



Attorney General's
department of nsw

**The Honourable R J Debus,
Attorney General**

Dear Minister,

I have the honour to present, pursuant to section 31(1) of the *Community Justice Centres Act 1983*, the twentieth Report of the Community Justice Centres' Council. The report covers the year ending 30 June 2003.

Deborah Sharp
Director
2003

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Vision

To provide excellent Alternative Dispute Resolution services to the people of NSW.

Goals

To contribute to the safety and harmony of communities by improving individual, group and community responses to, and resolution of, conflict.

To provide quality mediation and conflict management services for metropolitan and regional NSW.

To provide services that are confidential, impartial, accessible and voluntary.

To empower people to take ownership of the dispute and transfer conflict negotiation skills and knowledge to the community.

Key Objectives

- The provision of innovative, accessible and equitable ADR services throughout NSW.
- The provision of culturally appropriate ADR services to Aboriginal and Torres Strait Islander communities throughout NSW.
- To establish proactive partnerships with key referrers
- To provide an environment in which all staff and mediators contribute fully to the values and outcomes of the organisation and are appropriately trained, supported and supervised.
- To provide an administrative structure that meets the needs of the business, that is flexible, innovative, practical and cost effective.

Director's Report

It was an exhilarating start to my employment as the Director of CJC, to join the organisation at the same time as the first Aboriginal basic mediation training got underway in December 2003. It seemed to me, as I met mediators and staff, that I was joining an organisation committed to meeting the needs of the whole community, through innovation, dedication and enthusiasm!

That initial impression was reinforced as I travelled around NSW meeting staff and mediators- from Nowra to Lismore and out to Broken Hill I was made welcome by mediators and staff who were keen to ensure that I quickly learnt about the issues (the joys and the challenges) confronting CJs.

The priorities that emerged for me as I went through that learning process were:

- The importance of ongoing communication and consultation;
- The challenges of service provision in rural and remote areas and the need for consolidation following the recent period of growth and expansion; and
- The need for me to take time to meet CJC people and understand the issues being raised.

The review of mediators pay and conditions, the review of the CJC Act, implementation of training programs that met the skill development and accreditation needs of mediators, implementation of the recommendations of the internal Review of CJs were all ongoing throughout those second 6 months of the financial year.

The CJC Council did not meet in the reporting period as the role of the Council was being addressed as part of the review of the CJC Act.

An outstanding event was the recruitment, training and accreditation of 15 Aboriginal mediators in northern NSW. It is extremely gratifying to see the extension of CJC service to the Aboriginal community.

The management team and myself are supported by a dedicated team of staff and mediators who provide high quality mediation services to the people of NSW. I am looking forward to the next year, as the fruits of the reviews come together and we continue, in a work culture of respect, open communication and support, to provide mediation services to the people of NSW.

Robert Sharp

Program Overview

Regionalisation

The state-wide expansion of the Community Justice Centres (CJC's) was continued with the initial operation of mediator panels for the far North and South Coast areas of NSW. The training was completed in September 2002. Further regionalisation services in the Far West, centred on the communities of Cobar, Wilcannia and Broken Hill was completed. Further supplementation of the Western Region panel was completed with Basic Mediation Training conducted at Penrith.

Residents of the Western Region now have the same access to the service as their city counterparts.

The final step, after much consultation with stakeholders and interested parties, of the consolidation of the administrative units of Sydney and Bankstown was completed in May 2003, with the move of the regional administrative unit and staff to refurbished accommodation and mediation facilities at Bankstown.

Quality Management Services Review

In December 2002 CJs gained accreditation by the Quality Improvement Council after the completion of the Quality Management Services assessment of CJC operations. CJC will continue to monitor and improve management processes to ensure ongoing accreditation by the Quality Improvement Council.

Mediator Accreditation

CJs has an accreditation policy with the objective of providing a framework within which to provide high quality mediation services. Ongoing accreditation of mediators was further advanced with skills update training for all mediators made a necessary precondition for reaccreditation.

Local Courts

Close cooperation with Local Courts continued with a more structured approach to early intervention in matters where mediation may have been the more desired approach.

Court Listing Day services have been expanded throughout the regions. CJC Mediators have been attending courts on list days to interview clients referred by the Magistrate usually involving an Apprehended Personal Violence Order (APVO). The immediate benefit to the local community is that clients are able to have their matter assessed for suitability for mediation, make an informed choice about participating in mediation, and have an appointment made for a mediation session before they leave Court that day.



Review of the CJC Act

In October 2002 the Attorney General, the Hon R J Debus MP referred the review of the Community Justice Centres Act 1983 to The Law Reform Commission. In undertaking the review, the Commission is required to give particular regard to:

- a) the role of Community Justice Centres as a state-wide conflict management and mediation service;
- b) whether the current structure of Community Justice Centres sufficiently meets the needs of the indigenous community of New South Wales;
- c) the role and entitlements of mediators; and
- d) any related matter.

A discussion paper from the Commission is expected later in 2003.

Submissions to the Review were made by CJC, and individual mediators.

CJC review of services

An internal review of CJC services was conducted in the reporting year. Communication emerged as a major issue for both staff and mediators alike. A number of strategies have been formulated and are in the process of being implemented. Administrative matters, professional issues, OH&S issues and recommendations for improved services to Aboriginal and culturally specific communities were made. During the past reporting year, CJC has developed many different forums for discussion of issues. The Mediator Advisory Forum (MAF) is but one example. These forums are attached to each regional centre and are designed to provide mediator input on a variety of issues to the regional coordinator which may ultimately find its expression in management decisions.

In terms of quality change, a number of matters dealing with pre-mediation, flexibility and clients needs and the roles of support people have been referred to the MAF groups for their input. In areas of training policy, matters relating to violence, difficult clients, recognition of prior learning and the feasibility of further accreditation of CJC training towards university and TAFE courses is to be researched.

The Professional Reference and Training groups met on 2 occasions during the year. They are yet another example of the CJC's commitment to ongoing review of our service and commitment to clients and mediators in terms of improved practice, training in new areas of mediation and general assistance in terms of CJC professional development.

CJC's Aboriginal & Torres Strait Islander Program

The CJC's Aboriginal & Torres Strait Islander Service has been established. Having completed the design of an appropriate model for service delivery of mediation into Aboriginal communities, CJC set about the task of inviting applications from interested members of Indigenous communities for training as mediators. Applications were received from the Gumbaynggirr (Nambucca), Kamilaroi (North West), Awabakal (Lower Hunter), Wiradgeri (Central West), and Far West (Wilcannia) communities. The aim was to provide a service to Indigenous communities whilst at the same time being able to mediate within the broader context of service delivery to the community in general.

The training was completed in January 2003. Fifteen participants (13 based in the Northern region and 2 in the Western region) successfully completed the training and are now accredited mediators for CJC's.

The A&TSI mediator program in northern NSW is to be evaluated and the service expanded to cover the Sydney, and southern region of NSW in the next reporting period.



CJC's newly accredited mediators, pictured, after receiving their accreditation certificates - top row from left: Deborah Sharp (Director CJC's), Tina McLennan, Mark Griffith, Aubrey Cora, Annie West (Coordinator Western CJC's). Centre row from left: Albert Dennison, Peter Beale, MaryAnn Hausia, Julie Baker (Assistant Director General - Community & Regulatory Services NSW AG's Dept.) Bottom row from left: Henry Weatherall, Bernadette Wilkes, Percy Strong, Janet Sutherland (Coordinator Northern CJC's)

Law Week

CJC's co-hosted the *Pathways to Australian Indigenous Dispute Settlement* forum with the NSW Aboriginal Justice Advisory Council (AJAC) in collaboration with the Legal Aid Commission (LAC).

The objective of the forum was to provide an opportunity to hear and discuss issues around dispute settlement in Aboriginal communities and to hear about CJC and LAC initiatives that have sought to provide dispute resolution services to indigenous communities in NSW.

The forum was chaired by Ms Winsome Mathews, Chairperson of AJAC and was well attended. It was a great opportunity to discuss issues surrounding the provision of dispute resolution services to Indigenous communities. A number of issues that were raised have been included in the review process of the CJC program.

Regional Highlights

Northern CJs

The Northern lights are bright as our service embraces new opportunities while affirming core delivery.

One highlight has been the launching of the panel of Aboriginal mediators - available to help communities and individuals across northern areas. In keeping with CJs philosophy of self empowerment, we have sought, encouraged and gained immensely from the active involvement and participation of Indigenous communities and individuals.

This involvement has been made possible by CJC Aboriginal staff and mediators and with the help of the Norimbah Unit and other Attorney General's Department Aboriginal staff. Selection, recruitment and training procedures, the development of Aboriginal community specific brochures and other promotion strategies have involved extensive consultation. Already, this success is being reflected in referrer interest.

This further extension of the CJs service comes hand in hand with the successful consolidation of recent geographical and regional expansion. In particular the service has been very eagerly embraced in the Far North Coast, Central Coast and Lower Tablelands areas.

Regional projects conducted throughout the reporting period included:

- Presenting training sessions to community organisations and other government departments on introductory mediation processes, dealing with difficult people, facilitating meetings and prevention of conflict;
- Conducting twenty-four 'Information Sessions' for referring and community organisations in centres across the region;
- Introduction of 'List Days' in an additional twelve courts across the region; and
- Participated in Law week activities in conjunction with local courts providing displays, mock mediation sessions and presentations to the general public. Attendance levels were high and all activities were well received.

Once again the Northern CJC staff and mediators have delivered an excellent community service.

Southern CJs

The reporting period has seen the Southern Region settle comfortably into its expansion. CJs presence has been established in the areas along the far South Coast and Queanbeyan with newly trained mediator panels, while existing services throughout the region have continued. The caseload reflects this with an increase in the number files opened from the previous reporting period.

In May 2002 the Campbelltown administrative unit was re-opened 2 days per week to provide a local administrative service to the Macarthur area. The re-opening has been well supported by the local community and particularly the mediators. Referrals from neighbouring agencies have increased, as CJC's are once again, making their presence strongly felt.

Local Court List Days have expanded with the support of the Magistrates and Registrars throughout the region. This service is now provided to eight different courts in the Murray, Murrumbidgee and South Coast areas, with increasing interest from other courts.

An outreach service for the Bellambi area was developed using joint resources with the Department of Housing (DoH) and Bellambi Neighbourhood Centre. The Bellambi area houses primarily DoH residents who have a limited access to services. Information sessions have been conducted and promotion of CJC services have been delivered using various tools such as radio, television and letter box drops. The project work has also become an invaluable vehicle for establishing relationships and liaising with other community services in the area.

Sydney CJs

2002-3 has been a time of change for the Sydney region. Both staffing and office changes and relocation occurred. The challenge remains to provide a responsive service within a busy region. The relocation to the Bankstown office late in the reporting period has the objective of reflecting the population growth and density in Sydney.

The reporting period has shown a decrease in the caseload of the Sydney CJs compared with the previous reporting period. This can be substantially attributed to factors experienced while consolidating the regionalisation process.

Once the administrative unit was relocated to Bankstown the regionalisation process was complete and the regions focus changed to concentrate on team building, community development, partnerships and training needs. A Mediator Advisory Forum was established and a quarterly newsletter distributed to all staff and mediators in the Sydney regional area.



Initiatives for 2003/04 will be:

- Provision of Civil Claims service to the Downing Centre Civil Claims Registry;
- Re-establishment of the Local Courts/CJC working party to consolidate and build strong relationships between Local Courts and CJCs;
- Expansion of services to local courts;
- Redfern housing project – outreach premediation service provided;
- Concentrated promotion to Councils and Police;
- Promotion of partnership with Downing Centre Court precinct, and
- “Getting to Know You” lunches with key stakeholders.

Western CJCs

Western Region continued to expand this year with the focus being on training regionally and remotely located mediators in delivering the full range of services offered by CJCs. It has involved travel, training, systems reviews and consultation with staff and mediators as the service consolidates and builds upon the achievements of last year.

In December 2003 an additional 23 mediators were trained and accredited to work across Western Sydney, the Blue Mountains and Hawkesbury areas. These mediators also increased the diversity of backgrounds and ages of our panels. We welcomed some younger mediators who are working with us to continue to provide services to families, children and young people.

Mediators received training in Pre-mediation, and as a result we have been able to increase the number of local courts serviced for List Day activities. This service has worked very successfully in Western Sydney for a number of years.

The Small Claims mediation program has been expanded and is now offered in the Hawkesbury and Central West of NSW. This has resulted in many clients having their Small Claims matters finalised earlier than usual. Mediators can assist the clients to settle the matter without having it referred to a Magistrate or Assessor.

The Conflict Management Program has seen Indigenous communities who have conflict involving many families assisted in culturally appropriate ways to find solutions to the problems causing the dispute. CJCs Aboriginal Mediators have provided a greater insight into working with Aboriginal Clients and have helped pave the way for the service being accepted and utilised by those communities.

Karen Dey of Community Justice Centres, Northern Territory visited the Penrith office. The service in the Northern Territory is a new one and is being modelled on the NSW CJC experience. We were able to assist in sharing information about our processes, what works and what hasn't.

Service Delivery

Matters are efficiently dealt with by CJCs without waiting periods and delays, although some cases may take longer to finalise due to the complexity of the dispute and the willingness or time constraints of parties involved.

- **53%** of Files Opened were closed and finalised within 20 days
- **74%** were closed and finalised within 30 days.

Case-load

Files opened during the year under review totalled 7,139. Of all files opened 2,670 (38%) were resolved to the satisfaction of the disputants (this includes matters resolved without the need for mediation). Of the 2,786 matters which proceeded to mediation, 82% ended in agreement.

Outcomes

Statistics are a useful way of assessing the effectiveness of the services provided, however, they do not always tell the whole story. In the case of mediation sessions there are two main outcomes, agreement and no agreement. Where there is no agreement there may also be a Statement of Unresolved Issues which outline the offers made by the parties in dispute.

There are other outcomes from a mediation session which cannot be neatly packaged into a no agreement/agreement number. These outcomes may be a better understanding of the issues in dispute which in turn allows the parties to negotiate a settlement on their own or accept an adjudicated decision by the Courts.

In a situation where whole communities are involved, it may be the first opportunity that the disputing parties have had to talk face to face about the issues confronting them. This in turn leads to an appreciation of what can be achieved by talking and working together and a desire to do this in the future rather than to engage in adversarial processes in the first instance.

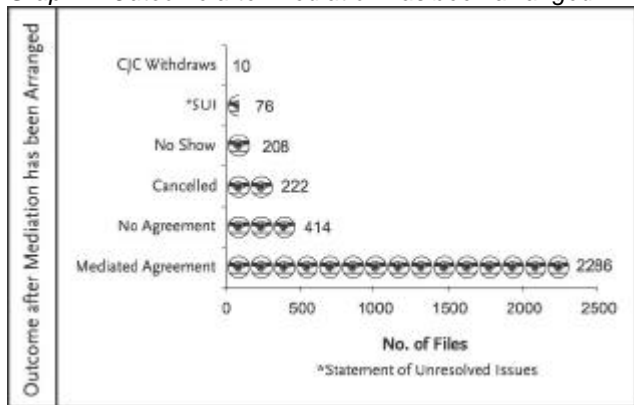
The *Community Justice Centres Act 1983*, Section 23 provides that:

- (1) Attendance and participation in mediation session is voluntary;
- (2) A party to a mediation session may withdraw from the mediation session at any time.

The experience of similar mediation projects in other parts of the world is that where mediation is a voluntary process, both parties will agree to a mediation session in about one third of all disputes. Our results have been consistent with this, with minor variations from time to time. In the 2002/2003 reporting period mediation was arranged in **3,216 (46%)** of files opened.



Graph 1: Outcome after mediation has been arranged



- In the year under review, a mediation session was arranged in 46% of cases
- Where a mediation session was held, agreement was reached in 82% of sessions
- In 18% of cases, the administrative units were unable to contact, or had no response from Party B
- Party B declined in 21% of all cases
- A further 384 disputes (5%) were resolved, without proceeding to mediation, to the satisfaction of the parties.

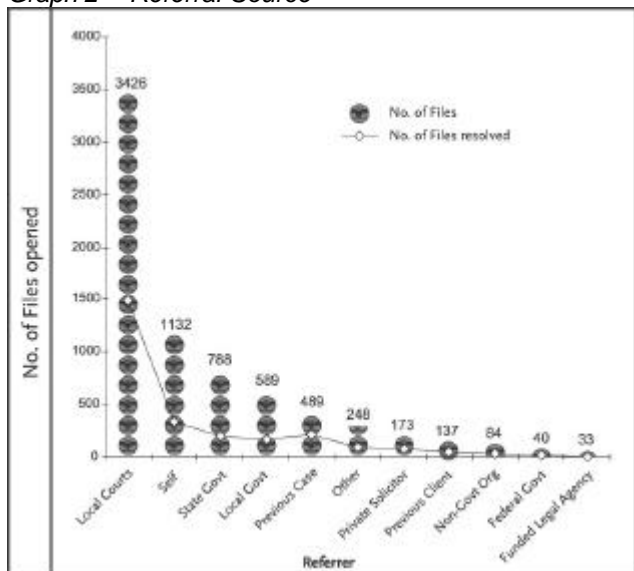
Referral Source

The major source of referral for the year under review was Local Courts (48%), this is an increase of 114 files from the previous year.

Referrals from legal sources total 57% of files opened. The breakdown of the referrals is: Magistrate (1889), Chamber Magistrate (1212), Registrar (325), Police (314), Private Solicitor (173), Legal Aid (76), Legal Centre (33), Family Court (12) and LawAccess (12).

Other – includes: mediators, trade unions, marriage counselling services, private sector (doctors, banks, personnel, officers, real estate agents, fencing contractors etc.)

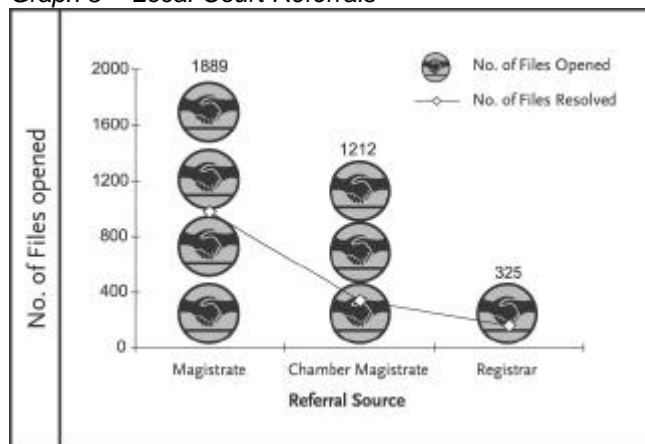
Graph 2 – Referral Source



Local Court Referrals

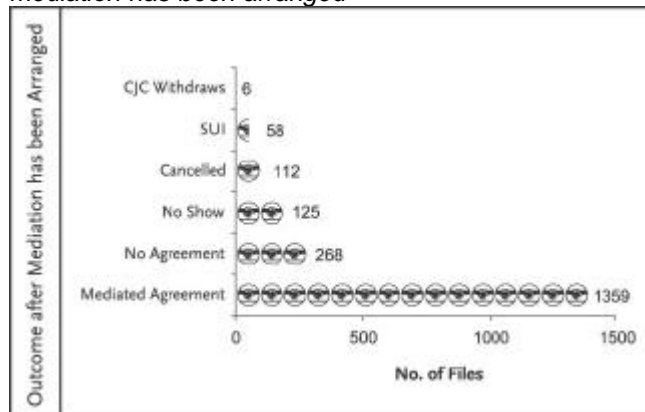
Local Court referrals are broken into three groups of referrers: Magistrates, Chamber Magistrates and Registrars.

Graph 3 – Local Court Referrals



The outcome of CJs Intervention after a mediation session had been arranged for Local Court referrals as a whole are demonstrated in:

Graph 4 – Local Court Referrals – Outcome after mediation has been arranged



Apprehended Personal Violence Orders were involved in 1,110 cases (16%) a significant increase from the previous reporting period.

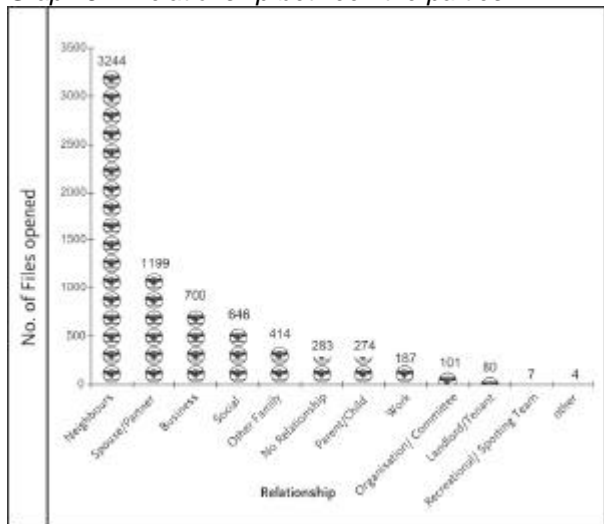
Relationship between the Parties

Neighbour disputes at 45% continue to be the most frequently represented in the caseload.

Family disputes account for 26% of the work of CJs and 25% of family disputes are between separating or separated spouses. Disputes involving adolescents or young adults and their parents account for 15% of all family disputes. Many of these disputes have been before the Children’s Court as irretrievable breakdowns in family relationships and their resolution at mediation enables the young person to remain at home, or to leave home by agreement. This reduces the likelihood of “risk” behaviour on the part of the young person.



Graph 5 – Relationship between the parties



Nature and Complexity of disputes

The data collected in this table is somewhat subjective as the complaints recorded depend upon the matter immediately important to Party A at the time of the interview. Therefore, it is a conservative picture of the nature and complexity of the dispute.

The method of classifying the nature of dispute recognises the separate components of:

- the disputing behaviour (behavioural complaints); and
- the presenting problem, or specific problem (specific complaint).

For the reporting period:

- the number of behavioural complaints totalled **13,882**;
- the number of specific complaints recorded for all cases totalled **8,374**; and
- the average number of complaints per case was **3**.

The most frequently mentioned complaints were:

Behavioural Complaints

- Inability to communicate 2,267
- Shouting, abuse 2,096
- Refusal to negotiate 1,500
- Insults, taunts 1,201
- Money, debt 1,107
- Repeated refusal or failure to act on complaints 687
- Noise – any source 581
- Threats of violence - things thrown (missed) 552
- Repeated complaints, regarded as trivial by recipient 514
- Harassment by letter or phone 415

Specific Complaints

- Fence 889
- Family – Contact 693
- Lifestyle, Environmental 496
- Invasion of Privacy 495
- Children - Behaviour, noise, rudeness 453
- Visitors, Customers, Callers – Nuisance caused by 357
- Children - Nuisance caused by, Discipline of, Concern for care of 335
- Residence of child 301
- Division of property 296
- Parenting Issues 263

How serious are the disputes?

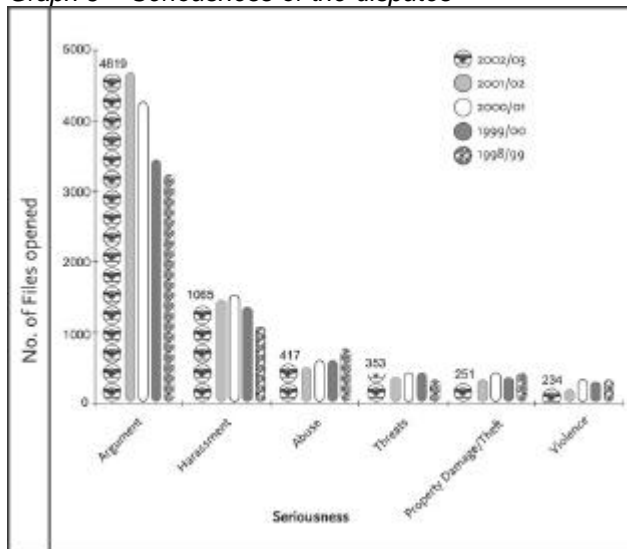
Of the disputes dealt with by CJs, 27% involve harassment, threats, property damage, theft or violence. 39% of these disputes were resolved.

Examples of categories:

- **Argument** – may mean that parties are unable to reach agreement or are unable to communicate.
- **Abuse** – may include heated and repeated arguments ending in insults or written abuse.
- **Harassment** – could involve repeated attempts to embarrass/annoy.
- **Threats** – may include threats of violence or property damage, threats of legal action.
- **Property Damage/Theft** – deliberate damage to property, alleged theft, accidental damage with no intention to repair.
- **Violence** – may mean there has been a violent act against the person.

It is important to highlight that disputes are usually multi-faceted frequently involving complex multiple issues.

Graph 6 – Seriousness of the disputes



Service User Profiles and other caseload statistics are available from the CJC Directorate or on the CJs website at: www/cjc/nsw.gov.au/cjc.nsf/pages/publications



Glossary of definitions

Party means the person, persons or organisations involved in matters dealt with by the CJsCs.

Party A is the person who contacts a CJC to raise the matter and open a file, the other people or organisations involved are identified as **Party B, Party C** etc.

Community Dispute is a dispute where a community, organisation, or group need to agree on a course of action, but the issues, options or constituencies are not clear. This type of dispute requires substantial intake procedure of a more analytical nature in order to identify the constituencies, clarify the issues and options.

Conflict Management involves the assessment of all of the aspects of the conflict and the planning of a course of action which will most likely result in the resolution of most if not all of the concerns. The three general approaches to conflict management are: conflict anticipation for potential conflicts; cooperative problem-solving for acknowledged but not highly polarised disputes; and mediation for highly polarised situations. Conflict Management is outcome-based, fosters direct negotiations between disputants, and includes a design for the future.

Dispute Advisory Service is the process where the Interviewing Officer assists a disputant to explore all the options available to them and the disputant chooses a course of action to resolve the dispute themselves.

File Opened is where Party A contacts CJsCs to arrange mediation in order to resolve the dispute.

Mediation is a process in which the parties to a dispute, with the assistance of a neutral third party (the mediator/s), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

Pre-mediation is a process in which a third party (the pre-mediator) investigates the dispute and provides the parties or a party to the dispute with advice regarding the issues which should be considered, possible,

probable and desirable outcomes and the means whereby these may be achieved.

Shuttle Mediation is a process in which the parties to a dispute with the assistance of a neutral Interviewing Officer identify the disputed issues, and further identify the issues which may be resolved by this process, develop and consider options for settlement and endeavour to reach an agreement without the parties being brought together or communicating directly. The Interviewing Officer has no advisory or determinant role on the content of the dispute or its resolution, but will continue to advocate direct communication as the most productive way of resolving all issues.

Standard Dispute is any dispute where the two parties or two sides to the dispute can be readily identified. There may be more than one person in either or both parties. The presenting party (Party A) at least recognises that there is a dispute and is able to say what the dispute is about. In CJC terms there will be a Party A and a Party B. There may also be A2, A3 and B2, B3, B4 etc, but the dispute is considered manageable within normal intake procedures - standard letters etc.

Statement of Unresolved Issues (SUI) is where parties who have not been able to reach agreement are assisted in writing a document which outlines the offers that may have been made, and the perceptions by each party of the dispute. This reminds parties how far they have come in understanding what has happened in the past, in understanding each other, and how they would like things to be in the future. Parties are able to look at the SUI at a later time and the transfer of these skills may assist the parties to determine ways to resolve their dispute after the mediation session.

