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# Growing old

Shirli Kirschner

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Kirschner: Growing old

# The ADR Bulletin

The monthly newsletter on dispute resolution

## contents

VOLUME 3 NUMBER 8

### SPECIAL EDITION SERIES:

ADR and the cycle of life  
EDITION 3  
'Growing old — part 1'

Editorial .....	89
Conflict resolution in the 'sage stage' .....	90
Dispute resolution in aged care .....	95
The Aged Care Complaints Resolution Scheme: a response by the Federal Government .....	97
ADR in the third age .....	98

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Information contained  
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as at April 2001.

## Editorial

# Growing old

**Shirli Kirschner**

This is the first of the editions for the final in the Special Edition series 'ADR and the cycle of life'. It is focused on dispute resolution to meet the needs of older people. Ironically, this was the topic that inspired the series. My late grandmother was more than 80 years old and living in residential care when a young nurse left her unattended in her room while making her bed because the home was shortstaffed. This was contrary to her care instructions and she fell, was injured, and died shortly after.

This tragic incident left the immediate family feeling angry and wanting to take steps to ensure that procedures were put in place so that this never happened to anyone else, and to vent their anger and frustration. When the home was approached on a number of occasions, it became evident that there was no remedy other than taking the home, and the nurse, through the legal system. The home closed ranks and provided platitudes and assurances which did nothing to show that they understood or had taken heed.

The legal system offered one remedy: compensation for negligence. What would that do to the home; to the young nurse at the beginning of her career who now had to live with the consequences of her actions; and to the other elderly people waiting to get into the home, which was already struggling with resource problems?

The Board of Directors saw no need for a grievance handling system. Other elderly people in the home reported to the grieving relatives that this was not an isolated incident. A complaints system would provide them with a voice to articulate

other incidents which they felt had also been addressed inadequately. The response from the management and Board representatives was that the elderly often have too much time on their hands, and many of their complaints are frivolous and not to be taken seriously. Our issue was resolved by the family taking stock of its own values and interests and taking it no further. The home did not implement a system, leaving no room for others to have a voice.

This example shows how important it is to revisit the use of consensual dispute resolution in the 'third era' of life. It is important to challenge assumptions we make about the aged and about ageing. The irony of age discrimination is that it is the only form of discrimination in which the perpetrator will, inevitably, become a member of the group that they discriminate against. Any discussion of consensual models in the aged community must start by re-evaluating the way that we view the ageing process and the language that we use to talk about. For that reason, we have included the address given by Stella Cornelius as part of the Declaration of 1999 as the International Year of Older Persons. Stella Cornelius is the founder of The Conflict Resolution Network. She has had a successful career in management, in ADR, and in the furtherance of peace.

In reviewing the role of ADR in the third age, it is also useful to look at examples from other societies. For our next edition, we will be including an article from Polly Walker, a PhD student at the University of Queensland. Polly is completing a PhD dissertation entitled 'Mending the ►



## Editorial Panel



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► web: transforming conflict between Aboriginal and non-indigenous Australians'. She will be looking at the active contributions of elders and ancestors in indigenous peacemaking and conflict management methods. Also in the next edition, Pat McIntyre will provide us with some reflections on the role of elders in decision-making in indigenous communities. In looking at this issue, it is important to focus not only on the community level, but also on the most basic operational level of our society: the family.

In this edition, Sharon Wall, an aged care consultant and registered nurse, looks at how disputes of this nature arise and the directions for the future: the Government's two tiered Aged Care Complaints Resolution Scheme. The resolution scheme is explored further by Gary Gray from the Federal Department of

Health and Aged Care and Scott Pettersson, the Chief Executive Officer of LEADR, both from organisations which have been instrumental in implementing responsive schemes.

At the core of conflict management is the need to find ways to resolve differences more effectively and to make dealing with differences and divergence a learning experience, rather than one that divides.

We hope that the special editions have provided some insight into the potential for conflict management tools to be used more broadly, to bring people and communities together in a way that is enriching to their connection. ●

*Shirli Kirschner,  
Special Edition Editor.*