

# Community Mediation Centre for Darwin

*The Alternative Dispute Resolution (ADR) Sub-Committee of the NT Law Reform Committee has recommended the Law Society adopt Community Mediation Centres as policy. The Sub-Committee (Tony Fitzgerald, Pat McIntyre and Ian Morris) have produced an ADR position paper. An edited version follows.*

Whilst mediation as a form of Alternative Dispute Resolution exists in the Northern Territory, the NT Law Reform ADR Sub Committee points out that no co-ordinated service is clearly identifiable to the NT public as being available for the resolution (through mediation) of a wide variety of disputes.

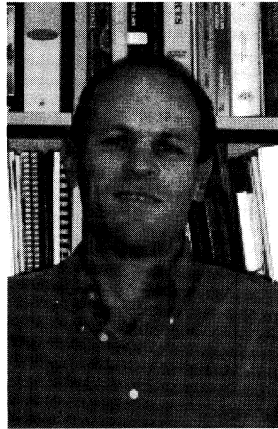
The Community Mediation Model (CMC) favoured interstate, and outlined here, has the potential to better employ the Northern Territory's disparate existing mediation resources. Inquiries made by the ADR Sub-Committee have indicated support from NT community and legal organisations for a mediation option.

The increasing cost and inaccessibility of courts and tribunals has provided impetus for the growth of alternative (or perhaps more correctly 'additional') dispute resolution. ADR has been adopted, to varying extents through legislative enactment, by all tiers of government in all states and territories of Australia, by courts, by government agencies and by private organisations.

One ADR mechanism which has gained prominence over the last 15 years or so is the CMC. CMCs provide accessible, low cost, informal and impartial dispute resolution in a wide range of disputes.

CMC advisory councils or committees have been established interstate and comprise representatives from different sectors of the community, e.g.: the judiciary, community organisations, government and public service. Councils inter alia determine policy guidelines, advise the relevant Minister (usually the Attorney General), assess the operations of the Centres, etc.

All interstate (eg NSW, QLD, Vic, ACT) jurisdictions have either enacted legislation designed specifically for CMCs, or as in Victoria's case, have amended the provisions of the Evidence Act to allow for



*Tony Fitzgerald, member of The Alternative Dispute Resolution (ADR) Sub-Committee of the NT Law Reform Committee.*

the activities of mediators.

Mediators are required to undergo 40 - 60 hours training (provided by the CMC or some other recognised training operative, e.g.: NTU Law Faculty offers a mediation unit to its law students) and then periodic ongoing training. Each mediation is followed by a debrief and evaluation.

CMCs use a co-mediation model (i.e. two mediators for each session). The sessions last up to three hours. Several sessions are usually required to deal with all the issues involved and to complete the mediation. The parties usually require their agreements to be reduced to writing. This task is undertaken in conjunction with the mediators.

Agreements reached at mediation, whether written or otherwise, are not legally binding. Agreements are made in good faith and rely on the parties themselves to honour the agreement. However, by agreement the parties may take the necessary steps to convert their mediation into a legally binding agreement.

CMCs are fully funded by the government and operate interstate as branches of the Attorney-General's Department (or equivalent).

The Council of the Law Society has supported these recommendations:

1. community mediation, closely resembling the CMC models favoured interstate, be adopted;
2. a Community Mediation Centre be opened in Darwin;
3. an evaluation report after 12 months examine the continuation and possible expansion of the Darwin CMC;
4. three staff members be recruited to perform coordination, administration and promotional activities;
5. a co-mediation model be adopted, drawing on a panel of sessional mediators based Territory-wide;
6. an accessible and suitable space be provided for the Centre;
7. the need to access remote regions of the Territory be recognised and interpreter services provided;
8. culturally relevant ADR processes for Aboriginal and Torres Strait Islanders be developed and provided;
9. the Centre be guided and advised by an Advisory Committee comprising representatives of government, the judiciary, community agencies, NTU, Law Society etc.;
10. the Centre engage in regular publicity and promotion;
11. separate legislation be enacted to secure the Centre's position;
12. the Centre liaise with other states;
13. the Centre canvass the possibility of a mediation course to be offered at NTU for members of the public to be trained and accredited;
14. the Centre liaise with the NTU Law Faculty with a view to undertaking practical training of mediation students, and securing the services of interested students to conduct follow-up research;
15. the Centre investigate the implementation of a "user-pays" mediation model.