# From the Profession

## MDPs — South African View

Republic of South Africa

**The Association of Law Societies of the Republic of South Africa surveyed its membership in 1997 to gauge reaction to the concept of multidisciplinary partnerships (MDPs).**

78% of respondents indicated approval of the concept that attorneys should be able to form partnerships with 'accountants, financial advisers, advocates, foreign lawyers, merchant bankers, estate agents and town planners.'

*De Rebus* of November 1997 reports that the respondents to the survey also added to this list brokers, psychologists, doctors, social workers, engineers, architects and insurance consultants.

The response to the survey also indicated that 88% of respondents were in favour of the sharing of offices, 73% in favour of the sharing of fees. 71% of respondents favoured the formation of stand -alone consulting companies with other professionals , but only 61% approved of the notion of sharing premises and/or fees with the consulting company.

The South African profession has recently aired issues related to MDPs through debate at the AGMs of law societies based on which the Association of Law Societies would make a recommendation on behalf of the profession.

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constitutional rights, something that should be jealously protected, not diminished and delegated.

His view was that conflict *per se* was not necessarily bad and that preferred outcomes were often a just determination rather than a closed deal.

Further, he suggested that there was nothing intrinsically bad about winning or losing litigation, provided a fair and just judgment was achieved, pointing to the importance that this also be seen to occur.

Mr Southwood expressed a concern that compulsory mediation for disputes, especially where it was felt that certain types of cases would always be ordered to mediation could result in an impoverishment of legal doctrine in coping with disputes.

He pointed also to the disadvantage to weaker parties posed by compulsory mediation, suggesting that funds may be depleted in the mediation process and if no settlement was reached, these would not be available to put the best case during litigation. He expressed a concern that this scenario could be used as a tactic to delay and further weaken an opposition's case.

Mr Southwood also argued that the option of compulsory mediation should not be taken up until proper quality assurance could be guaranteed, noting that currently there were no protocols, standard forms or codes of conduct in place for mediators. He suggested that further education of lawyers and their clients was necessary before a mediation process became compulsory.

Following Professor Aughterson's reply, the matter was thrown open for discussion.

Of interest to practitioners was the point made by the moderator, Justice Mildren , who warned that legal practitioners would need to familiarise themselves with the process and availability of mediation if they wished to protect themselves from malpractice charges by clients not offered the process as an option at an early stage.

Newly-elected President of MANT, Tom Stodulka suggested that legal practitioners could benefit greatly by educating themselves about mediation as an indubitable element of change in the legal process.

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