



26 June 2012

## **MEDIA RELEASE**

### **Lawyers need to be better prepared to help disadvantaged clients navigate Alternative Dispute Resolution**

A new research report prepared by the National Pro Bono Resource Centre (“the Centre”) identifies the need for lawyers to be better equipped to assist people experiencing disadvantage to participate in ADR. The research indicates that considerable variation still exists among legal professionals in their level of knowledge about ADR and their confidence to assist parties experiencing disadvantage that are participating in ADR processes.

The research also found that the greatest need was for legal advice and representation for disadvantaged and marginalised clients rather than lawyers acting pro bono as ADR practitioners. The report found that lawyers should be clear about which of these roles they are playing and possess the appropriate skills and experience for that role.

In the words of one submission, “People who have experienced a lifetime of relative powerlessness and have never been successful in asserting their rights, operate on the assumption that they will not be able to do so in the context of ADR either”. John Corker, Director of the Centre said, “While ADR has the potential to resolve disputes much more quickly, cheaply and flexibly than the courts, many disadvantaged and marginalised people are unable to effectively participate in ADR processes due to factors such as mental illness, homelessness, and domestic violence.”

However, the research found that legal assistance can improve the ability of people experiencing disadvantage to effectively participate in ADR, for example by explaining the nature of the ADR process, ensuring that the ADR process is conducted fairly, advising on the strengths and weaknesses of the client’s case, and ‘reality testing’ any settlement options that may arise in the process. The research found that it was important for lawyers providing assistance in these circumstances to have a strong general knowledge about the legal issues that affect people experiencing disadvantage and the types and sources of their disadvantage.

The report found that a critical part of developing capacity in this area is the provision of more effective coordination of those wishing to contribute their skills on a pro bono basis and suggests that this should occur through pro bono clearing houses and ADR practitioner membership organisations like LEADR.

“Given the trend towards increased use of ADR, lawyers acting for pro bono clients will be increasingly involved in advising and supporting them through ADR processes. This report provides a resource to help them do that”, Corker said.

The report draws on the experience of those involved in organizing and delivering legal assistance to parties participating in ADR processes, particularly to people who cannot afford to pay for such assistance, including National Alternative Dispute Resolution Council (NADRAC), ADR practitioner professional associations, pro bono mediation services, legal aid, community legal centres, industry ombudsman schemes, community mediation services, ADR practitioners and academics.

*For further information please contact: John Corker 0420 474 628 or 02 9385 7381.*