

LAW COUNCIL POLICY ON ALTERNATIVE DISPUTE RESOLUTION

The Law Council of Australia has adopted a positive attitude to the resolution of disputes, where appropriate, by means other than court hearings. It has adopted the following policy:-

- (1) Lawyers, recognising that the interests of their clients are paramount, should take an active part in preventing disputes from arising. To this end, they should assist their clients who are about to enter upon commercial or other relationships to put in place, whenever appropriate, machinery which is aimed at preventing disputes from arising and, where disputes nevertheless do arise, to procure resolution of them as soon as possible otherwise than by litigation.
- (2) In advising as to the resolution of those disputes which do arise, lawyers should select the dispute resolution process most likely to satisfy their clients' interests efficiently and effectively.
- (3) In seeking to achieve this, lawyers should ensure that the dispute resolution process adopted gives all parties an opportunity to express their concerns in an impartial environment conducive, whenever possible, to a strengthening of their relationships.
- (4) Lawyers should recognise that methods of resolving disputes otherwise than by means of litigation may be pursued productively before and even during the course of formal court or arbitral proceedings.
- (5) Lawyers, recognising that special skills are required to identify and participate in alternative methods of dispute resolution, should acquire

and regularly enhance those skills through appropriate training, such as in principled negotiation, mediation, conciliation and arbitration.

The Law Council of Australia encourages the development by the courts of flexible practices to facilitate the consensual resolution of pending litigation without penalty to its hearing priority. Appropriate practices may include court sponsored mediation or conciliation.

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