



## **National Mediator Accreditation System (NMAS)- A History of the Development of the Standards**

NADRAC released a Discussion Paper on 30 March 2000 titled *The Development of Standards for ADR* as part of its Charter obligation to advise the Attorney General on standards, training and qualifications. That Paper, and the subsequent forums held in each capital city, engendered much discussion about the issues within the ADR community.

Following the community's responses, NADRAC released its report, *A Framework for ADR Standards*, in April 2001. At the report's launch, the then Attorney General, the Hon Daryl Williams AM QC MP, said 'the quality of ADR services is a critical component in building community confidence in ADR'. He also said that 'the report balances the need to recognise the diversity of ADR with the need for consistent standards for consumers'.

In March 2004, NADRAC released a paper on mediator accreditation, *Who Says You're a Mediator? Towards a National System for Accrediting Mediators*. The aim of the paper was to obtain information and to stimulate discussion in the lead-up to a national workshop on mediation standards. Discussion on it was facilitated at the 7th National Mediation Conference in Darwin on 2 July 2004.

In June 2004, the then Attorney General, the Hon Philip Ruddock MP, approved a grant of \$30,000 to National Mediation Conferences Limited (NMCL) for the facilitation of consultations concerning mediator core competencies. The grant allowed NMCL to consult with relevant professional and industry groups with a view to developing common standards of mediator accreditation.

After receiving the grant, NMCL established a broad based committee (the Committee) to progress the project and administer the grant funding. The Committee was representative of the various industry sectors involved, reflected the geographic diversity of practitioners and included members who were suitably experienced in both the practice of mediation and its administration.

The Committee appointed Professor Laurence Boulle, an ADR expert from Bond University and former Chair of NADRAC, to facilitate the consultations covered by the grant. The

Committee considered that Professor Boulle's reputation and professional standing within the ADR sector would make him an asset to the project.

Professor Boulle developed a draft proposal for core mediator competencies that could eventually support a national mediator accreditation system for the purpose of national consultations. Public consultation forums were held in Canberra, Sydney, Melbourne, Brisbane, Adelaide, Perth and Darwin. At the end of most of the public consultation sessions participants were asked to indicate by a show of hands whether the Draft Competencies had sufficient merit in principle to be taken to the next phase – the support at the various forums for the broad parameters of the proposal was between 90% and 100%. A general positive sense of the need to move forward was expressed.

In view of the positive reaction from the Australian mediation community, Professor Boulle and the NMCL Committee developed a proposal for core competencies and recommendations for adoption at the 8<sup>th</sup> National Mediation Conference in Hobart in May 2006. The Hon Justice Murray Kellam, Chair of NADRAC, endorsed the proposal that was put to the Conference and on 5 May 2006, the body of the Conference voted unanimously to support the proposal. A National Mediation Committee was then formed to attempt to move the proposal forward and to assist to draft standards and a system for mediator accreditation. The NMCL was not able to move the proposal forward and no accreditation system was established.

In April 2007, the Western Australian Dispute Resolution Association (WADRA), in consultation with NMCL and with the support of NADRAC, wrote to then Attorney General requesting a grant of \$30,000 to engage Professor Tania Sourdin to develop the standards for approval and practices as well as requisite documents and policies to implement a national mediator accreditation scheme. Professor Tania Sourdin was a member of NADRAC who had prepared draft standards for use in the family area and had facilitated discussion in this area in 2004 on behalf of NADRAC. The grant was approved in May 2007.

In June 2007, Professor Sourdin prepared and circulated Draft Approval and Practice Standards and consulted widely across Australia. She also proposed an implementation timetable to the end of 2010 and proposed that a voluntary industry and self regulated accreditation scheme could operate from 1 January 2008. Professor Sourdin completed her *National Mediator Accreditation System Report on Project* and national *Approval Standards* and *Practice Standards* in September 2007 and the System was accepted by stakeholders and commenced operation from 1 January 2008. (the background documents are available on the WADRA website at <http://www.wadra.law.ecu.edu.au/accreditation.html>)

Apart from the development of the Approval and Practice Standards, Professor Sourdin made a number of recommendations to ensure that the scheme could operate into the

future. One of Professor Sourdin's key recommendations related to the establishment of a National Mediator Accreditation System (NMAS) that is, a voluntary industry system under which organisations that meet certain criteria set down by Professor Sourdin (known as Recognised Mediator Accreditation Bodies or RMABs) may accredit mediators. Professor Sourdin also proposed that a body called the National Mediator Accreditation Committee (NMAC) be established to fully implement the NMAS, including establishing an ongoing national Mediator Standards Body (MSB) from 2010.

These recommendations were adopted and the NMAC's inaugural meeting was on 5 March 2008. The membership of NMAC was set out in the recommendations and its' membership is comprised of RMABs, education and training organisations, organisations that use mediation services and other relevant stakeholders. NMAC established four working groups: the NMAC Working Group, the MSB Working Group, the Practice and Compliance Working Group and the Complaints Working Group. Each of these groups made significant progress in developing a consistent approach to the application of the system.

As at June 2008, NMAC had no legal status and was considering whether or not it should formally establish itself as an organisation in order to formalise its membership, rules and procedures and enable it to apply, in its own right, for any future grant funding that may be required to ensure it can fulfill its functions.

With the assistance of NADRAC and the National Mediation Conference, the NMAC convened a second meeting in Perth in September 2008.

At the meeting in Perth the (then) unincorporated association resolved to establish a special purpose Association under the Associations Incorporation Act (ACT) to further the goals of National Accreditation of mediators. In addition, significant work in relation to complaints handling was completed and approved by the various industry bodies to ensure that bodies that had previously not had compliant complaints schemes could effectively deal with any complaints.

NMAC became an incorporated association in April 2009.

In 2009, NMAC was awarded a grant of \$113,620 from the Grants to Australian Organisations Program for the purpose of developing a national MSB to oversee the National Mediator Accreditation System. The various meetings of NMAC in 2009 and 2010 have achieved agreement on the legal structure and governance of the MSB and there has been much discussion on its funding methods. Broad general principles in regard to funding have been adopted and the funding is eventually expected to comprise a mix of membership fees and other monies. Determining funding has been a difficult task, as mediators are very diverse. NMAC for example, currently represents the interests of

community and indigenous mediator organisations, court based organisations as well as established legal associations and ADR professional groups. NMAC plans to launch the MSB at the National Mediation Conference in Adelaide in September 2010.

The NMAC working groups continue to focus on complaints handling, practice and compliance and the ongoing development of the Standards, the governance and funding of the MSB and ongoing functions of NMAC. The working groups have made significant progress, with complaints handling processes now in place across the sector and model complaints processes available for organisations that are not governed by statutory schemes. All members of the working groups have offered their time and expertise without cost to NMAC.