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# Launch of Access to Justice Taskforce Report

On 27 September Attorney-General Robert McClelland launched the Government's *Access to Justice Report* and a 'Strategic Framework for Access to Justice' to guide future policy and reforms in our civil justice system.

The Strategic Framework is based on five key principles of accessibility, appropriateness, equity, efficiency and effectiveness and will support a justice system that aims to:

- allocate resources more efficiently;
- promote fair outcomes;
- encourage the early resolution of problems and disputes;
- enable matters to be directed to the most appropriate method for resolution;
- identify broader issues which may cause specific legal problems; and
- empower individuals, where possible, to resolve their own disputes.

Mr McClelland said, 'Increasingly, the experience of ordinary Australians dealing with the justice system is marked by confusion and complexity. People often don't understand legal events, what to do or where to seek assistance, while many are excluded because information is complicated or simply difficult to find.'

The Framework looks at how the justice system operates as a whole and seeks to encourage better information, early intervention, and improved avenues to resolve disputes without the need for litigation.

The Framework is the central recommendation of the Access to Justice Taskforce that was established earlier this year in the Attorney-General's Department to recommend ways to improve access to justice.

The report and its recommendations are open for public discussion and input.

A copy of the Strategic Framework for Access to Justice and the Access to Justice Taskforce Report are available at <www.ag.gov.au>. ●

# ADR RECENT DEVELOPMENTS

## Back to class for judges

In September 2009 the Judicial Studies Board will start training for nearly 2000 full-time judges in England and Wales. This is an implied rejection of the assumption, which judging once shared with mediation, that the art of judging cannot be taught and learned but is acquired on the job.

According to Lord Justice Maurice Kay, chair of the Judicial Studies Board, the training involves a 'culture change in judicial education' away from the delivery of black letter law and towards acquiring and improving judicial skills. It follows a review of judges' training needs undertaken by Professor Hazel Genn of University College London, who is well-known in dispute resolution circles.

The training will be tailored to individual judges' needs and the focus will be on practical skills, or judgecraft, not substantive law. Judges will act out courtroom scenarios, taking the various roles themselves and passing judgment on each other's performances. Training topics will include communicating in court; judicial conduct and ethics (such as when a judge should step down from a case because of a perceived conflict of interest), dealing with unexpected and high-conflict situations in court; and case management, and broader management skills required for the changing roles of judges.

Individual judges will be involved in selecting their own training modules and initial training will run for four days annually, with five days' training for new appointees and two days a year continuing training thereafter.

Shades of mediation training in Australia under the NMS? ●

## International Academy of Mediators branches out

The International Academy of Mediators held its first meeting outside of North America in London from 10–12 September this year. There were 80 invited participants from 20 countries in attendance at the conference.

The theme of the conference was 'What can we learn from each other?' and the plenary presentation was made by Lord Woolf, former Lord Chief Justice, architect of the reformed civil procedure system in the United Kingdom, and long-time supporter of mediation and ADR. Lord Woolf was presented with the IAM's Lifetime Achievement Award in recognition of his support for mediation over the years.

Most conference sessions involved brief introductory presentations followed by facilitated discussions. The conference was essentially a gathering of practising mediators mainly, but not exclusively, from legal backgrounds, and discussions had a practical focus in relation to different aspects of the mediation process. There was also an extended fishbowl mock mediation where professional actors played the key roles and conference participants acted serially as co-mediators to reflect different practice styles.

This was the most 'international' of the AIM's meetings and it plans to extend this factor in the future. There were four participants from the 'global south' among the participants, Alan Limbury from Sydney, who made the first short presentation, Ian Hanger from Brisbane, who was inducted as an IAM fellow during the gala dinner, Deborah Clapshaw from Auckland who was also a presenter/facilitator, and Laurence Boulle from the Gold Coast and Johannesburg.

For further information on the International Academy of Mediators see <www.iamed.org>. ●

## Leading dispute resolution bodies strike trans-Tasman agreement

Australasia's prominent alternative dispute resolution bodies, the Institute of Arbitrators & Mediators Australia (IAMA) and the Arbitrators' and Mediators' Institute of New Zealand have signed a memorandum of cooperation to promote the utilisation of arbitration, mediation and other ADR methods in the region.

The agreement was struck following the Australian Attorney-General Robert McClelland and New Zealand Justice Minister Simon Power announcement earlier this year that both countries will introduce legislation as a priority to make resolving legal disputes across the Tasman cheaper, more efficient and less complicated.

AMINZ President, David Carden said: 'The relationship between Australasia's leading dispute resolution bodies, IAMA and AMINZ, is strengthened by the recent agreement and will provide increased opportunities for members of both

# ADR RECENT DEVELOPMENTS

organisations and the public.'

IAMA President, the Hon Michael Kirby AC CMG said: 'One of the benefits of ADR is that it has the flexibility to be adapted in all jurisdictions.'

Details of the ADR agreement featured in the opening ceremony of the AMINZ Annual Conference launched by the NZ Attorney General, the Hon Christopher Finlayson at the Grand Hall of Parliament House, Wellington on Thursday 6 August.

The conference also addressed issues such as the use of mediation in Family Court disputes; mediation and negotiation in a tough industrial environment; international mediations involving cross-cultural differences; mediation in rural conflicts and the best use of expert evidence in arbitrations.

Michael Kirby took part in a session on the processes of reasoning and decision-making.

'The way decision-makers actually arrive at their conclusions is a subject very little studied in the judiciary, except in terms of the reasons that are published to support the judges' orders. But how can reasons be improved? What factors really influence decision-making? How can decisions be both candid and interesting? My new involvement in ADR is obliging me to face squarely issues that tend to be brushed under the carpet in the conventional world of judicial opinion-writing', he said.

In addition to meetings with the Attorney General and the NZ Governor-General, His Excellency, Sir Anand Santyan and the former High Court judge of Australia also took part in a panel discussion with New Zealand judges and QCs on the writing of arbitration and adjudication decisions.

This is a topic on which he has spoken in the judicial context. As he emphasised, 'arbitrations have to be less formal, more speedy and common sense is at a premium.' ●

## 'Solid work you mob are doing'

A report to NADRAC by the Federal Court of Australia's Indigenous Dispute Resolution and Conflict Management Case Study Project, 'Solid work you mob are doing' has been released.

The report includes the research findings of an in-depth investigation into effective practices for managing conflict involving Indigenous people as part of the project. Three case studies were conducted on a mediation at Halls Creek, WA, which resolved a long-running 'feud' involving three generations of women, and was conducted by three indigenous practitioners; a mediation carried out by a NSW Community Justice Centre in a NSW south coast town, involving a dispute between Aboriginal and non-Aboriginal neighbours; and the work of the Tiwi Youth Diversion and Development Unit in managing family and community conflicts on Bathurst Island, NT.

For the full report go to <www.fedcourt.gov.au/pdfsrtfs_s/solid_work_report.pdf>. ●

## Singapore Mediation Centre

The Singapore Mediation Centre (SMC) is a wholly-owned subsidiary of the Singapore Academy of Law (the Academy).

The Academy has created the *SingaporeLaw* website <www.singaporelaw.sg> which provides articles and commentaries on the laws of Singapore relevant to business and dispute resolution. The *SingaporeLaw* website serves as a one-stop web portal, providing updated and relevant information on Singapore law. These articles and commentaries, written by legal academics and practitioners, aim to provide a fundamental understanding of the Singapore legal system and the commercial law of Singapore. In addition, the website showcases selected Singapore caselaw and recent High Court judgments, giving a flavour of how Singapore courts rule on a variety of cases they handle. There is also a list of reference materials that serves as a guide for in-depth reading on different aspects of the commercial law of Singapore. ●

## NSW Blueprint

In May this year the NSW government issued its Discussion Paper on the ADR Blueprint for public consultation. In September it released two reports containing draft recommendations, the ADR Blueprint Draft Recommendations Report 1: Pre-Action Protocols and Standards, and ADR Blueprint Draft Recommendations Report 2: ADR in Government. For further information see <www.lawlink.nsw.gov.au/lawlink/Corporate/ll_corporate.nsf/vwFiles/ADR_Recommendations_Report_2.pdf/$file/ADR_Recommendations_Report_2.pdf>. ●

## Mediator Standards Body

The Attorney Generals' Department has providing funding for the establishment of the Mediator Standards Body (MSB). The MSB will extend the National Mediator Accreditation System and aims to promote quality in mediation and provide consumers, government and the courts with a developed, cohesive and responsive system of regulation.

It is expected the MSB will be established by the end of 2010. ●