

Note from the Chairperson

As Professor Hilary Astor anticipated in her last 'Note from the Chairperson', membership of the Council has changed. I would like to take this opportunity to thank the inaugural members of NADRAC for their significant contribution. During their term, Council members contributed to the debate about ADR in Australia while laying a strong foundation upon which the new members of the Council will continue to build. This foundation work includes the development of NADRAC's Charter and publications such as 'Alternative Dispute Resolution Definitions', 'Primary Dispute Resolution in



Professor Laurence Boule (Chairperson)

Family Law: A Report to the Attorney-General on Part 5 of the Family Law Regulations' and the Discussion Paper 'Issues of Fairness and Justice in Alternative Dispute Resolution'. Their continued relevance is indicated by the numerous public requests for copies received by the Secretariat each month.

It is an honour to follow on from the inaugural members.

I am proud to have been appointed as chairperson of the Council. A national focus for ADR is very important if it is to receive recognition and respect as a valuable mechanism for resolving disputes.

I would also like to take this opportunity to welcome to the Council the other new members appointed this year. Each has a keen interest and valuable experience in ADR. Their combined expertise will ensure that the Council continues the excellent work undertaken by the inaugural Council.

I look forward to a fruitful and rewarding time with the Council.

Professor Laurence Boule
Chairperson



New Council Members Appointed



Back Row L to R: Mandy Doherty (Secretariat), Warwick Soden, Kathy Mack, Bernadette Rogers, Susan Gribben, John Steele, David Bryson, Kerrie Tim, Cate Wells (Secretariat), Barbara Filipowski, Adele Byrne (Adviser to the Attorney-General).
Front Row L to R: Deborah Tyler (Secretariat), Richard Moss, the Hon Daryl Williams AM QC MP, Laurence Boulle (Chairperson), Sue Pidgeon (AS Civil Justice Branch).

New NADRAC Members

As with previous Council members, each person has been appointed in their individual rather than representative capacities.

Professor Laurence Boulle (QLD) Chairperson

Professor of Law, Bond University. Professor Boulle has published extensively on ADR and mediation, and is the author of "Mediation: Principles, Process, Practice".

David Bryson (VIC)

Conciliation Officer and Manager, Quality and Services, Victorian Workcover Conciliation Services. Mr Bryson has broad experience in conciliation and community mediation and has published widely.

Barbara Filipowski (NSW)

Secretary and General Counsel, Sydney Ports Corporation. Ms Filipowski has experience in the banking industry, commercial dispute resolution, and business management and administration.

Susan Gribben (VIC)

Executive Director, Relationships Australia (Victoria). Ms Gribben has extensive experience in relationship counselling and family mediation service provision and training, and is also a member of the Family Services Council.

Associate Professor Kathy Mack (SA)

Associate Professor, School of Law, Flinders University, South Australia. Ms Mack has experience in mediation training within the justice system and a particular interest in gender issues in

In April 1998, five new members were appointed to NADRAC for a three year term expiring on 5 April 2001. Professor Laurence Boulle was appointed Chairperson and he was joined by David Bryson, Barbara Filipowski, Kathy Mack and Bernadette Rogers. Susan Gribben was re-appointed to the Council for a two year term expiring on 5 April 2000.

Richard Moss, Deputy Secretary, Attorney-General's Department, continues as an ex officio member.

In August 1998, a further three members were appointed for a two year term expiring on 10 August 2000: John Steele, Warwick Soden and Kerrie Tim.

ADR. She has written extensively on mediation, law reform, gender bias and awareness in the legal system.

Richard Moss (ACT)

Deputy Secretary, Attorney-General's Department. Mr Moss continues as an ex officio member of the Council.

Bernadette Rogers (QLD)

Director of Alternative Dispute Resolution, Queensland Law Society. Ms Rogers has extensive experience as a mediator, trainer and is a co-author of two books on ADR.

Warwick Soden (NSW)

Registrar of the Federal Court of Australia, Sydney. Mr Soden has extensive experience in relation to ADR in the Federal Court and the Supreme Court of NSW.

Kerrie Tim (ACT)

Team Leader of the Diversity Values Conduct Team in the Public Service and Merit Protection Commission. Ms Tim has considerable experience in indigenous community counselling.

John Steele (SA)

Community Mediation Training and Development Officer at Community Mediation Services (SA). Mr Steele is a lawyer who practices community mediation and also trains others in this aspect of ADR.

Attorney-General addresses NADRAC

At its meeting in Canberra on 12–13 August 1998, the Attorney-General, the Hon Daryl Williams AM QC MP, attended to address Council members.

The Attorney-General indicated that each member of the Council was carefully selected for the expertise they could bring to the Council and welcomed the recently appointed members.

He indicated his strong interest in ADR and particularly in the use of primary dispute resolution mechanisms for family law disputes. He also mentioned the area of small business which is being given a national perspective at the federal level.

The Attorney-General also expressed his view that the issue of standards for ADR practitioners is an important area for the Council to progress.



L to R: NADRAC chairperson, Professor Laurence Boule, Attorney-General Daryl Williams and NADRAC member Bernadette Rogers

Diversity Project

In November 1997 the Council produced a Discussion Paper entitled 'Issues of Fairness and Justice in Alternative Dispute Resolution'. The rationale for the project was based on the increasing recognition that alternative dispute resolution can often cater better for a range of user groups than the traditional formal justice system. There was a need to ensure that ADR processes are capable of providing fair and appropriate outcomes for those user groups.

The Discussion Paper examined a number of significant social factors under the following headings:

- Gender – alternative dispute resolution for women and men
- Minority cultural groups in Australian Society
- Age – Moving Through the Life Cycle and Dispute Resolution
- People with Disabilities and Alternative Dispute Resolution
- Minority Sexual Preferences – Lesbians and Gay Men

- Geographic Location – Rural and Remote Communities
- Socio-Economic Power Differences – Individuals and Bodies (incorporated and unincorporated).

For each of these groups the Discussion Paper explored the attributes of these groups and the advantages of ADR for them. It also looked at how a fair ADR outcome might not be achieved for people in each of these groups and suggested strategies to overcome these obstacles.

Responses to the Discussion Paper were sought by 27 March 1998. The Council received 18 submissions to the Discussion Paper, many of which were comprehensive and thoughtful. These submissions reinforced the Council's view that the Discussion Paper, in itself, is a comprehensive and well-researched document which is a valuable resource for ADR practitioners. The Council wishes to express its appreciation to those who responded to the Discussion Paper. Their comments have been very helpful in preparing a final document based on the Discussion Paper.

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(continued from Page 3)

The Council has decided that the most useful way to advance the Discussion Paper and its responses, is to use them to produce a more succinct, document for users of ADR. It will contain practical recommendations for users and practitioners to address barriers to fairness and justice in ADR.

The Council is aiming to finalise the document in early 1999.

Standards Project

NADRAC's work program includes an examination of standards for the providers of ADR services. With the increase in use of ADR services there is a need for government and participants to have confidence in the quality of the service that is being provided by ADR practitioners.

The previous Council had commenced work on the issue of training and qualification standards for mediators only. It had undertaken extensive consultation with the community by holding workshops throughout Australia. Unfortunately, due to the need to devote resources to other work, the issue was not much further developed at that time.

The present Council has re-considered the scope of the project and decided to broaden its focus to deal

with standards for the provision of ADR services generally, and not solely mediators. The Council is preparing a document which will provide a framework for the ADR industry in Australia to establish minimum standards for the provision of ADR services. The many fine examples of best Australian ADR practice will inform its work.

In undertaking this project the Council recognises the great range and diversity of ADR services and providers and the need to allow innovation in ADR to flourish. It also believes that ADR practitioners and service providers are in the best position to specify the precise standards which are particular to their context and the type of ADR that they practice. However, the Council's framework will draw together many aspects of ADR that are common across different contexts, and provide a structure for the establishment of standards by practitioners and service providers.

Issues of training and qualification, accreditation and registration and complaints handling will also be dealt with, as necessary, in the context of the framework.

As the Council's work will be more broadly based it is anticipated that it will be a lengthy project. The Council is aiming to release a discussion paper on the topic by August 1999.

Research on ADR

Part of the Council's Charter is to advise the Attorney-General on the need for data collection and research concerning alternative dispute resolution and the most cost-effective methods of meeting that need.

At its meeting in October 1998, the Council established a Research Committee to consider the issue of data collection and research in relation to ADR. The priority for Council's work in this area will be to identify the data that is being collected on ADR in the federal arena. The method and content of data collection will be compared to best practice data collection techniques. The Committee will be examining:

- the scope and nature of data collection currently being undertaken by federal government departments and agencies that either use, deliver or fund ADR programs;
- the scope and nature of data collection currently being undertaken by ADR programs that are federally funded;
- identified best practices for data collection on the use and effectiveness of facilitative, advisory and determinative ADR; and
- appropriate methods of data collection to promote consistency and comparability across departments and agencies.

The Council envisages that this project will be a long term one. It anticipates having a discussion paper ready for distribution for public comment in October-November 1999.

NADRAC on the Web

NADRAC may now be found on the Web. The Council has a sub-entry on the Attorney-General's Department home page. Information about the council together with copies of newsletters and recent publications may be found there. The address is:

<http://law.gov.au/aghome/advisory/nadrac.htm>

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