a tribunal environment, and has in-depth knowledge of cultural issues affecting ADR. Her writings in the field include a 'Guide to mediation and agreement making under the Native Title Act' (co-authored with Diane Smith) and the editing of two volumes on regional agreements.

Ms Barbara Filipowski

Secretary and General Counsel, Sydney Ports Corporation; Ms Filipowski has experience in the banking industry, commercial dispute resolution and business management and administration; formerly Head of Dispute Resolution, Westpac Banking Corporation, where

she was involved in, among others, many large commercial mediations, the mediation of foreign currency loan disputes and farm debt mediation.

Mr Ian Govey

General Manager, Civil Justice and Legal Services, Commonwealth Attorney-General's Department. His areas of responsibility within the Department include courts and tribunals, alternative dispute resolution, family law, legal assistance and Commonwealth legal services. Mr Govey has been appointed by the Attorney-General as an *ex officio* member of the council.

The Hon. John Hannaford

Director, ADR Solutions (a mediation and arbitration business in Sydney); Adjunct Professor with the Negotiation and Dispute Resolution Programme at the University of Technology Sydney; member ADR Committee and Arbitration Committee of the Law Society of NSW; formerly NSW Attorney-General with policy responsibility for ADR; holder of other ministerial and parliamentary offices as a member of the NSW Parliament; former chairman of the Australia Council for Europe; previously a lawyer in private practice. John Hannaford has both extensive practical experience and in depth policy knowledge of ADR.

Ms Norah Hartnett

Federal Magistrate, Melbourne, formerly a barrister specialising in family law and a solicitor working in company, insurance and family law; formerly a member of the Victorian Bar Ethics Committee and member of the Family Law Section of the Law Council of Australia. Trained in mediation, Ms Hartnett has extensive expertise in the use of ADR within the court system.

Mr Warwick Soden

Registrar of the Federal Court of Australia, Sydney; Mr Soden has extensive experience in relation to ADR in the justice system. He is a member of the Federal Court ADR Committee and the Practice and Procedure Committee in matters concerning ADR. Mr Soden has played a major role in relation to ADR programs and initiatives in the Federal Court and the Supreme Court of NSW.

Professor Tania Sourdin

Professor, Law and Dispute Resolution, La Trobe University, formerly University of Western Sydney; member of the Administrative Appeals Tribunal, member of the NSW Fair Trading Tribunal; mediator with the NSW Retail Leases Dispute Unit. Professor Sourdin has researched published extensively on ADR and has specific expertise in business and consumer ADR.

Mr John Spender QC

Mediator in private practice; appointed Queen's Counsel in 1974, Acting Justice of the NSW Supreme Court 1994 - 1995; practised extensively in corporate and commercial law and other

areas of litigation; served four terms as a member of the Federal Parliament until 1990; Australian Ambassador to France between 1996 and 2000. Mr Spender has undertaken mediation training with LEADR, Bond University and Harvard Law School.

Ms Lynn Stephen

Coordinator of the Community Mediation Service in Bunbury, WA, which deals with a range of neighbourhood and family matters. Ms Stephen has qualifications in nursing, health science and family mediation; received a Churchill Scholarship to study family mediation in the United States and United Kingdom; member of the Family Law Pathway Advisory Group (2000-2001).

Previous members of Council

- Professor Hilary Astor (previous chair)
- Ms Quentin Bryce AO
- Mr David Bryson
- Associate Professor Gay Clarke
- Professor Jennifer David
- Ms Magdeline Fadjar
- Ms Wendy Faulkes
- Mr Danny Ford
- Ms Susan Gribben
- Mr Oscar Shub
- Associate Professor Kathy Mack
- Mr Richard Moss
- Ms Sue Pidgeon
- The Honourable Justice Nahum Mushin
- Mr Colin Neave
- Mr Kurt Noble
- Ms Bernadette Rogers
- Mr John Steele
- Mr Philip Theobald
- Ms Josephine Tiddy
- Dr Gregory Tillett
- Ms Kerrie Tim

2.3 Secretariat

Functions

NADRAC is supported by a secretariat located in the Civil Justice Division of the Commonwealth Attorney-General's Department. The functions of the secretariat are:

- To undertake research on ADR issues being considered by the council
- To provide policy advice to the council
- To respond to public, government and other enquires on behalf of the council and represent the council, as required, in a variety of forums
- To draft council and committee reports and discussion papers
- To draft all council and committee correspondence, letters of advice and other material including the council's annual report and its newsletter
- To provide secretarial, administrative and other support services, especially in relation to council and committee meetings including the preparation of agendas and papers for meetings, minute-taking, the organisation of accommodation and travel
- To manage NADRAC's expenditure within the relevant budgetary allocations.

Staff

Staff of the secretariat during 2001-2002 were:

Director	David Syme
Legal Officer	Danielle Windley (to July 2001) Dhayani Yogesvaran (from January 2002)
Temporary Project officer	Helen Wallis-Dunn (October–November 2001)
Administrative Assistant	Belinda Lovell (to January 2002) Bradley Walters (from January 2002)

Contact details

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e-mail	nadrac@ag.gov.au		

3. Meetings and forums

NADRAC held four council meetings during 2001-2002. Forums and other consultative activities were arranged to coincide with each of these meetings. Council meetings are held in different locations to ensure that members are able to consult with people engaged in diverse aspects of ADR.

NADRAC thanks the organisations who provided venues for these meetings, namely, Bond University, Sydney Ports Corporation, the Attorney-General's Department and the Federal Court of Australia. NADRAC is also grateful to each of the guest speakers who addressed its meetings, those who organised agency visits and those who assisted in promoting and organising the consultative forums. Finally, the contributions of those who attended the forums is most appreciated.



Professor Laurence Boule addresses public forum in Canberra on 6 February 2002. (Photo: Bica Prolab)

Robina: 7 August 2001

A one day meeting of the council was held on 7 August 2001 at Bond University, Robina, Gold Coast. During the meeting council members met with ADR practitioners and academics, and were briefed about local and international developments in ADR.

Sydney: 25 and 26 October 2001

On 25 and 26 October 2001 council members (including the newly appointed members) met in Sydney. A major focus of the meeting was on setting future priorities. An independent facilitator (Volker Latus) conducted a planning and priority setting workshop which formed the basis for NADRAC's 2002 work plan. On the evening of 25 October 2001, NADRAC members met with the Australian Dispute Resolution Association, the ADR Committee of the Law Society and the Institute of Arbitrators and Mediators Australia. Shirli Kirschner

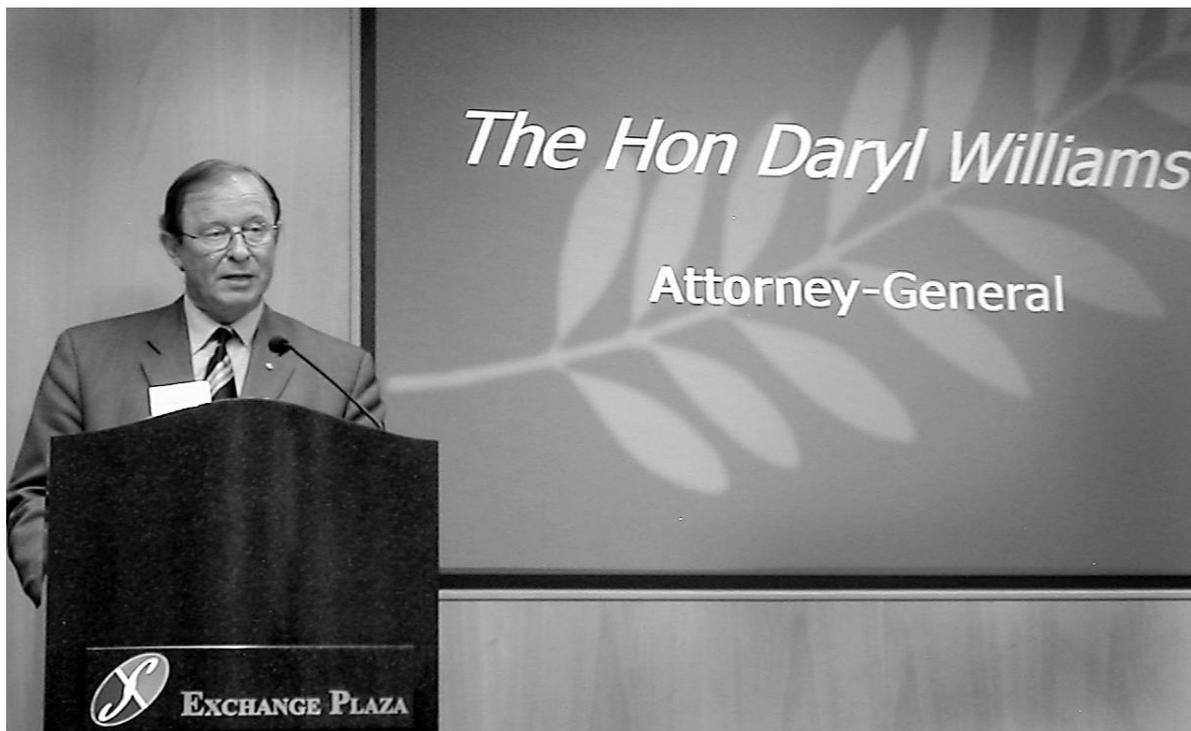
addressed the meeting on the issue of dispute system design, and Bernadette Murray and Margot McKay spoke to the meeting about on-line dispute resolution.

Canberra: 6 to 8 February 2002

NADRAC met in Canberra on 7 and 8 February 2002. The meeting was addressed by the Attorney-General. Members also visited the Courtroom of the Future project at Canberra University. A joint meeting between NADRAC and the ADR Committee of the Law Council of Australia was held on the afternoon of 8 February. NADRAC members facilitated a consultative forum on the evening of 6 February. The forum aimed to provide an update on NADRAC's activities, identify significant issues affecting ADR in the ACT and nationally, and encourage information sharing about developments in ADR. About 40 people attended the forum.

Perth: 12 to 14 June 2002

NADRAC met in Perth on 13 and 14 June 2002. This was the first time that a council meeting had been held in WA. Members visited the WA Aboriginal Alternative Dispute Resolution Service (which is operated by the WA Department of Justice) and the National Native Title Tribunal on 13 June. NADRAC members facilitated a consultative forum on the evening of 12 June. About 70 people attended this forum. Following a traditional welcome by members of the Noongar community, the Attorney-General opened the forum and formally launched NADRAC's discussion paper on ADR Terminology. The forum was also addressed by Chief Justice David Malcolm.



The Attorney-General launches NADRAC discussion paper at Perth forum held on 12 June 2002.
(photo: Clifford Woodrooffe)

4. NADRAC work program

While many of NADRAC's activities in 2001–2002 continued work from previous years, a new work plan was developed with the assistance of the newly appointed members of the council. As a result several new projects were initiated. Work on many of these projects was continuing at the end of the reporting period.

In its 2002 work plan, NADRAC identified five key priority areas for its attention and developed strategies to address each of these priorities.

4.1 Effective use of ADR by Courts and Tribunals

Key issues include case management conferences, court diversion and diversionary conferencing, participation of Indigenous people in court connected ADR processes, conflicting responsibilities, the impact of mandatory referral, timeliness and criteria for referral to ADR, and referral by courts to community agencies.

Strategies

- ⇒ Review statistical data on court ADR.
- ⇒ Undertake research on evaluation indicators for court ADR.
- ⇒ Undertake research on criteria for court referral to ADR.
- ⇒ Complete draft guidelines on criteria for referral to ADR by judiciary and court officers.
- ⇒ Review statutory provisions on ADR.
- ⇒ Review research into relative effectiveness of mandatory and non-mandatory ADR.

Progress in 2001–2002

Research on Court ADR

NADRAC submitted proposals to the Australian Institute of Judicial Administration (AIJA) for research into criteria for court referral to ADR (see Section 4.2) and into performance measurement of court ADR (see Section 4.5). The proposals built on the AIJA's issues paper on *Quality in Court-connected Mediation Programs* (October 2001). Discussions with the AIJA were continuing.

Statutory provisions

In February 2002, NADRAC held a joint meeting with the ADR Committee of the Law Council of Australia. Both groups agreed in principle that a joint project be undertaken to

prepare recommendations aimed at bringing about greater clarity and consistency in ADR statutory provisions.

The secretariat has undertaken preliminary research on this issue and has obtained data for Commonwealth, State and Territory legislation covering issues including:

- definitions and terminology
- referral (terms and conditions, powers and discretions)
- obligations on parties to participate in ADR/sanctions for failure to participate (appropriately) in ADR
- evidentiary issues in ADR processes (eg admissibility of evidence, discovery)
- enforceability of ADR outcomes
- regulation of the conduct of the ADR process itself (ie procedures)
- duties and obligations of ADR practitioners (including confidentiality, duty of care, neutrality)
- immunity of ADR practitioners
- accreditation/recognition of ADR practitioners.

4.2 Promoting the appropriate use of ADR

Key issues include the need to increase the take-up rate of ADR processes through enhancing community and business awareness, understanding and expectations of ADR, improved referral practices and promotion and marketing of ADR. There is a need to show results and for ADR to be seen as effective. In addition, NADRAC has a role in facilitating international exchange in ADR, such as in international commercial ADR.

The focus of activity in this area in 2001–2002 was on promoting business awareness of ADR.

Strategies

- ⇒ Organise a national conference on promoting ADR
- ⇒ Develop a guide for referral of matters to ADR
- ⇒ Update ADR terminology
- ⇒ In conjunction with relevant agencies, develop an international network of ADR policy advisory bodies.

Progress in 2001–2002

Conference

The committee considered options for promoting ADR, and recommended that a conference on business use of ADR be held in 2003. Council was of the view that a conference would be a valuable means to assist the business community to resolve disputes in timely and cost effective ways and with better quality outcomes. The conference's objectives would be to demonstrate the benefits of ADR to business, to show how ADR can be implemented successfully in business practices and to enable participants to develop strategies that they could take back to their own businesses. The conference would cover effective use of ADR in dealing with disputes involving industries, consumers, small businesses, government agencies and workplace relationships.

Planning for the conference was continuing.

ADR Terminology

In 2000 NADRAC surveyed ADR organisations and policy bodies to assess the usefulness and impact of its 1997 paper on ADR definitions. While a wide range of bodies have adopted these definitions, some suggested the development of a more user-friendly version of the paper. Continuing controversy about ADR terminology was also apparent in the consultations on both the definition and standards papers. NADRAC had also had ongoing discussions with the Family Court, Federal Magistrates Service and Attorney-General's Department in relation to terminology in the family law system.

At its August 2001 meeting, Council agreed to a two-pronged approach to ADR terminology, namely, the production of a brochure on ADR terms and the development of a more comprehensive and theoretical discussion paper on ADR terminology.

A brochure – *What is ADR?* – was released on 7 March 2002 through a mail-out to NADRAC's contact list and an invitation to order additional copies. The brochure was received very positively, with over 6000 brochures requested to June 2002.

ADR terminology: a discussion paper was launched by the Attorney-General at the public forum on 12 June 2002. It was then placed on the web-site and posted to those on NADRAC's contact list. Responses to the discussion paper were due by the end of December 2002.

Referral

Work in this area built on Council's previous consideration of criteria for referral to ADR. In February 2002, Council commenced a new project aimed at providing guidance to agencies on appropriate referral practices. It formed a new committee to review research and case law, identify appropriate means by which referrals can be made and draft a guide on ADR referral. A conceptual outline for a paper on ADR referral was prepared and tabled at Council's June 2002 meeting.

Work in this area took place in conjunction with consideration of criteria for court referral to ADR (see Section 4.1).

4.3 Enhancing quality and consistency in ADR

Key issues include the quality and accessibility of ADR services, accreditation of practitioners and organisations, and standards for ADR services.

In addition, there is a need to build a coherent and effective contractual and legislative framework for ADR. This framework includes criteria for ADR referral, terminology and definitions for ADR processes, effective case management, setting appropriate time frames, procedures for dealing with multiple parties, immunities for ADR practitioners, confidentiality, impact of legislation on conflict and minimising the risks of unfair mediated agreements.

Strategies

- ⇒ Review ADR terminology and definitions, based on consideration of responses to the terminology discussion paper (see Section 4.2).
- ⇒ Develop a guide for referral of matters to ADR (see Section 4.2).
- ⇒ Review existing legislative and contractual provisions, and develop model rules or legislation for ADR, including protections for parties and ADR practitioners (see Section 4.1).
- ⇒ Assist the Attorney-General's Department in its review of the PDR provisions in the Family Law Act.
- ⇒ Continued consultation and coordination:
 - Consider and provide comment on models for accrediting ADR organisations and practitioners.
 - Consult with Commonwealth and State and Territory agencies on implementation of NADRAC's recommendations.
 - Promote exchange of information about the development of ADR standards.
 - Review the standards contained in NADRAC's report.

Progress in 2001–2002

Family Law

Council's work in this area focussed on three related issues:

- a proposed quality framework for PDR services
- a review of PDR provisions and terminology in the Family Law Act
- implementation of the recommendations of the Family Law Pathways Advisory Group.

In November last 2001 Council wrote to the Attorney-General suggesting the Department review the PDR provisions in the Family Law Act. Following this recommendation the Attorney-General has asked the Department to undertake a review of legislative provisions covering PDR in the family law system. NADRAC will continue to participate in this review.

In January 2002, Council prepared a submission to the Attorney-General's Department on the proposed quality framework for PDR services and in February 2002, wrote to the Attorney-General expressing support for the recommendations of the Family Law Pathways Advisory Group.

Follow up on Standards report

In November 2001 NADRAC established a bulletin board on its web-site to provide news and to exchange information about ADR standards. In February 2002 it wrote to Community Services and Health Training Australia (CSHTA) in relation to their proposed national community mediation competencies. In March 2002 it wrote to State and Territory Attorneys-General following up the standards report. It also wrote to the Attorney-General recommending the inclusion of a reference to ADR standards within the Legal Services Directions for government agencies issued by the Attorney-General under the *Judiciary Act 1903*.

4.4 Supporting diversity and innovation in ADR

Key issues include culture as part of ADR, dispute resolution in Indigenous communities, ADR and minority groups, access to resources and appropriate support mechanisms. In addition, conferencing, diversionary programs, the use of technology in ADR, such as on-line ADR, need consideration.

Strategies

- ⇒ Review ADR practices and programs directed towards Indigenous people and communities.
- ⇒ Monitor developments in relation to the use of IT in ADR.

Progress in 2001–2002

Indigenous ADR

In February 2002, Council agreed to undertake a project with the preliminary goal of identifying relevant existing studies, key stakeholders and effective ADR programs and practices relevant to Indigenous people. The longer term goal was to consider the development of appropriate resources to promote good practice in this area and, as and when appropriate, formulate policy input into specific issues affecting ADR for Indigenous people.

The secretariat undertook preliminary research and has obtained a preliminary list of Internet links to relevant Commonwealth, State and Territory agencies. Discussions were also held

with the Dispute Management Centre at the University of Queensland, which had produced a final draft of an annotated bibliography on Indigenous ADR programs.

Technology and ADR

In December 2001 NADRAC made a submission to Treasury's Expert Group on Electronic Commerce in response to the discussion paper on ADR in e-commerce. The secretariat continued liaison with Treasury officers in relation to the ADR Working Group of the Consumer Policy Committee of the Organisation for Economic Co-operation and Development (OECD).

In March 2002 NADRAC published a web-based paper on *Dispute Resolution and Information Technology*. The paper proposed principles for good practice on the use of technology in ADR, and invited comment on an ongoing basis. In summary, the paper recommended that those involved in ADR:

- take into account the impact and potential of technology
- consider accessibility, fairness, effectiveness, cost and legal issues associated with technology
- manage the risks associated with the delivery of ADR service on-line
- match the technology to the needs of disputes and parties
- develop service and practitioner standards to take account of use of technology
- consider the use of technology to support ADR practice, including marketing, information management, research, education and professional development
- apply change management strategies when introducing new technology.

4.5 Improving ADR research, evaluation and data collection

Key issues include improved data collection, including ADR in courts and other settings, and the development of standards for statistics.

Strategies

⇒ Update published statistics on ADR.

⇒ Conduct an ADR research round table to:

- enhance ADR research effort
- develop advice and guidelines on ADR research, evaluation and data collection.

Progress in 2001–2002

Data collection

In September and October 2001, NADRAC collated published statistics on ADR in Australian courts and tribunals. It later extended this collation to cover all ADR service providers, including commissions and other statutory bodies, family mediation services, workers' compensation conciliation schemes, health complaints agencies, government ombudsman, industry dispute resolution schemes, State and Territory funded ADR schemes, legal aid commissions and commercial ADR providers. The information was then checked with the agencies and placed on NADRAC's web-site in May 2002. The information is to be updated annually.

The secretariat consulted with the Australian Bureau of Statistics and with the Productivity Commission in relation to collection of court ADR statistics. The secretariat also consulted with the AIJA in relation to progress on a proposal by NADRAC for research into performance measurement of court ADR.

Guide to ADR research

At its June meeting, Council considered the possibility of holding a round table on ADR research, evaluation and data collection. The round table would involve a wide range of participants engaged in ADR research, evaluation and data collection, as well as agencies that play a lead role on performance measurement and program evaluation. Its objectives would be to:

- identify strategies for improving the quality and consistency of ADR research, evaluation and data collection
- maximise the impact current research effort through sharing information about current projects and approaches and developing links among those engaged in ADR research
- make suggestions on 'good practice' in ADR research evaluation and data collection, which could form the basis for a NADRAC guide or paper on this issue.

Planning on this proposal was continuing.

4.6 Project committees

The following committees were formed to oversee the projects outlined above. Committees usually met by teleconference, although face to face meetings were also held where appropriate.

Members	Terms of reference
Statutory provisions for ADR	
<p><i>Ian Govey (convenor)</i> <i>Laurence Boulle</i> <i>John Hannaford</i> <i>Norah Hartnett</i> <i>Dhayani Yogesvaran (secretariat)</i></p> <p><i>Law Council members:</i> <i>Mary Walker</i> <i>Michael Hollingdale</i></p>	<p>Develop appropriate formulations for statutory provisions covering ADR, in collaboration with the ADR Committee of the Law Council of Australia. The committee's tasks include:</p> <ul style="list-style-type: none"> • undertake an audit of Commonwealth and State and Territory legislation and case law; this audit will build on the work already conducted by NADRAC, the Attorney-General's Department and the Law Council • prepare recommendations aimed at bringing about greater clarity and consistency in ADR statutory provisions.
ADR Terminology	
<p><i>Warwick Soden (convenor)</i> <i>Helen Bishop</i> <i>Mary Edmunds</i> <i>Alan Campbell</i> <i>John Steele (to January 2002)</i> <i>Ian Govey (to February 2002)</i> <i>David Syme (secretariat)</i></p>	<p>Improve the consistency of terminology surrounding ADR processes. Such consistency underpins NADRAC's advice in other policy areas, including promoting the appropriate use of ADR, standards and advice on PDR provisions in the Family Law Act. The committee's tasks include:</p> <ul style="list-style-type: none"> • arrange release of a brochure, based on NADRAC's original definitions paper and targeted to referrers and practitioners • finalise a more general discussion paper on terminology issues, for release in June 2002 • consider the development of information material directed to consumers of ADR services.

Family Law Primary Dispute Resolution (PDR)

Norah Hartnett (convenor)
Alan Campbell
Ian Govey
Lynn Stephen
David Syme (secretariat)

Advise on issues relating to Primary Dispute Resolution (PDR) within the family law system, including developments arising out of the report of the Family Law Pathways Advisory Group, the proposed Quality Framework for PDR services and terminology for PDR within the Family Law Act. The committee tasks are to monitor developments and draft advice on proposed reforms in the family law system.

Referral to ADR

Alan Campbell (convenor)
Mary Edmunds
Warwick Soden
Tania Sourdin
John Steele (convenor to January 2002)
David Syme (secretariat)

Consider means for providing guidance on appropriate referral practices. Its tasks include:

- review research and case law relating to criteria for referral to ADR
- liaise with the AIJA in relation to research into criteria for judicial referral to ADR
- identify appropriate means by which referrals can be made
- draft a guide to ADR referral.

ADR Awareness

John Hannaford (convenor)
Ian Govey
Laurence Boulle
Tania Sourdin
David Syme (secretariat)

Consider means for promoting the appropriate use of ADR, and:

- examine options for promoting community and business awareness
- organise a conference on business awareness of ADR.

Indigenous ADR

Helen Bishop (convenor)
Mary Edmunds
Barbara Filipowski
John Spender
Dhayani Yogesvaran (secretariat)

To develop policy and enhance practices in relation to the use of ADR by Indigenous people and in Indigenous communities. The committee's tasks include:

- undertake a preliminary audit in order to identify relevant existing studies and key stakeholders
- identify effective ADR programs and practices relevant to Indigenous people
- consider the development of appropriate resources to promote good practice in this area
- as and when appropriate, formulate policy input into specific issues affecting ADR for Indigenous people.

Technology and ADR

Barbara Filipowski (convenor)
John Hannaford
Laurence Boulle
John Spender
David Syme (secretariat)

To consider general principles for the use of technology in ADR, as well as disputes arising out of the use of technology, especially e-commerce.

The committee tasks include:

- develop a draft paper on good practice principles on technology in ADR
 - monitor developments in relation to the use of ADR in e-commerce, including the work of Treasury and Consumer Affairs, and relevant OECD working groups
 - identify opportunities for making greater use of the Internet for providing information about ADR, including consultation with ILSAC on a site on International Commercial Dispute Resolution.
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ADR Research, evaluation and data collection

Tania Sourdin (convenor)
Warwick Soden
Helen Bishop
Norah Hartnett
John Steele (convenor to Jan. 2002)
David Syme (secretariat)

This committee role was to enhance ADR research effort and improve the quality and consistency ADR data collection especially in courts and tribunals. The committee's tasks include:

- finalise a summary of published ADR statistics
- develop a guide to ADR statistical collection
- liaise with Productivity Commission, AIJA and other relevant bodies regarding improved statistical collection in relation to Court-based ADR.



NADRAC plans its future work program at its meeting in Sydney on 28 October 2001. Standing, from left to right: Ms Helen Bishop, Ms Helen Wallis-Dunn, Mr Ian Govey, Mr David Syme, the Hon. John Hannaford, Mr Alan Campbell; seated: Ms Norah Hartnett, Professor Laurence Boule, Ms Barbara Filipowski, Mr John Steele.

Photo: Adrian Hall

5. Summary of NADRAC's submissions and publications

This table summarises the major points, recommendations or findings which NADRAC has advanced in its past submissions, report and discussion papers. Documents marked * are available on NADRAC's web-site (www.nadrac.gov.au)

Date	Matter	Summary
2001–2002		
June 2002	ADR terminology (Discussion paper)*	Poses a series of questions about how terms are used, and should be used, in ADR. Submissions invited by 31 December 2002
May 2002	ADR statistics (Compilation of published statistics on ADR in Australia)*	Intended as a resource document to guide consideration of ADR data collection
April 2002	Government use of ADR (Letter to Attorney-General)	Need for reference to ADR and to ADR standards in the Legal Service Direction Need for ADR clauses in contracts for provision of good and services to Commonwealth agencies
March 2002	What is ADR? (Brochure on ADR terms)*	Simplifies earlier definitions paper
March 2002	Dispute Resolution and Information Technology (Draft guidelines)*	<ul style="list-style-type: none"> ● Take into account impact and potential of technology ● Consider accessibility, fairness, effectiveness, cost and legal issues ● Manage risks associated with delivery of ADR service on-line ● Need to match technology to needs of disputes and parties ● Develop service and practitioner standards to take account of use of technology ● Consider use of technology in other areas, including marketing of ADR, information management, research, education and professional development ● Apply change management strategies when introducing new technology
Feb. 2002	Mediation competencies (Letter to Community Services and Health Training Australia)	General comment on draft qualification and competencies in community mediation: <ul style="list-style-type: none"> ● Consultation ● Diversity ● Use NADRAC's standards within evidence guides

2002-02	Recommendations of the Family Law Pathways Advisory Group (Letter to Attorney-General)	<ul style="list-style-type: none"> • Supports the direction of the FLPAG's report • Need for well researched and targeted promotion of non-adversarial approaches • Reference to Quality Framework Submission (2002-01) • Support for case assessment, but noting complexity of the task • Need for consistent terminology (refers to 2001-11) • Need for evaluation of innovative models of service delivery
Jan. 2002	PDR Quality Framework (Submission to Attorney-General's Department in relation to consultation paper proposing a quality framework for PDR service under the Family Law Act)*	<ul style="list-style-type: none"> • Support for overall goals of proposal • Avoid too much emphasis on organisational performance at expense of practitioner competence • Need to link with other professional/service groupings • Take into account elements in an appropriate code of practice as outlined in NADRAC's standards report • Some additional standards required vis a vis family services, especially family violence/child abuse) • Give greater prominence to complaint handling • Keep 'essential' obligations and responsibilities within the regulations themselves • Need to clarify implementation issues - costs, compliance, infrastructure.
Dec. 2001	ADR In E-Commerce (Submission to Expert Group on e-commerce re discussion paper on Dispute Resolution in e-commerce)*	<ul style="list-style-type: none"> • Need for consultation and coordination in e-commerce ADR • Consistency in terminology required • Independent research and evaluation of on-line ADR is vital • Intake, assessment and preparation processes are essential in light of role of third parties (eg credit providers), dispute dynamics, power balance, representation; nominal fees may not be appropriate • Important to match the communication medium to the parties and to the dispute
Nov. 2001	Family Law Act terminology (Letter and background paper on the need to review the PDR provisions of the Family Law Act and Federal Magistrates Service Act)	<ul style="list-style-type: none"> • Need for consistency in PDR terminology • Need for a review of the FLA • Current provisions need to reflect current PDR practices • Statutory protections also require review
August 2001	Definitions (Brief discussion paper on web-site on need for common language in ADR)	Presents arguments for and against consistent terminology in ADR and asks for comment
August 2001	Franchising Code of Conduct (Letter to Office of Small Business)	Need to address termination issues, and resolve ambiguity surrounding 'imminence of resolution' Address issue of site of mediation, especially in context of on-line ADR

Previous years		
May 2001	ADR/PDR terminology (Background paper for meeting convened by NADRAC between Family Court, Federal Magistrates Service and Attorney-General's Department)	Identifies issues surrounding use of terminology for PDR/ADR in the family law systems
May 2001	Federal Magistrates Service Draft Rules (Submission to Registrar of Federal Magistrates Service)	Reiterates previous advice See below
April 2001	Standards for ADR (Report to Attorney-General A Framework for ADR Standards)*	<ol style="list-style-type: none"> 1. Recommends framework (= guidelines for developing standards, a code and enforcement of code by appropriate means); recognise diversity 2. Service providers to adopt and comply with code of practice 3. Service providers to have a complaints mechanism 4. Examine feasibility of ADR Ombudsman 5. Monitor complaints 6. Compliance based predominantly on self-regulation 7. Compliance with code of practice as part of Commonwealth contracts 8. Other governments also to require compliance with a code 9. Consumer education activities to encourage code 10. Mandating bodies give special attention to quality 11. Review of statutory provision 12. Determine need for accreditation on a sector by sector basis 13. Principles suggested for accreditation of practitioners 14. Accrediting bodies develop mutual recognition 15. Selection process to be fair, transparent, effective 16. Engagement of practitioner based on knowledge, skills and ethics, not necessarily tertiary qualifications 17. Training providers inform participants of expected outcomes 18. Training take account of (framework); be performance based, and use best practice learning strategies 19. Explore peak body 20. Resources commensurate with risks and benefits 21. Improved data collection
Jan. 2001	On-line ADR (Background paper)*	This is a background paper only and is not intended to state NADRAC's position. It was placed on the web-site, with an invitation for comment from interested parties.

Dec. 2000	Criteria for referral to ADR Letter of advice to Federal Magistrates Service	<p>Assessment of suitability is complex. There is a lack of empirical research on suitability criteria. Some factors identified are:</p> <ul style="list-style-type: none"> ● Current fear or high risk of violence by or to a party ● Allegations of child abuse ● An unmanaged mental illness or intellectual disability without appropriate advocacy ● A clear statement by one party that they will not participate in ADR or that they 'want their day in court' ● A statement by the parties that they want to resolve their conflict in a non-adversarial forum ● Bad faith bargaining, or clear likelihood of this ● The intention of one party to use the process to harass the other ● Over riding public interest ● A matter which is primarily a dispute of fact ● Parties who have major, non-negotiable value differences ● The ability of the parties to make an informed choice to attend ● The capacity of the parties to negotiate safely on their own behalf ● The extent to which any power imbalance can be redressed ● Lack of commitment by one or more of the parties to resolve the dispute ● Any relevant court orders which make ADR difficult (eg a restraining order) ● Cultural factors and considerations ● Legal representation of the parties ● The likelihood that the costs of ADR outweigh its benefits.
May 2000	Administrative Review Tribunal Letters of advice to Attorney-General's Department	Need for specific reference to ADR processes
June 2000	ADR data collection in courts Letter to Attorney-General	Need for improved data collection on Court ADR, starting with federal courts and tribunals
March 2000	Use of term mediation Letter to Family Court of Australia	Need for consistent terminology

March 2000	Franchising Code of Conduct Submission to Franchising Policy Council*	<ol style="list-style-type: none"> 1. Recommend research and data collection to establish benchmarks against which information can be measured 2. The code provisions should be kept under review 3. There is value in making parties participate fully but do not favour the term 'in good faith' 4. Oppose requirement for mediator to certify that parties made a genuine attempt to mediate 5. Code to refer to mediation as the principal method of DR 6. Add a 'case stated' option for a quick, relatively inexpensive and final decision 7. Commonwealth could require parties to mediate before enforcing the provision of a franchising agreement 8. Recommend use of standards
March 2000	Standards for ADR Discussion paper The Development of Standards for ADR*	<ol style="list-style-type: none"> 1. Proposed framework for ADR standards 2. Asked 70 questions for comments <p>See April 2001 – final report</p>
June 2000	Parenting Plans Joint Letter of Advice to Attorney- General (with Family Law Council)*	<ol style="list-style-type: none"> 1. Encourage use of parenting plans, and use consent orders where enforceability is sought 2. Repeal registration provisions 3. Encourage an integrated parenting plans/consent order package
Dec. 1999	Federal Magistrates Service Rules and Regulations Part 2 Report to Attorney-General*	<ol style="list-style-type: none"> 1. Provide information/education about ADR through information sessions, brochures, initiating documents 2. Develop and publish guidelines (indicators/contraindicators) for referral to ADR 3. ADR practitioner has an obligation to assess for suitability 4. Approval of ADR service providers by Attorney-General's Department (quality approval process) as apposed to Family Law Regulations for family and child mediators– link to immunity and complaints process 5. Encourage parties to go to Court to obtain and referral order to ADR 6. Court personnel should not automatically be qualified as ADR practitioners 7. Need for standards referral orders (providing certain powers and obligations of ADR practitioner) 8. Incorporate definitions into rules of court 9. Immunity/confidentiality should not prevent consumer redress 10. Regulations should specify that ADR service providers have a complaints mechanisms 11. ADR practitioner should report back to court on termination (defined headings, but not willingness to cooperate) 12. Evaluate ADR services 13. Cost to take account of ADR costs, and refusal to attend ADR 14. Court should scrutinise ADR agreements

August 1999	Diversity 'A Fair Say' Public guide to managing differences in mediation and conciliation*	Provides practical guidelines for managing diversity
March 1999	Federal Magistrates Service – Act Part 1 Report to Attorney-General*	<ol style="list-style-type: none"> 1. ADR should be an integral part of the Court 2. Legislation should refer to DR, not ADR processes 3. Focus on procedural flexibility 4. ADR not a replacement for judicial adjudication 5. Emphasise proper assessment, referral and quality 6. Set out objectives in a legislative provision 7. Legislation should name each DR process 8. Use the NADRAC definitions and consistent terminology 9. Court to have power to make rules about procedure 10. Access to legal representation/advice/other support 11. Support a diversity of providers of DR services 12. Legislation should address the issue of standards 13. Court to use list of appropriate DR providers 14. Judge not to adjudicate disputes where s/he has done ADR 15. Court to make regulations which set Court ADR fees 16. Duty to advise clients of the availability of DR processes 17. Require provision of written information about DR 18. All/any part of a dispute to be referable to DR process 19. Range of DR processes to be available at any stage 20. Mandatory referral by qualified assessor is acceptable 21. Court evaluation of all its DR processes is vital 22. DR providers to have similar immunity to judges 23. Implement a complaints procedure (against DR providers) 24. Court to review agreement in limited circumstances 25. Court to be able to terminate a non-judicial DR process 26. Court to determine a question of fact/law to assist ADR 27. Dispute resolver to provide limited reports to Court 28. Non-compliance/refusal to provide essential information 29. DR providers-appropriate powers to facilitate outcomes 30. Magistrates should have substantial experience in ADR 31. Legislative protection should not extend to pre-filing 32. Court to make rules on a simple, inexpensive process for initiating action within the court without pleadings

Feb. 1999	Law Reform Commission of Western Australia Review of the Civil and Criminal Justice System Response to Consultation Paper on The Use of Court-based or Community Alternative Dispute Resolution Schemes and Alternative Forums for Adjudication	<ol style="list-style-type: none"> 1. Importance of a range of DR processes 2. Importance of data collection on DR 3. Confidentiality of court files and details of DR attendance 4. Importance of criteria for appraisal/screening of each case 5. Support court with multiple dispute resolution 'doors' 6. The ADR process should be adaptable to the particular case 7. Timing of when ADR might be used 8. More information about the court and ADR 9. Incentives for disputants to use ADR 10. Need to create a change of legal practitioner culture 11. The state should bear the costs of ADR in the court system 12. Parties should use external ADR at their own cost 13. Payment for court-annexed ADR is a complex issue 14. Appropriate training and qualification standards 15. A judicial officer who has acted as an ADR practitioner should be disqualified from subsequently adjudicating the same dispute 16. ADR to proceed on a 'without prejudice' basis 17. Limited statutory duty of confidentiality
Feb. 1999	Small Business Access to the Legal System Advice to Attorney-General's Department in response to the Suggestions Paper of the Review of Small Business Access to the Legal System	Supported the thrust of the recommendations, but concerned that some recommendations impractical and raise resource implications; need to give attention to processes of implementation
Jan. 1999	Workplace mediation Submission to Department of Workplace Relations and Small Business in response to Ministerial Discussion Paper: Approaches to Dispute Resolution: A Role for Mediation?	<ol style="list-style-type: none"> 1. Distinguish mediation from conciliation in industrial relations 2. Need for assessment and screening of matters for suitability 3. Proceed to arbitration or adjudication after unsuccessful mediation (ie not proceed to conciliation) 4. Mandatory mediation acceptable in certain circumstances (a gatekeeper required) 5. Public and private providers should be able to deliver mediation services; mediators should have working knowledge of the legislation

Sept. 1998	Federal Dispute Resolution Australian Law Reform Commission Review of the Adversarial System of Litigation – Response to Issues Paper No 25 ADR - its role in federal dispute resolution	<ol style="list-style-type: none"> 1. Benefit of ADR = timeliness, cost effectiveness, flexible outcomes and client satisfaction 2. Need for a variety of DR processes 3. Flexibility importance 4. Gatekeeping and assessment is critical (criteria offered) 5. Need to properly design the ADR system 6. Need to establish evaluation criteria for ADR 7. Timing of ADR important (and early intervention may be appropriate) 8. Avoid blurring adjudication with facilitative and advisory processes 9. Supports ADR training for judges 10. ADR should not be used to reduce funding for courts 11. Drew attention to diversity paper in relation to NNTT 12. Safeguards re compulsions in ADR (assessment, etc.) 13. Standards should include both neutrality and impartiality 14. Limit immunity 15. Conditions suggested for confidentiality 16. Standards – await NADRAC report 17. Lawyers should advise clients of ADR
April 1998	Small Business Department of Workplace Relations and Small Business - Response to ADR Information Kit for Small Business	Editorial suggestions
April 1998	Standards Australia Comment on the proposed Standard on Dispute Resolution	<ol style="list-style-type: none"> 1. Suggests amendments to proposed criteria for ADR processes 2. Makes a series of editorial suggestion
March 1998	Benchmarks Australian Competition and Consumer Commission Round Table on Small and Large Business Disputes – Comment on Implementation of the Benchmarks for dispute avoidance and resolution - a guide	<p>Need to provide information to small business via informal networks</p> <p>Specific recommendation on additions to proposed kit</p>
Dec. 1997	Primary Dispute Resolution Attorney-General's Department – Response to Discussion Paper on Delivery of PDR Services in Family Law	<ol style="list-style-type: none"> 1. Confine term 'Primary Dispute Resolution' to mediation and conciliation 2. Support choice of DR service, accessibility, efficiency, accountability, quality, integrated service panning and policy development , diversion from litigation 3. Raises issues of accountability in context of outsourcing 4. Raises issues about the functions of a proposed Office of Family Relationship Services

Nov. 1997	Diversity Discussion Paper on Issues of Fairness and Justice in Alternative Dispute Resolution*	Identifies challenges for ADR services in responding to diversity and suggests the following be addressed: <ol style="list-style-type: none"> 1. Dispute resolution system design 2. Training 3. Access to ADR services 4. Cost 5. Social trends of public concern and interest 6. Links with associated services 7. Recruitment of members of minority groups 8. Use of advocates, legal representatives, interpreters, etc. and proposes practical guidelines concerning assessment, and modifications and accommodations.
Nov. 1997	Australian Law Reform Commission Review of the Adversarial System of Litigation - Response to Issues Paper No 20 Alternative or Assisted Dispute Resolution	<ol style="list-style-type: none"> 1. Persuasion of parties to use ADR - unlikely to be appropriate by judicial officers, appropriate for non-judicial officers – early in litigation process 2. Mandatory mediation requires certain conditions and safeguards (including ‘gatekeeper’) 3. Supports diversity of ADR providers 4. Generally court staff should not move from one DR process to another 5. Examine immunity – ensure consumer redress possible 6. Respect party self determination, but also identify criteria for referral to ADR 7. Need for better ADR data collection
March 1997	Family Law Regulations Report to the Attorney-General Primary Dispute Resolution in Family Law - on Part 5 of the Family Law Regulations*	<ol style="list-style-type: none"> 1. Compliance with regulation only for those seeking protection of the Act 2. Amend immunity to enable consumer recourse 3. Retain tertiary qualification requirements for the present, but consider recognition of specific family law experience in the future 4. Recognise accountants (under reg 60) 5. Include ‘admitted’ legal practitioner (eg Clerkships, not university educated) 6. Limited authorisation scheme for ATSI mediators 7. Provide means to assist ATSI people gain appropriate tertiary qualifications 8. Limited authorisation scheme for NESB mediators 9. Improve access to tertiary courses 10. Amend subregulation 60(3) – mediation of that kind to general reference to mediation of family disputes 11. Provide authorisation scheme for ‘true grandparents’ of mediation 12. Remove subregulation 60(4) 13. Amendment to wording – sub para 60(3)(b)(ii) 14. Require at least 3 days specific training in family mediation issues 15. Independent supervisors should be experienced in family mediation 16. Include as supervisors people who are eligible for membership of relevant bodies (ie not necessarily current members) 17. Provide that (a) mediator conducts an assessment or is satisfied that an has been appropriately conducted; and (b) decision to proceed or no could be taken by mediator or intake officer

		18. Remove requirement for written statement and provide that information is provide as appropriate t the case; and specific changes recommended to the nature of information provided
March 1997	ADR Definitions Paper on Alternative Dispute Resolution Definitions*	A paper defining term for ADR facilitative, advisory and determinative processes
Feb. 1997	Authorisation of Family and Child Counsellors Letter to Attorney-General's Department in response to request for advice on interim arrangements for the authorisation of Family and Child Counsellors	High level of training and expertise required for family and child counsellors, due to incidence of violence and abuse
Feb. 1997	AFP/NCA complaints Attorney-General's Department - Response to request for advice on Australian Law Reform Commission Report No 82 – Integrity: but not by trust alone: AFP and NCA complaints and disciplinary systems	<ol style="list-style-type: none"> 1. Define mediation and conciliation 2. Examine public interest 3. Carefully consider whether officers from within the police force be used as mediators 4. Need for adequate training 5. Relate ADR to good management practices 6. Consider Standards Australia AS 4269 1995 7. Provide time limits for processes, with flexibility 8. ADR should not be considered in some cases – this to be determined on an individual – not 'type' basis 9. ADR should not be compulsory for complainants, but possibly for members of police force
Jan. 1997	Benchmarks for Consumer Dispute Resolution Schemes	Include specific reference to situations where ADR may be inappropriate, such as power imbalance
Jan. 1997	Non-consensual mediation in the Federal Court of Australia Letter of advice to Attorney-General's Department -	<ol style="list-style-type: none"> 1. Mandatory mediation may be appropriate in some circumstances; a properly trained 'gatekeeper' is required, and criteria applied for referral. 2. Mediators should have the time appropriate to meet the needs of the parties.
Nov. 1996	Government Service Charter Initiative	In staff training section, address issues of power imbalance and potential biases between consumers and providers
Oct. 1996	Youth Homelessness Submission to Youth Homelessness Taskforce	Address issue of family violence, family dysfunction and power imbalance in considering youth reconciliation services
October 1996	Family Services Submission to Parliamentary Committee into Aspects of Family Services	<ol style="list-style-type: none"> 1. Not appropriate for preventive family services to be provided by the courts 2. Provide easy access to a range of DR services 3. Monitor impact of any new fees for service (for family court counselling) 4. Attend to issue of family violence 5. Support provision of quality mediation services provided by State Governments agencies
June 1996	Uniform succession laws Submission to Queensland Law Reform Commission	Reforms to succession laws should make reference to ADR processes in relation to disputes over estates.

6. Financial Report

NADRAC's expenditure is contained within Outcome 1 (*an equitable and accessible system of federal law and justice*), Output 1.1 (*legal services and policy advice on courts and tribunals, alternative dispute resolution, administrative law, human rights, evidence and procedure*) of the Attorney-General's Department's audited financial statements published in the Department's Annual Report.

		Expenditure
SALARIES/ EMPLOYEE costs		
Salaries (not including sitting fees)	\$	105,807
Remuneration (sitting fees paid to individuals)	\$	12,364
Sub Total	\$	118,171
ADMINISTRATIVE COSTS		
Departmental hospitality	\$	-
Training and conferences	\$	2,320
Venue Hire & incidentals	\$	135
Meeting Costs	\$	1,811
Consultants	\$	-
Domestic Airfares	\$	28,141
Travelling Allowance	\$	13,874
Car/Taxi hire	\$	2,980
Car Parking	\$	-
Printing	\$	11,039
Advertising (non-staff)	\$	-
Stationery	\$	-
Library Books	\$	33
Library Subscriptions	\$	18
Postage Services	\$	-
Equipment < \$2,000	\$	-
Communication Charges (inc.mob.p	\$	365
Sitting Fees (Paid to Orgs)	\$	-
Sub Total	\$	60,715
Total	\$	178,885