



ADR Industry Forum

23 Feb 2017

This paper was prepared and settled jointly by the members of ADRAC.

Introduction

During each of the three years 2014, 2015 and 2016, there was held in Sydney a one day national ADR industry forum. The idea of the forum was initiated by an ADR membership and training body, the Australian Dispute Resolution Association (ADRA-NSW), based in Sydney.

The Initiating Factors

In October 2013, ADRA under its new president Katherine Johnson, had called a meeting of its past presidents, in part to examine its own future directions. ADRA explored various ideas including the possibility that it would sponsor or promote a national industry meeting of ADR bodies of all types but mainly restricted to those in the private service field. Organisations funded under legislation such as the Office of the Franchise Mediation Advisor (OFMA) and NSW Legal Aid, were not included as their needs and interests were accessible by government.

It was considered that a national forum might examine issues of common interest to the ADR field from the point of view of the practitioners. There were expressed concerns that political attitudes to DR were altering and were less supportive. There were concerns about the need to promote legislative

structures, practitioner insurance and to encourage greater use of DR in all its forms.

At a later meeting of its board, ADRA decided that it would promote a self-determining steering committee drawn from the DR community with a view to organising a self-determining national DR industry forum.

The Steering Committee

The first Steering Committee was formed by invitation of ADRA and consisted of:

- Katherine Johnson (Chair)
- Suzanne Greenwood (CEO of IAMA as it then was)
- Deborah Lockhart (CEO of AIDC as it then was)
- Fiona Hollier (CEO of LEADR as it then was)
- Jeremy Gormly SC (Chair of NADRAC as it was then)
- Ann Fieldhouse (Mediator and private member)
- Jane Houselander (Mediator and private member)
- Mary Walker (Mediator and private member)

The Steering Committee formulated some terms of reference which after some amendment over time were settled in the following form:

1. The development of contact among all non-government DR industry entities with a view to enabling those entities to develop and maintain lines of communication with one another on matters relating to:
 - a. Effective dispute management in all areas of the Australian community, economy and workplace.
 - b. The needs and activity of government in the DR field.
2. The development of common interests within the DR industry including the development and utilization of a line of communication with

government in pursuit of greater use of DR in the Australian community, economy and workplace.

The Steering Committee commenced organising a one day forum to which it invited DR entities including DR membership bodies, DR academics, and persons regarded as elders in the DR field.

2014 - The First National ADR Industry Forum

The first national industry forum was held on 14 May 2014 at the Australian International Disputes Centre (as it then was – now Australian Dispute Centre) at its meeting rooms at 1 Castlereagh St Sydney. Logistical support was provided by what was then LEADR.

Entities and elders totalling 42 in number attended the forum. Invitations aimed to gather together leaders in the DR field. Invitees were asked before the forum day to make suggestions for the forum and to identify questions likely to be of relevance to the forum.

On the day of the forum an opening address by Jeremy Gormly SC described the genesis of the forum and outlined the principal questions that had arisen both from the steering committee and invitees.

The agenda for the day was divided into two parts. The first consisted of reports that described the state of each of the main segments of the DR field. Professor Laurence Boulle spoke about the state of mediation. Mr Warren Fischer spoke about the state of arbitration and Professor Tania Sourdin spoke about emerging fields and modes of DR other than mediation and arbitration. Fiona Hollier gave a working presentation about tackling the issues confronting the Forum and facilitated a discussion about future options in the DR industry.

The second part of the day consisted of group discussions of all attendees based around two questions identified in the opening address which were formulated as follows;

1. How can we work together to get a common voice with government on ADR issues as needed?
2. What can we do as an industry to develop and extend the use of ADR in the wider community?

The various groups, each of whom had discussed the two questions, reported to the re-assembled forum. Margaret Halsmith, Chair of what was then LEADR (now Resolution Institute), led discussion and summed up the views expressed during the day and the options confronting the forum.

The conclusion of the meeting was that the forum had been an opportunity to learn about unfamiliar DR sectors and exchange views. All institutional attendees needed to report to their boards, but most attendees considered that the steering committee should continue its work and repeat the forum the next year. Discussion about the possibility of a Forum website occurred.

The subsequent volunteering steering committee of 2015 consisted of:

- Katherine Johnson (Chair)
- Deborah Lockhart (CEO of AIDC – now ADC)
- Fiona Hollier (CEO of LEADR as it then was)
- Ann Fieldhouse (Solicitor, Mediator and private member)
- Jane Houselander (Psychologist, Mediator and private member)
- Mary Walker (Barrister, Mediator and private member)
- Kath McEvoy (Mediator and private member)
- Jim McDonald (Mediator and private member)
- Deborah McFarlane (Mediator and private member)

2015 - The Second National ADR Industry Forum

The second industry forum was hosted by Ashurst Lawyers in Sydney on 14 May 2015 exactly a year after the first forum. It was promoted by the steering committee again chaired by Katherine Johnson. Attendees numbering about 25 were less in number than the previous year but were considered by the steering committee to represent a cross section of the industry.

The forum was opened by Katherine Johnson who presented the forum with two questions:

- What actions are needed to provide a line of communication between Government and the DR industry on DR issues?
- What can the DR industry entities do to increase the use of DR techniques in the community?

The second forum took a form similar to that of the previous year. Those attending heard reports on various parts or sectors of the industry and then considered the two questions put to them by Katherine Johnson in the opening. The forum came closer to the question of national platform for the ADR industry, much like that of a federation that deals solely with national DR interests. There was pragmatic recognition of the size and resources of the industry. Discussion focussed on alternative possibilities that might seek some of what a national platform might achieve; most considered DR organisations would maintain independence to contribute to the national platform.

The conclusion of the meeting was that the steering committee should continue its work and that it might further explore the development of a website as a tool for extending the work of the forum.

The Steering Committee for the next year consisted of:

- Katherine Johnson (Chair)
- Deborah Lockhart (CEO of AIDC – now ADC)
- Fiona Hollier (CEO of LEADR - now Resolution Institute)
- Ann Fieldhouse (Solicitor, Mediator and private member)
- Mary Walker (Barrister, Mediator and private member)
- Kath McEvoy (Mediator and private member)
- Jim McDonald (Mediator and private member)
- Deborah McFarlane (Mediator and private member)

2016 - The Third National ADR Industry Forum

The third forum was held on Friday 2 August 2016, at the meeting rooms of the Australian Dispute Centre (formerly AIDC) 1 Castlereagh St Sydney where the first forum had been held. The numbers attending totalled 15 organisations or individuals.

Katherine Johnson, still as chair of the steering committee, reported on the history of the forum. The agenda of the forum enabled each attendee to report on their own organisation and to provide views on a consultative body that would reflect the views of those in the industry.

Later in the day the forum heard a report from Jeremy Gormly SC, Chair of the new Australian Dispute Resolution Advisory Council (ADRAC), on its development, its work to that point and its proposed work plan for the future. He emphasised that ADRAC, like NADRAC before it, was not a membership or training body and would not be a peak body for industry. He reported however that ADRAC intended to develop thought in the DR field and intended to establish contact with government with a view to promoting the use of DR in all forms of dispute including in and with government. He reported on ADRAC's DR mapping project.

The forum heard expressions of view from attendees on the role that the forum might play in the future. Views varied on the role of the forum from lobbyist for the industry to a clearing house or point of contact for industry DR bodies. Katherine Johnson reported on the development of a proposed website to enable the forum to have a future presence.

To that effect Katherine Johnson introduced Mr Simon Olsen as the proposed web designer for the Industry Forum. Also addressed was the possibility of a LinkedIn chat room to further discuss how DR industry issues could be set up on the web. In line with Mr Olsen's suggestions, the forum decided that an administrator should be appointed to set up a LinkedIn site to monitor the conversations. The forum decided by consensus that the steering committee should continue its work and that the steering committee might continue to develop a website along the lines identified by Katherine Johnson.

Mr Olsen later addressed the possibility of LinkedIn discussions with the steering committee in follow-up meetings. Andrew Wong was appointed as administrator by the new steering committee to set up the LinkedIn chat room and monitor the conversations.

The Steering Committee for 2017 consisted of:

- Katherine Johnson (Chair)
- Deborah Lockhart (CEO of ADC)
- Deborah McFarlane (Mediator and private member)
- Callum Campbell (Mediator and private member)
- Fiona Hollier (CEO of Resolution Institute)
- Ann Fieldhouse (Mediator and private member)
- Mary Walker (Mediator and private member)
- Kath McEvoy (Mediator and private member)
- Professor Laurence Boulle (Mediator and private member)

Future of the Forum

Each of the three meetings of the industry forum discussed questions relating to the DR industry as a whole. Forum discussions assessed the state of the industry in its various segments; it noted the small size of the industry and its limited resources. It discussed the need of the industry to lobby government in industry interests and the problems that could be addressed by a united approach.

There were expressed concerns about loss of government interest in ADR, about improving communication among DR industry bodies, and about the ability of the industry to speak with a united voice to government.

There was acknowledgment of the idea that the DR industry was too small and lacking in the resources necessary to develop a standing peak body. The three meetings appeared to accept that value existed in continuing to meet and examine the state of the industry and look to other means of developing the interests of the industry and lobbying government. The three meetings further confirmed the need to establish an Industry Forum for Dispute Resolution (IFDR) web-site to be launched on 30 May 2017 at the 4th Industry Forum Conference day.