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# Alternative dispute resolution in the Australian Defence Organisation

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## ADR at work

# Alternative dispute resolution in the Australian Defence Organisation

*Lisa Curry*

Ours is not to reason why/ours is but to do and die ...

Lord Alfred Tennyson

Readiness for conflict with external aggressors is the core business of the Australian Defence Organisation (ADO). The institution of hierarchical disciplined working environments within the Defence Forces facilitates readiness. The evolution of new activities involving the ADO has provided the impetus to analyse whether we approach conflicts involving Defence personnel and programs with the same rigidity. The real challenge facing the ADO is to develop a system whereby the existing methods of order and formal means of resolving conflicts can be complemented by ADR mechanisms.

The ADO environment is dynamic. Defence personnel are continually involved in new types of relationships. Many Defence establishments now comprise a mixture of civilian and service personnel, who enter the workplace with unique cultural practices. The ADO is outsourcing many of its 'non-core' functions and defence personnel are increasingly involved in peacekeeping, defence aid to the civil community and defence aid to the civil power. These expanded roles encompass relationships that give rise to differing interests, needs and wants.

During the last decade, six reviews of the ADO have highlighted the need to improve procedures for managing disputes and complaints, as the adversarial position based approaches were not deemed appropriate for use in all cases. There was recognition of the need to transform the hierarchical rights based culture into a participatory collaborative culture when dealing with disputes. On 30 May 2000 the Chief of the Defence Force and the Secretary of Defence approved the development of a proposal for

an ADR Program for the ADO. The Defence Legal Office is currently working on this proposal, which will be submitted to the Defence Committee for approval in 2001. The Defence Legal Office has a mandate to gather information on interested and qualified Defence personnel and include them on a database, to draft a submission for approval as an accredited agency under the *Mediation Act 1997* (ACT), and to develop the program.

The experiences of the Canadian Department of National Defence (DND) and the US Navy may provide some guidance for our organisation. The reasons behind a review of complaints handling processes within the DND were manifold. They incorporated the need to: more effectively manage conflict in the department; address the increase in harassment complaints; and deal with the significant concern over the length of time taken to handle redresses of grievance.

An Ombudsman and Conflict Management Project (CMP) were created with the vision that change was needed within the culture to move the balance from a system heavily weighted in favour of confrontation to one that was more collaborative in its approach. The DND response was to create an integrated system that incorporated both rights and interest based approaches. The CMP was designed to raise awareness of ADR, to demonstrate its benefits, and to identify issues that needed attention before full implementation across the DND. The CMP included training of senior management and members of the Defence Committee, and the establishment of a pilot project incorporating five locations in regional areas co-ordinated by a dispute resolution centre. While the success of this program can only currently be assessed on the basis of anecdotal praise, the significant endorsement by senior

management, as evidenced in the \$2 million funding over three years, illustrates that this system has potential to rectify some of the past injustices. There are several benefits to implementing an approach such as that adopted by the DND to resolve interpersonal disputes. With the introduction of such a model the management recognises that the diversity of complaints prompts the need for multiple resolution processes. Existing processes, such as the chain of command, will be complemented by ADR. It facilitates conflict resolution in a 'safe', flexible, cost effective and timely manner.

The US Navy ADR programs can also provide guidance to the ADO. Unlike the Canadian experience, which evolved through an imprimatur from the Chief of the Canadian Defence Forces, the establishment of the US model was a result of statutory<sup>1</sup> and regulatory mandates. Statistics obtained from the US Department of the Navy show that, since the implementation of varying ADR processes, findings of discrimination have decreased by 33 per cent and there has been a 70 to 75 per cent resolution rate for thousands of workplace mediations. Of particular interest to the ADO is the 98 per cent mediation success rate that has been achieved using ADR for procurement and contracting disputes.

Traditionally the only 'weapons' provided to military personnel for resolving conflicts have been guns. Today both service and civilian employees require more varied arsenal to equip them for the daily challenges they face. The initiation and implementation of an ADR Program within the ADO will not only save money, time and resources, but it will empower Defence personnel to participate in the resolution of their own conflicts and provide them with new tools to promote harmonious and productive working relationships. ●

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## Endnotes

1. The *Administrative Dispute Resolution Act 1996* requires agencies to develop an ADR policy and to designate an ADR specialist to implement ADRA's provisions.