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Guidelines for ADR practitioner peer support and development

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Practical dispute resolution

Guidelines for ADR practitioner peer support and development

David Bryson

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The issue

Most ADR practitioners work alone.

Except for some community and family mediation services, the fact is that dispute resolution agencies and judicial processes in Australia today largely function with solo practitioners. Economic restraints, outsourced services and practitioner preference are reasons for this widespread phenomenon.

Recently, this trend in ADR practice in Australia has resulted in criticism, particularly of mandatory court-referred mediation, where, it is claimed, there are few administered standards and accountabilities. There appears to be a lack of understanding about what is required to furnish, sustain and develop ADR professionals.

Restating the issue

My interest here is not to add to those criticisms, nor to exhibit more refined methods of evaluative controls over practitioners. Rather, it is to provide a more positive contribution that reframes the alone practitioner issue in this way:

How does a public, private or community agency, court or tribunal achieve a creative consistency among independent and efficacious practitioners, while enhancing self-reflective dispute managers, actively engaged in their own and each other's professional development?

The following simple guideline draws upon my recent experience with a voluntary group of 12 of my colleagues at the Victorian WorkCover Conciliation Service. The italicised sections are from our Peer Support and Development Project 'Scope Statement' drafted by the group.

The goal — peer support and development

The starting place is to state clearly what the purpose of a peer group is to be. It has to be practical, developmental and aspire to excellence. *To practise ways in which conciliators can learn from each other's expertise in order to develop new dispute resolution skills and become more proficient conciliators.*

Key roles and responsibilities

The group must be self-directed and self-determining. However, a skilled facilitator is critical to keep the group committed to the task and distraction-free.

- The group will have no particular hierarchy or leadership.
- The facilitator will aim to keep the group 'on track', provide supporting materials for group learning, and co-ordinate meetings and activities of the group.

Milestones for the group

The first movements to a group's formation can be awkward and tentative. Acceptance of the objectives and outcomes of the group must be accepted by the group itself, and the sponsors of the exercise. We made the group voluntary and set milestones for the group over a pilot project period of six to nine months. Observations of each other's work continued each week during this period while the group met twice a month for review and case studies. The milestones recognise the organisational dimensions of the group's work

- Group formed and clarified its terms of reference and project timelines.
- Half-day workshop with outside consultant on action learning, group dynamics, feedback and debriefing skills. ➤



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- Group feedback to whole Conciliator group after three to four months.
- Final report on pilot project, including details of activities undertaken and recommendations for future actions, to management.

Assumptions

To agree assumptions is a very powerful statement of group philosophy. The following is self-explanatory:

- Activities will include conciliation conference observations and feedback, co-conciliation, and case presentations and discussions.
- The group will act as colleagues, less interested in defending positions than in exploring new ways of thinking about and conducting conciliation.
- The group will commit itself to a 'spirit of enquiry'; questioning assumptions ('What leads you to do or believe this?' or 'What makes you ask about this?'); open self-reflection and learning; and attempting to avoid 'cover-ups' of contentious issues.
- All group members will endeavour to remain in the pilot project to its conclusion, and will operate on the ground rules of confidentiality and mutual respect for difference.
- Although committed to group learning, individual group members remain in control of the choices for their own learning within the group.
- During the course of their discussions, the group will discern what may be considered best practice techniques and strategies for conciliation. It is envisaged that individual group members will self-evaluate their skills against the group's developing 'standards'.
- Management agrees to support group members appropriately to provide the optimum opportunity for them to fully participate in the project.

What the group is not about

There are numerous sensitivities when it comes to professional standards and accountabilities. We set these rules to clearly differentiate the group from such endeavours:

- The project is entirely separate and distinct from any process related to performance assessment or evaluation.
- No report on any individual group member's conciliation practice will be

made orally or in written form to management or any other person.

What are our first learnings?

1. Recognition of group processes is critical. It was important that we had early time away together in order to develop trust and establish principles for working together.

2. Self-selected partnerships were formed for observation and co-conciliation which deepened learning and trust.

3. Amongst professional experienced ADR practitioners, the source of continued learning and creativity is each other. You cannot buy it in.

4. Peer feedback and debriefing skills are pivotal to maintaining the group's level of trust and success in achieving its goals.

Some of the guidelines we agreed were: *

Principles —

- The observation and feedback process belongs to the person being observed. What does this person want to learn from the process? How does this person want to drive the process?
- The observer is both part of the solution and part of the problem. Your assumptions and your model of conciliating heavily influence what you see.

Practice —

- Never criticise the person, but focus on observable behaviour and actual dialogue, without labels, emotive language or diagnosis.
- Use only data from the observation session, and focus on only one or two issues per session.
- Be aware of the mood and sensitivities of the other person when providing feedback.

We are still early days in this project. We would welcome comments from others who have been down this path before us. ●

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events

LEADR Advanced Mediation Workshop — 12-13 June 1998

Kirkton Park, Hunter Valley

A workshop designed for participants who have had prior training and experience in mediation. It aims to provide:

- Introduction to advanced theory and principles of mediation.
- Advanced skills training and practice.
- Opportunity to reflect on mediation practice through presentations, role plays, demonstrations and discussions. Presenters will include:
 - Sue Duncombe, the principal trainer at LEADR who has studied mediation and negotiation with LEADR, CDR and Harvard University.
 - Joanna Kalowski, mediator, management consultant, member of the National Native Title Tribunal and LEADR trainer.
 - Sir Laurence Street will be one of the guest speakers.

Completion of this workshop can count towards an application for accreditation for inclusion on a LEADR panel of mediators. Price of the workshop (including morning and afternoon teas and lunches):

\$1100 for LEADR members

\$1200 for non-members

For details —

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