

SOUTH AUSTRALIAN ALTERNATIVE DISPUTE RESOLUTION ASSOCIATION INC.
CONSTITUTION

1. NAME

The name of the Association shall be SOUTH AUSTRALIAN ALTERNATIVE DISPUTE RESOLUTION ASSOCIATION INC. otherwise known as SOUTH AUSTRALIAN ALTERNATIVE DISPUTE RESOLUTION ASSOCIATION INC. (S.A.A.D.R.A.) and hereinafter called "the Association".

2. AIM

To promote social justice and harmony through increased use of alternative dispute resolution processes at all levels of society.

3. OBJECTS

The objects of the Association shall be to

- (a) Promote equitable dispute resolution mechanisms throughout South Australia, and the role of third parties in dispute resolution.
- (b) Promote and enhance education, training and research in alternative dispute resolution
- (c) Share information, skills, resources and experience with regard to alternative dispute resolution.
- (d) Increase awareness of gender, ethnicity, class and age as factors in alternative dispute resolution.
- (e) Foster cooperation between organisations and disciplines in order to further these objects

and to do all such other things as may be incidental to the attainment of such objects.

4. MEMBERSHIP

- (a) Members shall be persons who have applied in writing for membership, expressed support for the above objects and paid the prescribed membership fee if any.
- (b)
 - (i) Member organisations shall be organisations which have applied in writing for membership, expressed support for the above objects and paid the prescribed member organisation fee if any.
 - (ii) A member organisation may appoint from its members a representative who may speak and participate in decision making processes on its behalf.
- (c)
 - (i) Membership may be suspended by not less than two-thirds majority vote at a General Meeting.

- (ii) Any suspended member or member organisation may on not less than 2 weeks' written notice require the suspension to be reconsidered at one subsequent General Meeting.
- (iii) The Association shall not be required to accept the renewal of membership of a suspended member or member organisation when renewal next falls due.
- (d) Membership shall cease on:
 - (i) resignation in writing delivered to the Secretary of the Association;
 - (ii) failure to renew membership within two months of expiry.

5. MANAGEMENT

- (a) Management of the Association shall be vested in the members in General Meeting.
- (b) The Association shall hold General Meetings for all members at least once in every second calendar month and not less than 7 days' written notice of meetings shall be distributed to all members.
- (c) The office bearers of the Association shall be the Chairperson, Secretary and Treasurer who shall be elected from the members at the Annual General Meeting.
- (d) The office of an office bearer shall fall vacant upon
 - (i) resignation in writing;
 - (ii) suspension of the office bearer as a member of the Association;
 - (iii) failure to attend 3 consecutive General Meetings of the Association without acceptable explanation.
- (e) Vacancies arising among the elected office bearers shall be filled by election at the next General Meeting of the Association.
- (f) A quorum of a General Meeting shall consist of 4 members including 1 office bearer.
- (g) The General Meeting may appoint sub committees for specific purposes who shall meet as they see fit or as directed by the General Meeting and who shall report to the members.

6. ANNUAL GENERAL MEETING

- (a) The Annual General Meeting should be held at least once in each calendar year and not more than three months after the close of the financial year of the Association which shall be 30th June unless altered at an Annual General Meeting.
- (b) At least two weeks' written notice of the Annual General Meeting shall be distributed to all members.

- (c) A quorum shall be ten members or one half of the members whichever is less.
- (d) The business of the Annual General Meeting shall be:
 - (i) to receive the audited financial statements for the previous financial year;
 - (ii) to receive a financial budget for the current financial year;
 - (iii) to elect or re-elect the office bearers who must consent in person or in writing;
 - (iv) to conduct any other business placed on the agenda before the commencement of the meeting.

7. VOTING

- (a) Each member shall be entitled to one vote at any General Meeting and voting shall be by show of hands except that:
 - (i) any contested election at an Annual General Meeting or otherwise shall be by secret ballot;
 - (ii) the meeting may by show of hands require any other vote to be by secret ballot.
- (b) An office bearer shall have power to delay the passing of any motion put to a general meeting unless every other office bearer is present and votes the motion.
- (c) A subsequent motion similar in substance to a delayed motion shall be moved only following not less than two week's written notice to the Association and distributed to all members and such subsequent motion is not subject to further delay.

8. CHAIRPERSON

- (a) The Chairperson shall keep the Common Seal which shall be affixed only by resolution of a General Meeting and in the presence of 2 office bearers.
- (b) The Chairperson shall have a casting as well as a deliberative vote.
- (c) The Chairperson shall chair General Meetings except that in the absence of the Chairperson or at the request of the Chairperson or of a majority of the General Meeting another member may be elected as Meeting Chairperson.
- (d) The Chairperson together with the Secretary shall prepare the agenda for General Meetings.
- (e) The Chairperson shall encourage full balanced participation of all members and shall decide on matters of order.
- (f) The Chairperson shall act as Spokesperson of the Association unless an alternative Spokesperson has been appointed by the General Meeting. The Spokesperson of the Association shall make statements in accordance with previously agreed policy, or in an emergency following consultation with at least 3 members including one other office bearer.

9. TREASURER

- (a) The Treasurer shall cause all monies received to be paid into an account authorised by the General Meeting in the name of the Association. Payments shall be as petty cash or by cheque signed by 2 authorised signatories of whom there shall be no more than five appointed by the Association. Major or unusual expenditures shall be authorised in advance by a General Meeting.
- (b) The Treasurer shall cause records to be kept of all receipts and payments and other financial transactions, which records shall be available for inspection by any member.
- (c) The Treasurer shall cause to be prepared financial budgets and statements and shall submit a report on the finances to each General Meeting.
- (d) The Treasurer shall present audited accounts to the Annual General Meeting.

10. SECRETARY

- (a) The Secretary shall call meetings in accordance with the provisions of this constitution.
- (b) The Secretary shall cause records to be kept of the business of the Association including the constitution and policies, records of members, a register of minutes of meetings and of notices, a file of correspondence, and records of submissions or reports made by or on behalf of the Association.
- (c) In the absence of the Secretary another member shall be elected as minutes secretary.

11. AMENDMENT OF CONSTITUTION AND RULES

- (a) This constitution may be repealed, altered or amended by resolution of two-thirds of members present and voting at a General Meeting of which not less than seven days' written notice including notice of the proposed repeal, alteration or amendment has been distributed to all members.
- (b) A General Meeting may make, repeal, alter or amend Rules for the proper administration of meetings or business provided that not less than 7 days' written notice including notice of the proposed new Rule or repeal, alteration or amendment has been distributed to all members.

12. FINANCES AND PROPERTY

- (a) Members who by authority accept or incur any pecuniary liability on behalf of the Association shall be held indemnified against any personal loss in respect of such liability.
- (b) The income property and funds of the Association shall be used and applied solely towards the promotion of the objects and shall not be paid or transferred to the members or relatives of members provided that nothing herein contained shall prevent the payment in good faith to any person in return for services actually rendered and provided that an employee of the Association shall notwithstanding that employment be entitled to be a member or office bearer of the Association and of any committee.

- (c) On dissolution all property whether real or personal remaining after payment of all debts and legal liabilities shall be transferred to such other body formed for promoting similar objects or for charitable objects as shall be approved by the Association provided that if the Association shall have been approved pursuant to Section 78 (1) of the Income Tax Assessment Act then such other body shall also be so approved and provided that the Association shall not be dissolved except by approval of not less than two-thirds members present and voting at a meeting called for that purpose of which not less than one calendar month's written notice including notice of the proposed dissolution has been given to all members.



30 May 1989

Sydney University Press
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Surry Hills
N.S.W. 2010
Telephone 698 7888
Facsimile 690 1313

Ms Linda Fisher
ADR Association of Australia
C/- Community Justice Centre
17 Randle Street
SURRY HILLS NSW 2010

Dear Ms Fisher

Thank you for attempting to contact me as follow-up to my letter. OUP have decided to hold off publishing a book on ADR until more courses are in place at University level and so my market research is at present on hold. Nonetheless, any comments you would care to send me would be most appreciated.

Apologies for not being available when you phoned.

Yours faithfully

MARK CHILDS
Commissioning Editor
Sydney University Press

MC/dm



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28 April 1989

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Ms Linda Fisher
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SURRY HILLS NSW 2010

Dear Ms Fisher

I am currently undertaking market research on the enclosed proposal and would very much appreciate your assistance. The publisher's aim would be to produce a book that is used by both undergraduates and practitioners - a balancing act certainly not beyond the authors but nonetheless a concern at this stage.

Comments from universities indicate that there will be a growing demand for references in the area of ADR principles and practice. Can we reasonably expect such a book to be of wider interest and of use to members of your association? I am assuming that the survey approach does not detract from the potential of the book because of the need to further introduce this subject.

At this stage, then, I am attempting to gauge the utility of a book such as this outside of Law schools and large solicitors' firms. Any comments you are able to make would therefore be valuable. Please telephone if that is more convenient.

Thank you
Yours faithfully

MARK CHILDS
Commissioning Editor
Sydney University Press

Encl.

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Proposal for book on Dispute Resolution

1. Rationale

Dispute Resolution has become a major focus of interest with the current developments in alternative processes to litigation and arbitration. This is demonstrated Australia-wide by the opening and success of the Neighbourhood Justice Centres, the Australian Commercial Disputes Centre and statutory requirements to use mediation and conciliation in areas such as human rights and family law. Even outside the areas of statutory provision for mediation and conciliation people are seeking alternative means of dispute resolution. Law firms are increasingly requiring people with dispute resolution skills, the Law Society of New South Wales has set up a Disputes Resolution Committee and barristers are finding themselves more often involved in alternative dispute resolution work. Law Schools are responding to these demands by establishing specialist courses in dispute resolution. Although there are journals specialising in dispute resolution there is no single book which provides a critical overview of all these developments in the Australian context and examines their relationship to traditional litigation processes.

2. Synopsis

Our proposed book will include an examination of both the alternative dispute resolution processes currently used in Australia and elsewhere and their relation with litigation. The book will be both practical and theoretical. We will provide not only an explanation of dispute resolution processes but also a critical evaluation of their practical application in areas of current significance, such as commercial law, family law and discrimination law. In addition the book will seek to evaluate the criticisms of alternative dispute resolution and assess their future development.

3. List of Contents

The book will include the following topics:

Part One

1. Nature of disputes and conflicts. What is a dispute? Distinction between difference, disagreement, dispute and conflict. What causes disputes? What exacerbates disputes? Why do we need to resolve them?

2. Overview of Dispute Resolution Processes, including traditional methods. Classification and categorisation of processes - non-rigidity of processes. Societies evolve dispute resolution processes appropriate to their needs and state of development. Western societies have

developed the myth of litigation as the dominant method of dispute resolution in sharp contrast to eastern legal cultures. The west uses the right/obligation dichotomy which reaches its modern apogee in western, industrialised society. However this in turn has led to dissatisfaction with ensuing costs, delay and disadvantages of adversarial processes especially in continuing social or commercial relationships. This chapter will include both historical and anthropological discussion.

Part 2: Alternative Dispute Resolution in Australia today.

3. Overview of dispute resolution processes: negotiation, conciliation, mediation, expert appraisal, arbitration and litigation. Hybrid processes - mini-trial, review boards etc. Advantages of flexibility, tailoring the process to the dispute, use of third parties, lower costs, speedier processes, nonadversarial processes etc.

4. Dispute Resolution in particular contexts:
Each section will provide and consider the legal framework and practical application.

- i. family disputes
- ii. discrimination disputes
- iii. commercial disputes
- iv. building and construction disputes
- v. institutional dispute resolution - affirmative action; managerial techniques.
- vi. neighbourhood disputes.

Part 3: Practical and Legal Issues of alternative dispute resolution processes

5. Selecting the appropriate process; drafting dispute resolution clauses; selection and training of skilled persons; enforceability of agreements.

6. Confidentiality and subpoenas; protection of third party facilitators - lack of immunity; relationship with litigation; ouster of the jurisdiction of the courts.

7. Moral and public policy issues.

Part 4.

8. International disputes - public and international commercial disputes.

Part 5

9. Criticisms of alternative dispute processes in light of litigation theories, power theories. This will provide a theoretical perspective to the whole work.

6. Market Description

Undergraduate market. There is an increasing number of undergraduate course in dispute resolution both in law schools and other tertiary institutions. Every indication is that this trend will continue. Legal practitioners have requested information from us on where they can find dispute resolution materials and have expressed to us the growing demand for a book of this type within the profession. Other professions too have a strong interest in dispute resolution, for example social workers, teachers, managers, human resource experts, claims consultants, and their training courses too will find the book useful. Our experience also indicates a strong interest from government bodies, for example, the Road Traffic Authority and the State Rail Authority. There is also an increasing body of dispute resolution professionals, eg mediators, arbitrators.

There are numerous conferences where sales could be promoted, for example, the Australian Universities Law Schools Association annual conference, the ACDC training and conference sessions, legal conventions, dispute resolution conferences etc.

There is likely to be considerable interest from all the groups mentioned above in other common law jurisdictions about Australian developments, especially as Australia is regarded as being in advance of the United Kingdom in this field.

8. Book not based on a Phd or other thesis.

MEDIATION

ASSOCIATION OF VICTORIA INC.

G.P.O. BOX 127A MELBOURNE 3001

13 September 1989

Ms L. Fisher
Alternative Dispute Resolution
Association of Victoria
c/- Community Justice Centre
17 Randle Street
SURRY HILLS NSW 2010

Dear Linda

Thanks for your letter of 5th September. We are pleased that you think our proposal is workable in principle.

The Committee understands that it may be better to have your AGM reports occur in a separate edition, particularly in the light of the proposed constitutional changes. Our first edition for 1990 will be printed in March with a deadline of 23rd February. This allows contributors to get back from holiday and get their copy to us. Will this be suitable at your end?

It would be good to have an ADRAA report for our next newsletter (deadline 24th November). Would you please pass the enclosed copy of this letter on to your newsletter sub-committee.

With best wishes,



Susan Gribben

SG:PTA



SOUTH AUSTRALIAN INSTITUTE OF TECHNOLOGY

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30th March 1989

Dear Colleague

Please find enclosed a copy of the proposed constitution for our new Association - South Australian Alternative Dispute Resolution Association. (S.A.A.D.R.A.) This is the combined work of a number of people and we hope it meets with your approval.

There will be a meeting on April 12th from 5.30 - 6.30p.m. in Room 30, Sixth floor of the Playford Building (north west corner).

This meeting will be to make decisions on the following:

- (1) Name of the Association
- (2) The Constitution
- (3) Time, date, place and speaker for the inaugural meeting of the Association.
- (4) Membership form and fees.

If you are unable to attend please forward suggestions for consideration or telephone me on 236 2399 (work) or 422102 (home).

Yours sincerely,

Dale Bagshaw
Convenor.