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Scott Pettersson

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Australian service-providers in ADR

A LEADR in its field

Scott Pettersson

LEADR was conceptualised in the late 1980s and incorporated in 1989. The objects of the young organisation can be summarised as:

> To promote ADR to the community, through education, development of opportunities and as a simple and effective mechanism for resolving disputes.

LEADR was, and still is, driven by true believers in the benefits of non-curial conflict resolution: believers in the benefits of dialogue and consensus. During its 13 years of existence many hands have shaped the organisation and the direction it has taken. Originally exclusively for lawyers,[1] by 1998 it had become inclusive of any parties interested in ADR.

As a member organisation LEADR has members in most corners of our land and is active across the ditch in New Zealand. LEADR also has members sprinkled across the globe, but they are more concentrated in our region.

LEADR today

LEADR is an active organisation with multifaceted obligations and, fortunately, multifaceted approaches to meeting these obligations. Some of the current issues that LEADR is working toward include:

- developing a national accreditation standard;
- progressing the use of ADR in the corporate world; and
- lobbying government to promote dialogue as a first option in conflict management.

LEADR is also working on other initiatives for its members and the ADR community. Some of these include assisting members to market their services, participation in conferences, liaison with the courts and writing informative and entertaining articles such as this. Space, editorial direction and time, however, preclude me elucidating on more than the three mentioned above.

Developing a national accreditation standard

Here, the objective is to develop the potential of ADR for the community. 'Community' is used in a broad sense to incorporate business, government and not for profit sectors. The clients must have faith in both the practitioners and the process.

Despite the best efforts of the converted, many people still do not understand the benefits of ADR. The various disciplines of ADR (such as mediation, conciliation, adjudication and the like) and the broader categories (facilitative or determinative) are not often applied for two reasons — there is an absence of knowledge about the process and an absence of faith that a practitioner can do what they cannot do themselves.

LEADR does not view the creation of national standards for practitioner accreditation as a panacea for these problems; however, it does see it as a foundation stone for creating consumer confidence.

LEADR has commenced the process of attempting to work with others to facilitate an agreement on national standards.[2] Internally, we have reviewed and altered our accreditation scheme to be more inclusive of other organisations' training certification and transitioned to a competency based assessment away from the elements of model compliance.

By the creation of an accepted national accreditation standard, we will be able to assure clients of a consistent standard among practitioners and allow for a path of higher skills to be equally recognised. This structure starts to develop the hallmarks of a profession that people and organisations in conflict will seek out. While accreditation will almost certainly commence with mediation, it must also move to settle competency standards for facilitators, conciliators, adjudicators and the other disciplines.[3]

Progressing the use of ADR in the corporate world

To succeed in this arena practitioners must emphasise the cost benefit of conflict avoidance. This realistically involves assisting organisations to have sounder complaint handling processes and, possibly, a full system designed for their conflict management.

Most corporate organisations, regardless of their focus as business to business or business to consumer, recognise that conflict costs money and consumes management resources. They may not, however, have realised the customer service paradox[4] and the benefits of:

- sound and transparent customer complaint handling systems;
- the credibility generated by the use of a truly neutral external agency;
- the savings generated by having geographically distributed ADR practitioners (take the resolution to the customer as far as possible); and
- the revenue generated from a satisfied customer.

It is the view of LEADR that ADR practitioners should first encourage and assist businesses to deal with a level of problems internally. The ADR professional should be on the escalation path as an option. It is also the LEADR view that many corporations will continue to benefit from ADR awareness training and those staff at points of customer interaction who have good communication strategies and a complete awareness of the complaints handling system.

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Lobbying government to promote dialogue as a first option in conflict management

LEADR has had meetings with the Federal Attorney General and the Shadow Attorney General, both keen supporters of the broader use of ADR. Both also indicated a strong desire not to implement regulations regarding ADR standards accreditation.

These homilies aside, there is much that a government committed to reducing the expenditure of courts and determined to address long court lists can do. Some of the steps may include:

- requiring in their contracts that any disputes arising under that contract are first subject to attempted resolution by an appropriate ADR process;
- requiring that parties who contract with government have a dispute resolution clause in their contracts with sub-contractors that directs parties firstly to an appropriate ADR process;
- ensuring that government agencies, departments and 'quangos' have complaint handling processes in place;
- strongly encouraging the departments with litigative capacity to investigate dialogue first, subject of course to public interest, criminality and similar interests; and
- actively participating in developing national accreditation standards and then endorsing them through policies that support the use of accredited personnel and agencies.

LEADR cannot be the sole voice calling for these initiatives. If they are able to be implemented we must all lobby our State and Federal representatives. Only by regular reference will ADR become a policy issue for governments with a myriad of concerns to prioritise. Indeed, in terms of social justice these concerns should not overwhelm government but we should ensure that they attract some action from all levels of government.

Conclusion

It is probably relevant, in closing, to look at social justice issues. LEADR has been a long time supporter of the SCRAM[5] program. Many LEADR members give time to support this excellent educational initiative. Peer mediation is a growing area and is developing a process where the school participants understand that conflict can be resolved through dialogue.

LEADR has also recently developed a relationship with a program titled 'Australia it's in your hands'. This program is designed to address some growing concerns about racism in our community. If you want to know more about this program you may care to visit their website. We are currently looking for suitable people (LEADR membership not required) to act as moderators of the site where 'chat rooms' will allow discussion on issues and possibly professional referral for victims of racism.

LEADR is an energetic member organisation balancing the obligations of being more socially aware and delivering improved services to members. If you wish to know more, contact the LEADR Office or visit our website <www.leadr.com.au>. In the field of dispute resolution there is only one LEADR. ●

Scott Pettersson is the Chief Executive Officer of LEADR. He is a trained lawyer, mediator and negotiator and can be contacted at scott@leadr.com.au.

Endnotes

1. LEADR was an acronym for Lawyers Engaged in Alternative Dispute Resolution; this was changed to Leading Edge Alternative Dispute Resolution in the late 1990s. It is now best known as LEADR, having adopted the acronym in the manner of Qantas.

2. See for example the NADRAC website <www.nadrac.gov.au> where our position is more fully explained.

3. Indeed, this may even allow for agreed national standards for arbitrators and negotiators.

4. The paradox is that a customer having complained, and having the issue speedily and equitably resolved, is reported to be more loyal and to return better revenue to the business that addressed the complaint.

5. Schools Conflict Resolution and Mediation, a mediation competition for schools.