



MediationNews

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10th Anniversary Symposium for SADRA

Dale Bagshaw, Chairperson, SADRA

In September this year, a Symposium was opened by Dame Roma Mitchell in celebration of the tenth anniversary of the South Australian Dispute Resolution Association. Over a decade ago there was a groundswell of interest in mediation in South Australia, in part as an outcome of a series of mediation workshops conducted by the UniSA, leading to a demand for a formal Association. At the time, Dame Roma Mitchell was a source of support and inspiration, and kindly agreed to open our first meeting. We are honoured that 10 years later, after an extremely successful and busy term as Governor of South Australia, she agreed to share her views of the changes that have occurred in dispute resolution over the decade. This edition of *Mediation News* will provide readers with an opportunity to read her paper and a sample of other papers presented on the day. All papers presented at the Symposium will soon be available on the following WWW site - <http://www.humanities.unisa.edu.au/cmrg/> Ten years ago, when we were canvassing for interest in the formation of the new Association, I recall the Dean of the Adelaide University Law School asking me if we were "for or against lawyers". Initially the aims of the association may have posed a threat to some members of the legal community. However, I am pleased to say that many members of the legal profession have been active members of SADRA, some playing an important role on the management committee and in the promotion of mediation as a viable process for resolving some disputes.

From the outset, the SADRA committee were mindful to include all interested groups in our membership and ongoing activities, including the Institute of Arbitrators and LEADR. I believe we have been one of the few States in Australia to maintain cooperation between the various groups interested in ADR.

SADRA has provided an opportunity for people from many different disciplines to come together to explore different approaches to conflict management and dispute resolution. In 1991, we convened a conference at the invitation of the former State Attorney-General, to advise on changes to legislation. In 1993, we organised the first National Family Mediation Conference, and in 1996, the Second International Mediation Conference – which focused on Mediation and Cultural Diversity.

The University of SA has played an important role in supporting SADRA through the Research Group for Mediation Studies (now called the Conflict Management Research Group). I would like to take this opportunity to acknowledge this support and to also thank the newly formed Hawke Institute, which through the services of Ann Braybon played a vital role in organising the Symposium.

SADRA has forged strong links with all three universities in Adelaide and has therefore had a major influence on changes to the content of undergraduate courses, particularly social work and law. In 1993, the University of SA, in conjunction with the University of Adelaide, established one of the first post-graduate courses in family mediation in Australia, which has consistently attracted around 30 students a year, many from interstate. This year, UniSA has introduced a Graduate Diploma in Conflict Management and a Master of Conflict Management, which have attracted a great deal of interest from many post-graduate students from diverse backgrounds from interstate and overseas.

At the national level SADRA committee members are serving, or have served, on three national councils which advise the Federal Attorney-General on ADR; the National Alternative Dispute Resolution Council, the Family Services Council and the Family Law Council. Many changes have occurred in family law in the past decade — mediation, conciliation and arbitration are now called primary dispute resolution processes — no longer "alternative". As inaugural Chairperson of the FSC I was responsible for coordinating and writing the first set of Family Mediation Standards for agencies funded by the Commonwealth Attorney-General's Department, and for mediators employed by them. This exercise was challenging and brought together leading mediators from across Australia.

At the Symposium we heard from speakers from many different fields of practice. Their papers reflected on the contributions SADRA members, individually and collectively, have made to the significant changes that have occurred in approaches to dispute resolution in South Australia. Frustration was also voiced, however, at the many barriers that have impeded change, in particular the adversarial nature of our institutions which has influenced community attitudes. Associate Professor John Murray (who many of you know from his earlier role as Assistant Commissioner in the SA Police Department) has been an active member of SADRA from the beginning and flew from Sydney to summarise the themes in the plenary at the end of the day. He picked up two themes - "optimism and frustration". He also highlighted the need for ongoing research and education of the community.

My heartfelt thanks to the members of SADRA who have been loyal and supportive over the past 10 years, especially to those who have played an active role on the management committee, I cannot name them all. Pam Smith and John Steele have been diligent Treasurers, and as editors, Virginia Leeuwenberg and John Connell have worked tirelessly to ensure that our contributions to the *Mediation News* eventuate. There are many others, who have also made major contributions. ♦♦

A Joint Project of...
Australian Dispute Resolution Association Inc. (ADRA)
South Australian Dispute Resolution Association (SADRA)
Victorian Association for Dispute Resolution (VADR)



Papers Presented at SADRA's 10th Anniversary Symposium

Ten Years of Dispute Resolution: Preparing for the New Millenium

To celebrate the tenth Anniversary of the South Australian Dispute Resolution Association, a Symposium - Ten Years of Dispute Resolution: Preparing for the New Millennium was hosted by the Research Group for Mediation Studies and the Hawke Institute at the University of South Australia, Magill Campus, September 1998. Some of the papers from this Symposium have been selected for this edition of *Mediation News*. Other papers will be reproduced in later editions.

Speakers

Bagshaw, Dale

Brebner, Judge Don

Harrison, Pamela

Hodgson

Hutchings, Dr Suzi

Jenkin, David

Jennings, Senior Judge William

Kitcher, Jan

Mitchell, Dame Roma

Murray, Associate Professor John

Prior, Anne

Steele, John

Titles of papers

Chairperson of South Australian Dispute Resolution Association

Aims of the symposium

Mediator sponsored by the Supreme and District Courts

Paper: ADR in the common law courts?

Senior Solicitor and Family Law Mediator at the Marion Community Legal Service

Paper: Peer mediation in schools

Fellow of the Royal Australian Planning Institute and Honorary Fellow of the Australian Institute of Commissioner John Urban Studies.

Paper: The role of mediation in environmental dispute resolution

Social anthropologist in areas of juvenile justice, criminal justice, family law cases, native title and Aboriginal heritage.

Paper: Translations in Cultural Meanings: The challenge of presenting expert anthropological evidence in criminal courts, juvenile justice systems and the Family Court in South Australia.

Mediator with Relationships Australia and Vice Chair of the Board of Directors of LEADR.

Paper: ADR in commercial disputes

Senior Judge of the Industrial Relations Court of South Australia and President of the Industrial Relations Commission of South Australia.

Paper: From institutions to the individual

Senior Program Manager with the Justice Strategy Unit and previously Senior Youth Justice Coordinator with the Family Conference Team.

Paper: Family Conferences: Assessing 'Success'

Patron of the Bob Hawke Prime Ministerial Centre, University of South Australia, first woman as Governor of South Australia 1991-96 and first woman to be awarded QC.

Opening Address

Graduate School of Police Management of the Charles Sturt University.

Plenary Session: Preparing for the future

Director of Services, Relationships Australia (SA).

Paper: If at first you don't succeed

Training and Development Officer for the Community Mediation Services of South Australia.

Paper: Community mediation in a rights-conscious era



ADRA SYMPOSIUM - OPENING ADDRESS

Dame Roma Mitchell

It is almost 15 years since I retired from the Bench of the Supreme Court of South Australia. During the 18 years of my service as a Supreme Court Judge there was considerable concern at the increasing costs of and the delays in litigation. Various attempts were made to stem the rising tide of both but as has been demonstrated clearly in the years since my retirement, all to no avail. What has been hailed as a measure to ensure speedier trials or lessen costs or both has sometimes been proved to have little effect. As an example, I recollect a recommendation of the South Australian Criminal Law and Penal Methods Reform Committee which I chaired from 1971-1977. The recommendation was to the effect that as a general rule witnesses in committal proceedings should not be required to give oral evidence but should give evidence by affidavit, thus saving considerable court time and lessening delays. That recommendation was adopted in due course but, on investigation, I discovered that many delays continued. The delays were now in obtaining the affidavits which entailed more police work than was necessary when the police investigating a matter obtained a statement from a witness and supplied it to the prosecution branch. Preparing affidavits and having them sworn apparently led to substantial delays in some matters.

And so it has been with many reforms in legal procedure. Some have succeeded in the reduction of delay and of costs in particular areas. But both continue to escalate. In particular some commercial cases have occupied the time of the courts to an extent which was unheard of in my time on the Bench. I could not have envisaged an action, the time for trial of which had to be reckoned not in weeks, nor even months, but years. And so it is small wonder that the Australian and New Zealand Council of Chief Justices has determined that court annexed mediation, whether compulsory or voluntary, must be part of a State provided mechanism for the resolution of disputes.

This is a clear advance by the courts in alternative dispute resolution since I was guest speaker at the meeting in 1988 when SADRA was formed. Those who were responsible for its inception and its incorporation in 1989 (and I make no

apology for mentioning Dale Bagshaw as being in the foreground then and today) realised that the aim of the association to promote social justice and harmony through the increased use of cooperative approaches to dispute resolution at all levels of society, could be achieved only by education, training and research.

Now, years later, it is fitting that this Symposium is being held. When I attended that inaugural meeting I certainly did not believe that alternative dispute resolution would spread as widely as it has. The courts had for long been accustomed to arbitration which had the imprimatur of legislative recognition. Conciliation, including compulsory conciliation, was a bulwark of industrial law and conciliation was a pacifier for those who opposed less stringent divorce laws as far back as Sir Garfield Barwick's days as Commonwealth Attorney-General when his Matrimonial Causes Bill placed emphasis on conciliation. But mediation was a relatively new concept.

Now the South Australian Supreme Court Act provides that a Judge may, with or without the consent of the parties, refer a civil proceeding or any issues in such a proceeding, to a mediator. This provision is similar to those adopted in the Federal Court and the Supreme Courts of Victoria and Western Australia, whereas the Supreme Courts of the ACT and New South Wales refer a matter to a mediator only where there is consent of both parties. If there is not consent to a court ordered mediation it may be a case of "Pity the poor mediator". If he or she acts in the completely neutral manner which "mediation" implies there is likely to be a stalemate. But it appears that "mediation", when imposed by the Court under its legislative power, may postulate a more invasive procedure.

This is recognised in the draft position paper promulgated by the Council of Chief Justices of Australia and New Zealand. In the paper reference is made to the distinction in the Family Court between mediation and other alternative dispute resolution processes. It is said, however, that "in most, if not all other courts, mediation is used as an all embracing term to describe a number of processes that may range from the purist model to compulsory and directive proc-

esses aimed at defining the issues in dispute between the parties to the process, identifying for both parties and the Court substantive and procedural difficulties that may be faced in the presentation of any litigation as well as resolving the particular dispute without resort to litigation".

It is recognised, therefore, in the draft discussion paper that although court ordered mediation may not, in itself, determine the issues in the litigation it may more clearly define the issues and so limit the questions to be decided by the court. Questions of law should not be the subject of mediation in whatever sense that word is used. Parties may be willing to proceed to mediation upon an acceptance that a statement as to the law applicable is correct, but they should never be called upon to accept the mediator as appropriate to declare the law, however eminent in the legal profession the mediator may be. Our system of justice is fashioned upon the basis that it is the prerogative of the courts alone to interpret the law with authority, whether it be common law or statute law and it is, in my view, essential that the courts retain that authority.

The NADRAC ADR Definitions Paper, produced mainly to assist NADRAC (which everyone here except a tyro like me will know well as the National Alternative Dispute Advisory Council) in advising the Federal Attorney-General, contains a number of definitions and explanation of terms used in alternative dispute resolution. In relation to mediation they range from therapeutic mediation to expert determination and are doubtless well known to those who have studied conflict resolution through courses such as those taught at the University of South Australia. The paper emphasises that the mediator has no advisory or determinative role. The determinative role in alternative dispute resolution may, however, be given to an adjudicator whose decision is enforceable by a court or, in some instances, a tribunal.

The development of courses in alternative dispute resolution has occurred throughout the life of SADRA and there has been a close cooperation between the Universities in South Australia and the Association in the presentation and promotion of the courses. The Research

Group for Mediation Studies at the University of South Australia is closely involved in SADRA's activities. It is now clearly appreciated that training is a necessity for effective mediation. The Law Society of South Australia has recognised this necessity in approving courses which will lead to accreditation of persons as mediators.

There is a danger that alternative dispute resolution services will be regarded as appropriate to be used only after litigation has begun and, indeed, usually when the matter has been listed for hearing. There is a further danger that court ordered mediations may be seen only as a device to enable the courts to control their lists and to cut the costs of litigation. Certainly court controlled or suggested mediation or conciliation is generally not feasible until proceedings have been instituted, although the Family Court is able to provide counselling and mediation services before proceedings have begun. In Family Court matters there is, however, no court mediation or conciliation which will lead to reconciliation of the parties or deal with issues other than those which are peripheral to the primary issues. As a young legal practitioner I was engaged fairly heavily in what is now called Family Law. Some of us in the legal profession claimed that we had considerable success in what was then referred to as reconciling the parties before disputes reached a point of no return. But we knew that once court proceedings had been instituted that point had, almost inevitably, been passed. It seems to me that this is an area fit for

mediation or conciliation, but how can the parties be persuaded to undertake it? Perhaps the session on Family Mediation will offer some advice on this matter.

In commercial disputes there is a growing use of mediation before litigation. Some commercial agreements have mediation clauses which have superseded or been added to the erstwhile arbitration clause. If mediation is successful the parties have the satisfaction of lessening delay in settlement of the dispute and eliminating court costs, although in some cases they incur substantial costs not only in the payment of a mediator but also in providing the facilities for mediation. Such costs may far exceed the costs of "a day in court". It is probably too soon for an authoritative evaluation of the pros and cons of mediation to the consumer in cost terms.

This Symposium will cover alternative dispute resolution in a number of fields in addition to those which I have mentioned. Its use in the juvenile justice system by way of a Family Conference is a welcome addition to the strategies available in dealing with youth delinquencies, and the session on such conferences is timely. Throughout my long association with the legal system in South Australia I have seen different experiments in dealing with young offenders. None has had outstanding success. Let us hope that the new system, which has much to recommend it, will fare better.

Environmental issues are liable to arouse the passions of people who in all other respects are peaceful and accommodat-

ing citizens. The protagonists take up entrenched positions from which it is almost impossible to dislodge them. Usually, however, there is a middle ground which will give at least partial satisfaction to each intransigent side. Here is surely a fertile field for alternative dispute resolution. The sessions dealing with environment and with community disputes will, I hope, disclose that mediation can be successful in both.

It is satisfactory to know that peer mediation in schools is at least on the horizon. Perhaps it is alive and flourishing. The members of the Symposium will have an opportunity to learn how successful it is. Apart from the immediate benefits of such mediation there is the bonus for the community that if children and young people learn the value of mediation while they are still at school they are likely to appreciate its uses as they grow older.

As I said earlier in my speech we have long been accustomed in Australia to conciliation and arbitration in industrial relations. Indeed I believe that we have been world leaders in that field. It is good that Senior Judge Jennings will speak on that important topic. And we must all recognise the importance of Alternative Dispute Resolution in indigenous issues. It is disappointing that the process of reconciliation with our indigenous population has lagged.

I attended the Australian Reconciliation Convention held in Melbourne in 1997. There was considerable goodwill evident

I called this talk, "If at first you don't



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on the part of the many who attended that Convention and one hoped that true reconciliation was just around the corner, but subsequent events have dissipated that hope. It is appropriate that this Symposium will discuss Alternative Dispute Resolution in the context of indigenous issues.

I congratulate SADRA upon its achievements during the 10 years of its existence. It has grown amazingly as this Symposium will illustrate. It has joined with similar associations in New South Wales and Victoria in the production of *Mediation News* - a national newsletter of value to all who are interested in alternative dispute resolution. It has worked closely with the South Australian Chapters of the Institute of Arbitrators and Lawyers engaged in Alternative Dispute Resolution (LEADR), the Law Society, the Courts, the South Australian Police, Equal Opportunity Commission and the three Universities.

It has worked also with the similar associations in other States and with NADRAC to promote the development of national standards in dispute resolution. Its members have participated in international conferences and have gained first hand experience of alternative dispute resolution in overseas countries.

It must, however, remain alive to the recognition of the supremacy of the rule of law in our community. Two essential features of the rule are first that the standards required of the community are publicly applied. The judges who constitute the judicial arm of government therefore hear cases in public and give their judgments and the reasons for the decisions in public. While we retain our present system of law and government alternative dispute resolution must remain what it is called, namely an alternative, not a substitute for legal decision.

I wish the Association well for the next 10 years and thereafter. 



FRUSTRATION AND ENCOURAGEMENT

An overview of the themes of the papers and discussions at the SADRA Symposium Ten Years of Dispute Resolution — Towards the New Millennium.

Georgina Catley

The Symposium to celebrate the Tenth Anniversary of SADRA - Ten Years of Dispute Resolution - held on Monday September 21st at the University of South Australia, reflected a mood of 'frustration and encouragement' with regard to developments in dispute resolution over the past 10 years. After a traditional Kuarna welcome by Georgina Williams, representing the Kurna People, Dale Bagshaw, chairperson of SADRA for the past 10 years summarised the achievements of SADRA and invited Professor Alison Mackinnon to introduce the first eminent speaker, Dame Roma Mitchell. A number of speakers followed throughout the day, representing a range of organisations and presenting various views on the use of alternative methods of resolving disputes. This article will summarise the themes which emerged from the papers presented at this symposium.

EDUCATION

The Symposium exposed that the mammoth task of re-educating the community to use more cooperative methods for resolving disputes has been frustratingly slow. Dame Roma Mitchell and many other speakers emphasised that education, training and research are all necessary if mediation is to be used effectively.

Judge Jennings also remarked that a shift from the use of conciliation to mediation in industrial matters is unlikely until people involved in the industrial arena are aware of the availability of mediation.

South Australia has been fortunate in that the University of South Australia has

been offering courses in mediation since 1993, and other organisations such as LEADR have been providing training in mediation since 1994. In addition, the University of South Australia now offers a Graduates Diploma in Conflict Management and a Master of Conflict Management in a nested arrangement with the Graduate Certificate in Mediation. These courses have consistently attracted students from interstate, and now from overseas.

David Jenkins reminded us that, while there have been changes over the past 10 years, further education of the public could be achieved through:

- formal programs
- promotion and publicity in the print media
- TV editorials and programs
- the development of a private profession.

John Steele suggested that new forms of publicity are needed, such as information displays in shopping centres. Further research is also needed as to what people want from Alternative Dispute Resolution.

Marketing and research are vital to the education process for the uptake of dispute resolution processes such as mediation, according to John Murray. He further suggested that people are influenced by teaching and modelling, rather than by confrontation.

David Jenkins and Judge Brebner highlighted the need to reverse the litigious trend in the community and emphasised that court proceedings should only occur as a last resort rather than as the first option. An additional paradigm shift is also necessary to shift the focus from "lawyers who mediate to mediators who happen to be lawyers". In other words public awareness needs to be at a level such that when the notion of 'disputes' arise, an automatic thought association would be 'mediation and mediators' rather than 'litigation and lawyers'.

John Hodgson pointed out that since environmental disputes are often of public interest, the use of mediation in resolving these disputes could play a part in developing public awareness of the advantages of using the mediation process.

World Premiere

*by David Williamson
Ensemble Theatre
Mar/Apr 1998*

"...After witnessing the process and reading transcripts, I was excited by the sheer dreams it engenders. In a society which tries to keep most emotions well and truly hidden, It was started and illuminating to see emotions suddenly tumbling out uncensored and raw..."

Would you be interested in seeing David Williamson's play on Community Conferencing will follow adra is thinking of organising a night for members to attend when David Williamson will be there (Ensemble Theatre, 26 March 1998) If you're interested, please drop us a line at PO Box A2468, Sydney South, NSW, 1235.

Anne Prior noted that when disputes arise over the custody of children the majority of people in South Australia still believe that seeing a lawyer is the first step to take. The call for a multi-faceted approach to education on cooperative conflict resolution methods, was clearly a strong theme of the Symposium.

SCHOOLS

Schools can play an important part in encouraging the use of problem solving skills in conflict management. Speakers emphasised that programs such as peer mediation teach children the skills and benefits of peer mediation and this can have a 'trickle up' effect.

Pamela Harrison outlined the Peer Mediation Program offered by the Marion Legal Services, which has now trained 2500 primary school students. Through teaching students to communicate feelings, listen to the needs and points of view of others and to managing anger, children find creative solutions for problems which they seem to know would not otherwise go away

ACCREDITATION

Arguments were proposed by Dame Roma Mitchell for mediators to be trained within a recognised accreditation system.

David Jenkins suggested that there is a need to develop a private mediation profession which allows for:

- choice of mediator
- quality of mediator through competition
- overcoming the problem of user pays system versus court provision of a free service
- wider numbers of mediators and therefore wider use of mediation.

In addition, he highlighted the need for an acceptance by the courts of private mediators.

MEDIATION AND THE ROLE OF COURTS

Dame Roma Mitchell stressed that mediators should not 'declare the law' and furthermore the courts should retain the right to interpret the law. There should be clearly defined roles for courts as decision makers and/or problem solvers. Other speakers noted that if the courts have a role as problem solvers then resources need to be provided for the administration of mediation.

DELAYS AND COSTS

One of the aims of the reforms to legal procedures has been to reduce court delays and costs - Dame Roma reported that delays escalated from weeks to years in

some cases. Judge Brebner agreed that the litigation explosion around the world in the 1980's has led to immense delays in hearing cases. Dame Roma claimed that mediation must therefore become an option for state legal processes. However she warned that it is unwise to call for mediation simply to reduce costs. In fact, in the case of industrial law, this move could backfire in that the costs for mediation could add up to more than a day in court.

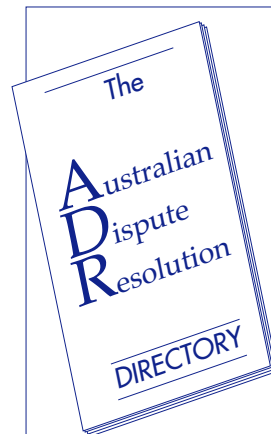
PRE-MEDIATION MEETINGS

Judge Brebner urged for more work to be done at the pre-trial stage of disputes, since 90 - 95% of cases reach agreement before going to trial. He argued that alternative dispute resolution methods, such as mediation and conciliation, should be introduced sooner rather than closer to trial date. While reducing demand on the courts, an additional advantage of mediation is the substantial saving in costs for the parties involved in the

dispute. Judge Brebner is leading a Pilot court-based Mediation Program, implemented in 1998, involving thirty mediations to date. Importance is placed on the pre-mediation meetings. In these meetings the mediator meets the parties involved to:

- explain the mediation process
- gain an agreement to mediate
- collect pre-mediation reading
- allow for the parties to outline the dispute
- conduct individual meetings

In this process lawyers take a back seat - they are there to advise only. While the evaluation of this Project is not yet complete, indications so far are that 50% of cases are settled at mediation, and some are settled after mediation but before the court hearing. Therefore it seems that the majority of cases are settled out of court as a direct result of mediation.



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USE OF ALTERNATIVE DISPUTE RESOLUTION

Alternative methods for resolving disputes are applied in many organisational structures in society. Judge Brebner noted that Alternative Dispute Resolution is not a new phenomenon and in fact dates back to the 1891 Arbitration Act which recognised that differences could be resolved outside of a court room.

David Jenkin noted that while there has been an increase in the use of mediation in commercial contracts in South Australia, requests for mediation are slow. The most common issues in disputes that lend themselves well to the use of mediation are those which involve relationships - such as intellectual property, partnership disputes, internal business disputes and contract disputes.

Conciliation is the most often used form of Alternative Dispute Resolution in industrial disputes in South Australia. While the Industrial Commission has the power to mediate, only one particular dispute has used mediation. Judge Jennings did highlight the fact that by using mediation, a whole range of additional disputes could be resolved during the process. Another advantage of mediation as seen by Judge Jennings is the ownership of the results by the disputing parties. Judges, Commissioners and conciliators have had mediation training but conciliation and arbitration are still the common approaches used in the industrial relations arena in South Australia.

The importance of acknowledging cultural differences in dispute resolution was highlighted by Dr Suzi Hutchings. Dr Hutchings raised important questions as to who should interpret cultural understandings, particularly in the justice system, as Aboriginals for example are the most incarcerated cultural group in Australia. If this over representation is to change then caution needs to apply in finding acceptable alternative ways of addressing law infringements. Dr Hutchings also emphasised the cultural differences that exist within Aboriginal communities by comparing the appropriateness of cultural laws used in traditional Aboriginal communities with other forms of law needed by urban Aboriginal

groups. Suzi Hutchings emphasised the need to get to know the people involved in a dispute involving Aboriginal people before the mediation takes place, and to sort out the needs of the individuals on a case by case basis, so that the subtleties of cultural relationships can be determined.

While mediation is offered by the community legal services, John Steele outlined the reservations of community members in using mediation to resolve neighbourhood disputes. John believes that in part this is due to the practice of people putting up with the problem until the aggravation level is intolerable. They are then not in a framework conducive to talking with one another.

Jan Kitcher noted that Family Conference coordinators in the Juvenile Justice system use many mediation skills in an attempt to develop responsibility for behaviour within youth offenders and to

promote victim participation and reparation. With the involvement of members of the families of youth offenders, relevant members of the community and victims and their families or supporters, Family Conferences play an educative role in the use of mediation skills as a problem solving approach to matters otherwise

dealt with by Youth Courts. The Family Conference models an alternative to the adversarial approach to law enforcement, by using a restorative justice approach which makes amends to community members. This method, by providing a relational context to the resolution of disputes, is inherently community building.

John Steele suggested that a 'mind shift' is needed in community members, from an insistence on individual rights and regulations to the consideration of mutual needs and cooperation.

He proposed that since neighbours tend not to know one another, there is a perpetuation of a mindset which insists on 'rights' and focuses on blame, owing to the fact that there is an absence of relationship in the context of the dispute.

Environmental disputes, particularly pertaining to the use of the land, provides an area of growing importance in the use

"John Steele suggested that a 'mind shift' is needed in community members, from an insistence on individual rights and regulations to the consideration of mutual needs and cooperation"

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Dale Bagshaw

University of South Australia

Magill Campus

St Bernard's Road

Magill SA 5072

Fax 08 8302 4377


Email: dale.bagshaw@unisa.edu.au

of mediation, according to John Hodgson. While it is mandatory to offer mediation before some courts dealing with environmental issues and while mediation is clearly seen as a valuable step along the way in environmental disputes, John Hodgson emphasised that mediation is an adjunct, not an alternative to adjudication. Mediation may in fact not be appropriate in all environmental disputes but as John Hodgson pointed out, mediation can in these cases play an important role in helping to develop relationships and in narrowing down the range of issues to be dealt with in court, thereby reducing court costs.

Anne Prior strongly advocated the use of mediation within the Family Law arena. Mediation allows for clients to take command of their own and their families' lives. Anne reported that 80% of cases in Relationships Australia reach full agreement quickly. However she believes that for mediation to work there need to be substantial shifts in the attitudes of members of the legal profession.

SUMMARY

Overall, it is evident and encouraging to see that the formal use of 'alternative' or primary dispute resolution methods have increased in South Australia over the past ten years. Some concluding remarks by Dale Bagshaw stressed the importance of the use of language and the implications of using categories such as 'lawyers and non-lawyers' - placing law at the centre of dispute resolution. John Murray, in his summing up of the salient points raised in the Symposium, emphasised the need to overcome the obstinance that exists in demarcation issues illustrated in such language. The term 'alternative dispute resolution' begs the question of 'alternative to what' in the minds of the public. If it means an 'alternative to litigation' then it perpetuates the law v. non-law dichotomy. As John Murray proposed, mediation is an important and necessary part of the justice system not a replacement or an adjunct. He believes that if there is a true desire to educate the community in ways of resolving disputes which enhance relationships in the community, then terms such as 'primary dispute resolution' would be preferable.

Solving problems through communication and by considering the needs and interests, rather than the positions of disputing parties, could perhaps be achieved if processes such as mediation were to be seen as the 'first port of call' rather than relying on the law in the first instance. If, as purported by John Murray, law follows social change rather than leads it, then mediation must be put at the centre of the options for dispute resolution rather than as a 'poor cousin' of the law. He believes that this can be achieved with "patience, education, training and good strategies". 



COMMUNITY MEDIATION IN A RIGHTS CONSCIOUS ERA

John Steele

In the early days, mediation seemed like a great idea, particularly to those of us working at the community level who could see the trauma caused in people's lives by litigation, where all their resources were pitted against each other in an effort to win a legal battle instead of being brought together to solve the real problem. Governments in most States, particularly New South Wales, could see the possibilities for reducing the costs of the legal system and the level of conflict in the community. The trouble was, and still is, that out there in the community people in conflict situations do not see it that way.

The greatest challenge for community-based mediation services, which are offering a process in which participation is voluntary, is to get more people to mediate. While the number of people contacting the Services has certainly increased over the years, the total now being 3000-3500 new contacts a year, the vast majority of them want advice – advice about what they can do or get someone to do for them – normally advice about the law, less often about how to deal with the other party, and occasionally about the availability of technical forms of assistance. In each of the last five years 74-79% of all inquirers to our Services wanted this kind of assistance. Most of the rest wanted us to act as a 'go-between', raising the problem, passing messages, facilitating negotiation. Shuttle negotiation involving the other party occurred within the year in 7.5% to 10.5% of the total number of cases, and 'face-to-face' mediation in a further 4%. The figures are consistent over time and consistent between similar organisations interstate. The question is – why hasn't mediation caught on with the people who could use it to resolve their disputes? The relatively high level of total demand indicates that enough people know about mediation, or at least are able to find out about it when they have a problem.

Community mediation became a feature of the landscape in the United States a decade sooner than in Australia. Concerns about the costs and delays involved in litigation and the inappropriateness of the adversary process for resolving relatively minor disputes were central to the case for the early Neighbourhood Justice Centres as they were called. Apparently there were also other sentiments behind

the movement – cynicism about lawyers, distrust of centralised power and a preference for community control. While the ideology of community was very much to the fore, however, Tomasic notes that the movement simply grafted community mechanisms on to the legal system instead of seeking to bring about structural changes in the community.

In their study entitled "Doing unto others : Disputes and Dispute Processing in an urban American Neighbourhood" Suzanne and Leonard Buckle comment that the Neighbourhood Justice Centre program was designed without adequate prior research about the weaknesses of the legal system or people's preferred means of resolving problems. There was in effect, no market research done. The Buckles' research, in a community identified only as Johnson Square, found that ordinary people had a strong sense of what was the appropriate way to resolve problems. They called it "self-help justice". This involved direct confrontation with the person(s) identified as the source of the trouble, or calling on their entitlement to the support of friends or public services (invariably provided by local government) to intervene by direct action or, at the very least, to validate their sense of grievance.

In her book *Peacemaking in your Neighbourhood: Reflections on an experiment in community mediation* Jennifer Beer makes a similar observation about the preference of people in the suburbs of Delaware County. Depending on the importance of the relationship, people will avoid and accommodate annoyances for some time. Some try to talk to each other. If this fails and the annoyance persists, there is little incentive to maintain a friendly relationship. People go to officials. They cross what she calls the "Great Divide" from a private to a public dispute. They have a strong expectation that their rights – particularly to privacy, safety and security – will be upheld.

Our experience in Adelaide is somewhat similar to Jennifer Beer's. The common pattern of dealing with neighbour and community disputes is to "put up with" the problem until the aggravation level exceeds a certain tolerance point, determined, I suspect, by the level of interest in not having to do anything about the problem. Some people will talk to the other party, but generally this only hap-



pens if there is some positive history of interaction. (That usually means they have to know each other and too often neighbours don't. We are becoming an anonymous society.)

Many people approach an agency which they assume will have authority to deal with the problem in some way. In the kinds of disputes we commonly deal with, these agencies are local Councils, Police, Housing Trust and other government instrumentalities such as the Environment Protection Authority or the Community Housing Authority. In the past five years between 57 and 62% of our files have been referred by these legal authorities. Another 13 to 18% were referred from legal advisers and a further significant percentage had read about our Services in legal information publications. Virtually none came from the Courts – comparatively few neighbour disputes reach the civil Courts.

These figures only represent the cases that reach us, of course. But they do accord well with the findings of a 1981 survey of over 1,000 households in Victoria by Dr. J. Fitzgerald known as the "Australian Households Dispute Study". Thirty-nine percent of households reported grievances with neighbours in the preceding 3 years. Thirty-five percent of these became disputes. In these situations 40% turned to the local Council for help, 30% to the police, 10% to legal advisers and 8% to housing authorities or agents. None went to Court.

People who contact government authorities about a dispute generally expect to receive some assistance in securing what they perceive as their rights. They will probably find out more about the actual content of their rights, which serves to crystallise them in their minds. If the problem is perceived as a minor dispute, however, they may well receive the response that "there is nothing that the authority can do" and that they should try mediation. The reason is usually that there is a lack of jurisdiction, or resources, or perhaps it isn't 'core business' for the agency. People who believe they have rights and are frustrated by the inability or unwillingness of legal authorities to act on their behalf, become focused even more on their rights. People who consider that they are upright, tax-paying citizens of long standing feel they have earned their rights – why should they give them up? If they contact us, they can't see why they should mediate. Even if they come for mediation they cannot easily make the shift from a 'rights' perspective (or a blaming per-

spective) of the problem to a 'needs' perspective on which any lasting resolution should be founded.

The law relating to specific neighbourhood disputes is more likely to be civil law unless the dispute escalates. Much of it is to be found in the common law of nuisance and trespass. People's rights in these areas can ultimately be enforced only through the courts. The Police and the Councils tell them it is a 'civil' matter – they have to initiate legal action. Generally people who are not used to collecting business debts are loathe to do this. They will come to mediation as the more 'user-friendly' alternative to court action, but still expect that somehow their rights will be upheld.

*People will not settle
for anything less than
what they are
'entitled' to,
invariably because in
their eyes "it's a
matter of principle –
it's not the money"*

In many cases where people hold out for a solution based on perceived rights, there are in fact no specifically relevant legal rights – public or private. They are, in effect, claiming a moral right or a preference which is derived or extrapolated from the "spirit of the law" or "justice" as they see it, but is not actually the subject of law. I have heard people in mediation brand everything they didn't like to hear about themselves or their family as "defamation" (which gives them the right to leave).

People will not settle for anything less than what they are 'entitled' to, invariably because in their eyes "it's a matter of principle – it's not the money"). Typical examples of such principles are "No one speaks to my children like that"; "Just because we're a big company, people think they can hit us for money"; "First come, first served" and "Why should they be treated any differently?". These principles serve to extend the breadth of the "rights perspective". The implication is that they are somehow deserving of recognition by others (particularly the other party and the mediators), whereas in reality the princi-

ples are simply based on personal values which happen to be commonly held.

If that is our greatest challenge, what have we been doing about it? In the long-term our most effective strategy for developing a widespread appreciation of the merits of the "Win-Win approach" to conflict will be the schools peer mediation program. While the Community Mediation Services were active in this program in its early stages in the north-western suburbs, most of its successes are due to the more recent work of the Marion Legal Service's Pam Harrison, and I am delighted to note that she will be speaking about it today. It has been observed in the United States that teaching conflict resolution skills to children results in a 'trickle up' effect as they talk to and influence their parents and other adults. I have been to an Adelaide primary school to commend publicly a school peer mediator for her exemplary role in de-escalating a potentially violent dispute between adult neighbours. Peer mediation in secondary schools has not taken off to anything like the same extent, probably for reasons which have emerged in recent research by Dale Bagshaw and Ken Rigby at the University of South Australia. We have adapted our secondary school program accordingly, and now offer workshops on conflict resolution skills which students can use on a completely informal basis within their peer group.

Another significant strategy for shifting the basis of the common approach to neighbour and community disputes from rights to interests has been the development of 'ADR friendly' legal information booklets in collaboration with the Legal Services Commission – "Shared Households and the Law" and "Strata Titles and the Law" and especially "Neighbours' Trees and the Law" and the 1998 edition of "Fences and the Law". They describe rights, but in the context of relationships, and promote mediation at every opportunity.

Offering technical assistance with practical solutions is another way in which we have sought to focus on needs. Hiring out equipment to help people train dogs not to bark inappropriately, vacuum up fallen leaves, and lop high overhanging branches has been an interesting facet of the Service.

Jennifer Beer has stressed the importance of intervention timing in overcoming the deep-seated preferential inertia towards a reliance on rights.

"Once the Great Divide is crossed it is



hard to go back again. Mediation is ideally suited for that brief moment when parties decide the time has come to confront the situation head on, but before they have formalized the situation as a matter for public judgement and no longer wish to talk things out. The question is how to devise mechanisms to catch people standing on that dividing line”.

We realized that most people on that dividing line had to go shopping regularly and many of them at large shopping towns. By setting up a very visible information display stand in shopping malls we were able to catch people who had real, current problems with neighbours or community groups before they made specifically legal enquiries and developed an expectation that their rights should be enforced by authorities. This worked very well in terms of the numbers of people who stopped to ask questions, but mostly because the centrepiece of the display was an extremely friendly and wise-looking Newfoundland dog. We also realised that people on Jennifer Beer's dividing line watched, read or listened to the media. Unable to pay for media advertising, we have tried to take full advantage of the opportunities for media exposure. Unfortunately, though, our work is confidential and the media are mainly interested in 'real life' stories. To get around this we have even offered to develop a television drama series on mediation with a major production company, but to no avail. Three-minute sequences on Gardening Australia is all you'll get.

For the future, I would like to see a great deal more research on what people want from alternative dispute resolution. The key to success in helping people see conflict problems more in terms of needs than rights lies in taking advantage of every opportunity to shift public awareness.

This may mean new forms of publicity. It may mean new forms of process which recognize legal interests. We may need to develop a clearer vision of what it would be like if organizations and communities were built more on an ethic of cooperation than the pervasiveness of rules, a commitment to meeting needs more than regulating behavior.

A futuristic vision of that kind is a feature of the television series "Star Trek". But the fourth millennium is too long to wait. 🌟



THE FIRST 10 YEARS OF MEDIATION IN SOUTH AUSTRALIA

"If at first you don't succeed - try, try again"

Anne Prior, Director of Services, Relationships Australia (SA) Inc.

succeed", to express the struggle it has been to establish family mediation these last ten years in South Australia. The climate in which we have had to grow has been one of opposition, largely, both passive and active. We have had our supporters, but we have also had large forces against us. I was naive enough to underestimate these at the beginning.

It is a strange coincidence, and perhaps an important one, that this 10th birthday, so to speak, occurs in exactly the month that Relationships Australia (SA) is celebrating its 50th year. Across Australia within the next twelve months, all the Relationships Australia organisations will be celebrating a 50th birthday.

We all began, as you will mostly know, as the Marriage Guidance organisation. Our beginnings were very small and not unlike those of the mediation movement.

Mediation started in a not dissimilar way. Interested individuals had heard of the success of mediation, mostly in America, and began to encourage training and to seek Government assistance. They, too, were successful, and in 1990 the first main contingent of Family Mediation Services were established. That is when I entered the scene.

The burgeoning divorce rate was certainly a motivating factor for Government, but there were also concerns about the inappropriateness of the adversarial family law system, and its attendant high costs, for the resolution of what are basically human relationship problems.

It is little wonder, then, that it was mostly human relationship professionals who showed interest in the new movement. There were one or two lawyers, the altruistic visionaries of their profession, but mostly it was people of counselling or social work backgrounds who began to train for Family Mediation. The fact that people from my background were assisting people with property and financial disputes certainly was considered quite unsuitable by many in the legal profession.

I joined the service in 1990. My background was as a Social Worker and Marriage Counsellor, and over my 30 years of practice I had become disturbed by the

fate of couples who separated and who were 'thrown to the lions' in the legal system. I knew there must be a better way. That was my stake in mediation, and it remains so today.

There IS a better way – it is called mediation.

Armed with my counselling skills (sometimes a liability, I thought in my early years as a mediator) and a head full of theory from Folberg and Taylor, John Haynes & Saposnek (the only books available to me on mediation from the Family and Community Services library), I began work as the Manager of Family Mediation. We all went to CDR workshops in Melbourne or Sydney and, frankly, during mine I was completely at sea. This role of mediator was a hard one for a counsellor to assume, with the best will in the world.

In the early days we learned to trust 'the process', and I came to know how powerful and successful that process could be.

Two major evaluation studies, comparing the different types of Family Mediation Services – Court and community-based – and an extensive study into domestic violence and mediation, were conducted. These testified to the success of the process, the outcomes and the satisfaction of our clients. But they didn't silence our critics.

Somehow, I suppose I thought that everyone would see the potential of this wonderful new path for separating couples and would be anxious for them to use it. I was wrong. I came to realise how many have a stake in keeping the current adversarial system going. Ten years later, they are still working diligently to do so.

I have always acknowledged and supported the place of the legal system in Family Law. However, its adversarial processes are NOT appropriate for every separating couple.

There were huge forces working against mediation:

- Lawyers;
- Family Court;
- Feminists;
- The Domestic Violence lobby;



- Men's Groups; and, I regret to say,
- Counsellors and people of the helping professions.

The truth is that the adversarial system is deeply entrenched in our collective psyches. When push comes to shove, 99 out of every 100 Australians believe that resort to a lawyer is the first and best option.

The general public still believe that changing locks on the doors, removing money from bank accounts, getting immediate legal advice, and getting "custody" of the children (right or wrong) is the appropriate response to a relationship breakdown. Many relationship counsellors, too, still believe this, deep down.

The legal profession, in general, in South Australia has at best paid lip service to family mediation. Lawyers have adopted mediation when it has been a way of swelling their own legal practice. Referrals to mediation from lawyers remain staggeringly low. Yet most lawyers tell me how much they support it. As South Australia has one of the highest divorce rates in Australia, we should by rights have a burgeoning mediation caseload. There are a handful of solicitors who have supported us, and they stand out like beacons in their profession. I thank them.

Against these beliefs, it is difficult to convince people that it is better to find their own solutions to disputes.

In South Australia, I have encountered a self-interested Family Court which resisted my efforts to publicise our service in the Court, as we are entitled to do

under the Family Law Reform Act. As the Court does not provide a mediation service itself, this seemed to me rather extraordinary.

I have encountered every kind of 'patch protection'. The last thing being considered seems to be the interests or well-being of the clients. I actually have letters in which it has been stated that it would be 'too confusing' to tell clients about mediation. Patronising attitudes towards clients such as this have permeated my contact with possible referers over the years.

I have come to realise that many professionals, including lawyers, do not only NOT believe in self-determination, a basic tenet of mediation, but they actually believe that clients need to be told what to do. It is therefore no wonder that they find mediation distasteful.

I have had to deal with Men's Groups suspicious of our procedures about Domestic Violence and accusing us of being anti-male. I have equally had to deal with the domestic violence lobby, who seem to believe that we are so incompetent and so unethical that we would, willy-nilly, drop victims of DV into mediations and watch them walked all over by the perpetrator.

Mediators have been evaluated, evaluated and evaluated. We have had Government regulations imposed on us to "protect" our clients. We have Government requirements for our practice that few other professionals are asked to meet. I believe that we are still regarded as somewhat suspect.

At times it has been hard to be polite. In a recent example, the Parliamentary Inquiry into Relationship Education had a few ill-informed words to say, by the way, about family mediation in community agencies.

Community agencies are tired of ill-informed criticism of their services.

I have continued to marvel at the active propaganda of the legal system which holds that people, including DV victims, have their 'rights' and safety adequately protected if they use that system. Would that were the case. The legal system has to offer huge expense (for some, penury), prolonged delays such as to make status quo decisions the order of the day for children, escalation of conflict, confusion, frustration and powerlessness - to name a few. It remains a fact that the success of your case is a function of your ability to pay and pay and pay, your vindictiveness, the quality, expertise and diligence of your lawyer, and the amount of time you can afford to hold out. Ten years on, the propaganda is going strong.

Given the forces against us, it is really a wonder that we have survived, let alone grown. But family mediation is a plant grown in hardship, and it is all the stronger for that.

It has not been all bad. Family mediation has had significant rays of sunshine. It has had a series of, I consider, enlightened Commonwealth Governments, both Liberal and Labor, who have continued to support family mediation in the face of relatively small numbers of users. Without this support, our services would have died years ago. In South Australia, we have benefited from co-operative relationships between the different types of mediation agencies in Adelaide, for which I am thankful to them. We have tried to learn from each other.

South Australia has been most fortunate in having Dale Bagshaw, who has held the flag of mediation aloft, especially Family Mediation, throughout these years in the face of all resistance. Her passion for mediation has been communicated to us. Her Graduate Certificate in Family Mediation was a first for Australia and has created a pool of people with a sound theoretical understanding of Family Mediation work. Those professionals now work in a diverse range of agencies. We have been delighted to have a part in the teaching of that Course.

Family mediators have found clients, in spite of no funds for publicity, who wish to take command of their own families and affairs. Our clients have taught us the most. It is they who have given me the



will to continue. I have seen them benefit from the mediation process. I have seen them come estranged, and leave at ease with one another. I have seen their many children removed from a human battleground to a place of reason and calm. This work has been a privilege.

In the past 10 years, Relationships Australia (SA) has helped about 5,000 individuals in dispute, as well as some families in dispute. We have conducted over 3,000 joint mediation sessions. Most parties (about 80%) have reached full agreement quickly, cheaply and honourably, their financial resources saved for the good of their children and themselves. They have transformed a bond based on love and lifetime commitment to one of tolerance and forbearance.

For much of those ten years in Adelaide there was no other agency delivering Family Mediation. The Family Court Family Mediation Service came and went, but we were pleased when recently Centacare joined the field of practice here. I believe it has been a struggle for them, too.

Relationships Australia (SA) mediators have contributed to the body of literature about mediation practice in Australia. We have trained many fine mediators – professionals of the highest calibre. We have been invited to take part in the training of lawyers through Universities and law schools.

In 1995, we established a country Mediation Service in Berri, a feat that few other community agencies in Australia have managed. If it's hard establishing

mediation in a city, it's harder still in the country.

I wish to place on record my admiration for the mediators I have worked with in our service. They are a bunch of the most meticulous, skilful, ethical, diligent, hard-working, long-suffering, mature, good-natured professionals I have encountered. We have been blessed with a happy team. They would grace any profession. Their concern for their clients' best interests is always paramount. But, in spite of the rewards, it has been a struggle.

What of the future? I am not a bit good at crystal ball gazing. Given the increasing trend towards serial relationships, will this make for more family disputes? Given the rapid rise in the number of childless couples, will this make for a drop in the need for mediation services?

Mediators face a significant challenge to make family mediation practice relevant and helpful to people of diverse cultural and linguistic backgrounds. Family Mediation in Australia is grounded in Australian family values as they are enshrined in the Family Law Act. These values are not shared by people from some other countries, and we struggle to find a respectful process which will acknowledge the values of our clients, respect their differences and still enable us to fulfil our mandate within the framework of the Family Law Act.

Given what I have said about the forces against mediation, perhaps we can be proud of the many achievements. In South Australia, we now have kids being taught mediation skills and concepts at school; we have the use of mediation in

many workplaces; we have mediation being used or tried in many Courts, from the Magistrates' to the Supreme Courts. And we have Government agencies like the Child Support Agency referring clients systematically to family mediation at the point of separation. We have union members who are entitled to free mediation as one of the benefits of their union membership. And we have postgraduate courses in mediation and conflict management in our Universities. These are big achievements.

I have a concern that mediation is becoming the blanket word to describe too many different primary dispute resolution processes and interventions. Not all of them are grounded in 'real' mediation concepts like self-determination. I hope that they won't bring mediation a bad name or dilute the essential principles. I hope I am being worried about nothing.

Those of us who continue to practise mediation based on self-determination and the parties being responsible for the outcome are now being described as 'purists'. That seems to be the latest disparaging title.

What matters most is that perhaps more people engaged in all forms of dispute resolution now know, but don't quite yet believe, that people ARE capable of solving their own problems given the right intervention, and that they make decisions they are far happier with in the long run and that they uphold.

At the end of the day, this is the necessary change in community thinking which will, I hope, give mediation a future place in the sun. ☀





CONFLICT MANAGEMENT RESEARCH GROUP, UNIVERSITY OF SOUTH AUSTRALIA

Dale Bagshaw
Director

The Research Group for Mediation Studies at the University of South Australia has decided to change its name to the Conflict Management Research Group to more accurately reflect the broad focus of the research interests of the staff and research students attached to the Group.

The Research Group for Mediation Studies was formally established in August 1994. It currently includes staff and post-graduate students from the Schools of Social Work & Social Policy, Communications, Education, Law and Legal Studies, and Business Management.

Other interested staff and post-graduate students are invited to join.

Research and consultancy interests of staff and students in the group focus on all aspects of conflict studies and the broad range of approaches to the resolution or management of conflicts and disputes.

Fields of interest include – the courts and other legal systems, commerce, industrial relations, human resource management, the primary, secondary and tertiary education systems, correctional services, juvenile justice, family and child welfare, and international relations.

Current research and consultancy interests of members include – conflict and bullying in schools, restorative justice, conflict theory, cultural aspects of conflict, conflicts involving Indigenous communities, educational drama and conflict, family mediation, domestic violence, negotiation, conciliation, mediation, and industrial relations.

Members of the group were instrumental in the development of three post-graduate fee-paying courses in the University of South Australia – the Graduate Certificate in Mediation in 1993, and the Graduate Diploma in Conflict Management and Master of Conflict Management in 1997/8. Honours, Masters by Research, Masters by course-work, and Doctoral students with an interest in the area are supervised, supported and encouraged by staff.

These students are invited to participate in the Group's activities and to present papers at Research Seminars.

Staff provide research and consultancy to government organisations and community groups in the various approaches to conflicts and disputes such as: negotiation, facilitation, conciliation, mediation and arbitration, and have assisted in the development of new services in the community.

The group welcomes Visiting scholars from within Australia or from overseas. Reciprocal arrangements for Visiting scholars

have been established with the International Institute for Conflict Resolution, University of Melbourne, Victoria.

The new aims and objectives of the Conflict Management Research Group are outlined below.

AIM

To promote the study of conflict and the management of conflict, in all its areas, whether by the processes of the legal system or otherwise, for the benefit of the diverse cultural groups in modern Australia.

OBJECTIVES

1. To provide a pivotal point for research and consultancies in the areas of conflict studies, conflict management and dispute resolution, in close collaboration with community organisations, government and the tertiary sector, and with the continued establishment of international links.
2. To assist with the development of conflict theory and the practices of conflict management and dispute resolution through consultancies, interdisciplinary research, the conduct of seminars and conferences, and the publication of articles, monographs and books at a national and international level.
3. To provide opportunities for ongoing critical analysis of approaches to conflict in a multicultural society, in particular where there are imbalances of power.
4. To contribute to the development of national standards for the education and training of people involved in managing or resolving conflict as third parties (such as negotiators, facilitators, mediators and conciliators) in all fields of practice, taking into account the differing needs of diverse cultural groups. ■■

Deadline for Articles for Next Issue of Mediation News

The deadline for articles for the next issue of Mediation News is 30 April 1999.

Please send articles, letters, news items, book reviews (preferably on Disk) to:

Mediation News,
Rebecca Gleeson,
PO Box A2468
SYDNEY SOUTH NSW 1235



COURSES & TRAINING

LEADR

National Dispute Centre,

Level 4, 233 Macquarie Street, Sydney, NSW, 2000. Ph. (02) 9233 2255 Fax. (02) 9232 3024

Mediation workshops - 4 day course - teaches mediation skills and philosophy.

Issues and Techniques in Family mediation and Interpersonal disputes.

Mediate Today

Contact: Lorraine Djurican:
Ph. (02) 9223 2255 Fax. (02) 9223 6058

Relationships Australia – NSW

5 Sera Street, Lane Cove, NSW, 2066,
Contact: Linda Fisher/Valetta Turner:
(02) 9418 8800 Fax: (02) 9418 8726

Family Mediation Training Programme - 6 day course (\$1250)

Mediation Course – 6 weeks, includes 20 hour placement (\$2250)

Advanced Mediation Training Programme (\$500)

Mediation Supervision Training Programme (\$550), supervised mediation through co-mediation also formal supervision

Continuing Education – various topics including: *Assessing Effectively and terminating gracefully* (\$35); *Cross Cultural and Aboriginal Issues* (\$70); *Mediator Burnout* (435); *Children in Mediation* (\$35); *Transformative Mediation* (\$70).

NEW SOUTH WALES

The Accord Group

Level 2, 370 Pitt Street, Sydney.
Contact: David Newton or Nina Harding Ph. (02) 9264 9506
Fax. (02) 9264 8268

Commercial Mediation Training – 4 day course, cost \$1400. Also runs in-house courses: conflict resolution and negotiation skills.

Australian Commercial Disputes Centre

Level 6, 50 Park Street, Sydney.
Contact: Margaret McLelland/Sofie Hernandez: ph. (02) 9267 1000 Fax. (02) 9267 3125

Commercial mediation course – 3 day course (\$1345) and optional evaluation day (\$395)

Workplace grievance mediation course – 3 day course (\$1100) and optional evaluation day (\$395)

Building and Development Application mediation course – 3 day course (\$1025) and optional evaluation day (\$396)

Complaints Handling course – 1 day course (\$275)

Conflict Resolution Network – Community Based Projects

PO Box 195 Chatswood, NSW, 2057.
Contact: Robyn Gaspari: ph. (02) 9419 8012 Fax. (02) 9419 4305

Mediation and group facilitation - 4 day course (\$180), covers workplace mediation and grievance handling, community consultation and alternative dispute resolution.

QUEENSLAND

Alternative Dispute Resolution Branch, Department of Justice, QLD

GPO Box 149, Brisbane, QLD, 4001.
Contact: Peter Johnstone: ph. (07) 3239 6277 Fax. (07) 3239 6284.

Mediation skills course - 5 day course, cost \$1195 (catering included), introductory course developed for people wishing to gain basic understanding of mediation process and essential skills.

Relationships Australia - QLD

PO Box 595, Spring Hill, QLD, 4004.
Contact: Mike Brandon: ph. (07) 3831 2005 Fax. (07) 3839 4194

Advanced Family Mediation - 28 hour course (\$700)

SOUTH AUSTRALIA

University of South Australia – Conflict Management Research Group.

St Bernard's Road, Magill 5072. Contact: Dale Bagshaw – phone 08 8302 4375; fax 08 8302 4377, email – dale.bagshaw@unisa.edu.au Website address www.unisa.edu.au/submenu/course.htm <http://www.unisa.edu.au/submenu/course.htm>

Training workshops and consultancies for organisations, tailored to need – communication, conflict management, mediation, conciliation – 2 hours to 5 days. Specialist training in sexual harassment facilitation, family mediation, conflict management in: corrections, policing, juvenile justice, child welfare/protection, schools, human resource management, courts, the workplace or industrial relations. University courses/Continuing Education options available (see below).

VICTORIA

Barwon Parent & Youth Mediation Service

Geelong, Victoria.
Contact: Chris Halls:
ph. (03) 5223 2966
Fax. (03) 5229 0102

Professional Mediation Training – 3 day course (\$160)
Mediation available for parent/adolescent at no cost. Peer mediation available to schools.

Council of Adult Education,

Community Programmes Department
256 Flinders Street,
Melbourne, VIC, 3000.
Contact: Margaret Jones/
Muriel Sutton
Ph. (03) 9562 0629 or
(03) 9562 0799

Mediation an Introduction – 12 hour course, introductory course for people in management roles and human services field.

Dealing with Conflict – 5 weeknight course, improvement in skills and confidence re: conflict management.

Dealing with anger and communicating across cultures in workplace – courses also available.

Family Mediation Centre

Noble Park, Victoria.
Contact: Marie Garric:
ph. (03) 9547 6466
Email: family@mediation.com.au
family@mediation.com.au
<http://www.mediation.com.au>

Family Mediation Training Courses, including Family Law and Parent Adolescent work

Level 1 18th, 19th & 20th February 1999

Level 2 29th, 30th April & 1st May 1999

Cost: \$500 for each level, with 10% discount if a deposit received 10 days prior to commencement.

No dates have been set for workplace/grievance management training however these courses are still being offered.

Effective Grievance Management Training – 3 day course (\$500), understanding the nature of workplace grievance and their effects on organisations and individuals. Learn how to design effective approaches to the management of grievance.



COURSES & TRAINING

International Conflict Resolution Centre

University of Melbourne, Carlton Campus.

Contact: Margaret Clark:
ph. (03) 9344 7035

Fax. (03) 9347 6618. Various courses:

Mediation in schools – 30 hour course, January 1999,

Contact: Pat Marshall:
ph. (0359) 685 414, for primary and secondary school teachers and counsellors.

Mediation short course – 40 hour, 13 week course,
Contact: Diana Pittock:
ph. (9592) 1907, Practical and theoretical training for professionals – lawyers, managers, teachers, social workers and community workers.

Managing Conflict in Planning –
Contact: Robin Saunders:
ph. (03) 9853 7510, Dispute resolution and facilitation skills for planners (including local government).

La Trobe University

School of Law & Legal Studies, Bundoora, VIC, 3083.

Contact: Tom Fisher:
ph. (03) 9479 2423, (03) 9479 2755,
Fax. (03) 9479 1607.
email: T.Fisher@latrobe.edu.au

Family Law for Mediators – total fees approx \$6,000, each subject \$1,000 - subject forms part of the Graduate diploma in Family Law but is open to practising mediators and others needing a grounding in relevant issues of family law.

Relationships Australia – Victoria
46 Princes St, Kew.

Contact: Ena Shaw: (03) 9484 9775

Intermediate Mediation course – 3 day course (\$695), includes cultural issues and intake procedures.

Introductory Mediation course – 2 day course (\$595), includes the separation process and the effects of separation on children.

UNIVERSITY CERTIFICATES DIPLOMA, DEGREES

NEW SOUTH WALES

Southern Cross University

Lismore & Coffs Harbour campuses and external study.

Bachelor of Social Science with
Counselling and Mediation Studies Major
- 3 yrs full time, 6 yrs part time, contact:
Marilyn Ryan: (066) 203 133.
Bachelor of Legal Studies, Dispute
Resolution Major, contact: Anne Maree
Sharkey (066) 203 107.

University of Western Sydney

Macarthur, Sydney. Contact: Linda
Fisher: ph. (02) 9418 8800
Graduate Certificate of Mediation, 1 yr
part time.
Graduate Diploma of Mediation, 2 yrs
part time.

Charles Sturt University

PO Box 588, Wagga Wagga, NSW,
2678. Contact: Course co-ordination: ph.
(069) 33 2513 Fax: (069) 33 2790.
Graduate Certificate in Commercial
Dispute Resolution, 1 yr part time course
by distance education.

University of Technology

Faculty of Law, Post Graduate studies,
Level 3, 645 Harris Street,
Ultimo, NSW 2007.
Contact: Marilyn Scott
Ph. (02) 281 2699
Fax (02) 281 2127
Graduate Certificate in Dispute
Resolution, 1 yr part time (\$3,200)
Master of Dispute Resolution, 2.5 yrs
part time (\$7,200)

Macquarie University

Macquarie Graduate School of
Management, NSW, 2109.
Contact: Anne-Marie Hodson,
Ph. (02) 9850 9027
Fax. (02) 9850 9022
Post Graduate Diploma in Conflict
Management
Macquarie University School of Law also
offers various courses (Dispute
Management and Resolution,
Environmental Litigation and
Mediation):
Contact: Frank Astill
Ph. (02) 9850 7076

SOUTH AUSTRALIA

University of South Australia

The following 3 courses are in a nested
arrangement, give credit for prior study
in the area (including post-graduate legal
practice courses), and offer a wide choice

of subjects. Payments made on a semester
basis for subjects taken. Interstate/
overseas applicants with an undergraduate
degree (or equivalent study and/or
experience) welcomed. Applicants from
all disciplines eligible.

Graduate Certificate in Mediation
(Family) - est. since 1993, 1 yr half time,
3 subjects (Mediation Process, Concepts
& Skills and Advanced Family Mediation
both taught in 5 day blocks, Family Law
for Mediators in external mode). Total fee
- \$2,850.

Graduate Diploma in Conflict
Management - 1 yr full time or 2 yrs half
time. Supervised Field Practice optional.
Some subjects external mode and others
in 5-day blocks. Wide range of subject
choice. Total fee - \$5,700.

Master of Conflict Management
1.5 yrs full time, 3 yrs part time. Minor
Thesis - optional. Credit given for
relevant Graduate Certificates and
Diplomas.

Some subjects common to these courses
available as Continuing Education
options for a fee.

Master of Social Science (Research) and
PhD courses are also available to
interstate students.

Inquiries: Faculty of Humanities and
Social Sciences,
Magill Campus,
St Bernard's Road, Magill 5072.
Ph. (08) 8302 4424,
Fax. (08) 8302 4395 or e-mail:
humanities@magill.unisa.edu.au;
humanities@magill.unisa.edu.au;
mailto:dale.bagshaw@unisa.edu.au
__dale.bagshaw@unisa.edu.au__

Website address for information about
these courses – <http://www.unisa.edu.au/submenu/course.htm>

VICTORIA

La Trobe University

School of Law and Legal Studies,
Bundoora, VIC, 3083. Contact Tom
Fisher/Ted Osborne (03) 9479 2755,
(03) 9479 2423 Fax (03) 9479 1607 or
e-mail: T.Fisher@latrobe.edu.au

Graduate Diploma in Family Law
Mediation, 2 yr part time (\$6,000)
Graduate Diploma in Conflict Resolution,
2 yr part time (\$6,000)
Graduate Certificate in Conflict
Resolution
1 yr part time (\$3,000)

Graduate Certificate in Conciliation and
Ombuds Strategies (pending approval), 1
yr part time (\$3,000)

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Fax (08) 8302 4377

email: Dale.Bagshaw@unisa.edu.au

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Please send articles, letters, news items, book reviews (preferably on Disk) to:

Mediation News, Rebecca Gleeson, PO Box A2468 SYDNEY SOUTH NSW 1235

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