

CIVIL MEDIATION COUNCIL

FIRST MEETING OF THE CIVIL MEDIATION COUNCIL 23rd April 2003 Chartered Institute of Arbitrators, London at 1500

Attendees

Sir Brian Neill

Elected Independent Mediators

John Bishop
Philip Naughton QC
David Richbell
Stephen Ruttle QC
(Apologies from Heather Allen)

Elected ADR Providers

ADR Chambers – Harry Hodgkin
ADR Group – Richard Schiffer
Chartered Institute of Arbitrators – Allan Connarty
CeDR – Graham Massie (Apologies from Karl Mackie)
In Place of Strife – Mark Jackson-Stops

Elected Academic and Designated Bodies

UWE - Jonathan Tecks
Law Society - Evlynne Gilvarry
Bar Council – Philip Naughton QC
Lord Chancellor's Department – Jill O'Sullivan

Jonathan Dingle – Acting Secretary

MINUTES OF THE MEETING

The meeting opened at 1510.

1. **Apologies for Absence**

Received from Karl Mackie – to whom all sent their best wishes for a speedy recovery, and from Heather Allen.

2. **Election of Chairman for the Meeting**

Sir Brian Neill was unanimously asked to chair the meeting.

3. **Formal receipt of election results**

The Acting Secretary read the election results which were reflected in the attendees at this first meeting.

4. **Correspondence**

The Acting Secretary had received correspondence from the NHS Litigation Authority, the Association of Northern Mediators and the RICS. These were to be dealt with under Item 5.

5. **Matters arising from election**

5.1 **Second academic nomination**

The meeting noted that Regent's Park College had wished to put itself forward for election to the CMC as an Academic institution but, owing to an administrative error, had not rendered a nomination form in time. The meeting further noted that the College asked that it may now be considered. The meeting was willing to consider the College as the second academic nominee but asked the Acting Secretary to circulate the nomination form first so that it could be considered. Members reserved the right to invite further academic bodies to come forward for consideration should they feel it appropriate. The discussion was adjourned until the next meeting in June.

ACTIONS

- (a) **JD** to circulate the Regent's Park College nominated form to all members of the CMC – *please note that it is attached.*
- (b) **Members** to consider the question at the June meeting

5.2 **Observers: possible bodies/institutions**

The meeting considered a number of options to invite bodies to be Observers at meeting. The bodies considered in turn were:

(1) **Regional Associations**

JD reported that the Association of Northern Mediators and the Association of Midlands Mediators had both indicated that they would welcome invitations to be formal permanent observers at the meetings. They were said to be disappointed not to have been elected and felt there was a lack of regional and specifically non-London representation on the CMC. Members were broadly sympathetic to the need to have regional input and to be, and to be seen to be, inclusive. Whilst there were non-London based providers and independent mediators with national practices on the CMC members felt that some regional input was desirable. Against this, there was a need to avoid overloading the CMC and to keep the shape and balance which the electorate had given to it. The questions of Wales and Scotland were also raised as was the more community mediation focused organisation Mediation UK. After considerable discussion, which included discussion of co-opting one or more observers to the main Board, it was resolved that there would be established a regional sub-committee.

ACTIONS

- (a) **Members** to consider for the June meeting proposals for the nature, membership and working of a regional sub-committee of the CMC, including deciding where it might meet.
- (b) Thereafter invitations to be issued to appropriate bodies to attend a first meeting.

(2) **Ireland**

JD reported contacts from Ireland where a body to promote ADR was in the course of formation and said that he had had an intimation that a prominent Irish mediator would welcome an opportunity to observe at the CMC's meetings. Members discussed the options for this, for Scotland, for fostering links with Europe and around the world. It was agreed that the best course was to establish an international sub-committee to promote contacts and development.

ACTIONS

- (a) **Members** to consider for the June meeting proposals for the nature, membership and working of an international sub-committee of the CMC.
- (b) Thereafter invitations to be issued to appropriate international bodies to attend a first meeting.

(3) **Academy of Experts**

SBN reported that the Academy had stood for election but had not been successful. He knew that some people had suggested that the Academy's major contribution to mediation over the years ought to be recognised by an invitation to be an observer. Members acknowledged the work of the Academy but with two members declaring themselves to be associated with the Academy it was considered that there would be sufficient opportunity for its own views to be heard. It was also pointed out and accepted that the membership of the Board of the CMC was not closed or fixed, that this was an interim body, and in due course the Academy would be welcomed as a candidate in fresh elections. It would therefore be an unhelpful precedent to invite even a worthy body such as the Academy to circumvent the election process. It was agreed that the Academy would not, therefore be invited to be an Observer.

(4) **Advice Services Alliance**

JD reported that the full meeting in December had strongly indicated its desire to see lay consumer representation on the Board of the CMC and that that meeting had thought the ASA best placed to provide such a voice. Members wondered whether, for example, the CBI and IOD might also be appropriate but reflecting on the structure and numbers agreed that the ASA was the most appropriate body to have Observer status. The meeting did, however, believe that it would be worth considering the establishment of a users' sub-committee and inviting appropriate user representatives to participate. This might include the IOD, CBI and (eg) the NHS Litigation Authority and judiciary.

ACTIONS

- (a) **SBN** to write to the ASA inviting it to provide a representative as an Observer to attend meetings.
- (b) **Members** to consider before the next meeting the establishment of a users sub-committee, who should run it, who should be invited and so forth.

(5) **RICS**

JD reported for completeness that the RICS had indicated full support for the CMC as now constituted and would be glad to assist in any way. Members noted this with thanks.

5.3 **Alternates for providers**

SBN noted that on this occasion Karl Mackie was unable to attend following an accident and welcomed Graham Massie. Members took the view that while it would not be appropriate for independent mediators to have alternates to attend meetings, and whilst they were sure that the providers would always endeavour to provide continuity, it was acceptable on the occasions when this could not happen for bodies to nominate to the Secretary an alternate for the usual attendee.

ACTION

- (a) Members from a provider or other body who are unable to attend a meeting are requested to notify the Secretary as soon as possible of the name of their alternate.

5.4 It was accordingly **RESOLVED** that the composition of the CMC should, for the time being, be:

A Chairman with judicial connections invited by the Board
5 Independent Mediators elected by the general meeting
5 Provider representatives elected by the general meeting
Up to two academic representatives
A representative of the Law Society
A representative of the Bar Council
A representative of the Advice Services Alliance
A non-voting representative of the Lord Chancellor's Department
(in all up to 17 people).

6. Formal receipt of Working Party Report and Proposal

The CMC Working Party Report and proposals for the CMC were formally received. *Copies are attached for Members use.*

7. Election of officers for the Board of the CMC

The following officers were elected unanimously:

- 7.1 Chairman – Sir Brian Neill (who agreed to stay in post for a year to ensure a smooth start to the CMC)
- 7.2 Vice-Chairman – Karl Mackie (who was not present but it was hoped would accept the nomination)
- 7.3 Treasurer – Richard Schiffer
- 7.4 PR/media liaison person – it was agreed that David Richbell, Evlynn Gilvarry and Mark Jackson-Stops would work as the media and PR team on behalf of the CMC
- 7.5 Hon. Secretary – JD was invited to continue in the post as Honorary Secretary for a year)

8. Identification of priorities for CMC work

Members examined suggestions for work priorities. In addition to the issue of sub-committees, members thought it important to instigate a research programme to provide meaningful statistics to the judiciary, government and the wider community. A range of topics was discussed and the following list, which was neither prescriptive nor proscriptive, was considered:

External

- (a) Immediate PR/media strategy - preparation of a press release/statement
- (b) Longer term PR strategy - definition and activation
- (c) Liaising with government/judiciary/industry/other mediation groups
- (d) Website strategy and construction
- (e) Regional sub-committee
- (f) International sub-committee
- (g) Users' sub-committee

Internal

- (a) Constitution - refinement and consideration of the electorate
- (b) Responsibility for storing material
- (c) Duration of this iteration of the CMC Board
- (d) Funding
- (e) Administration
- (f) Allocation of members to sub-committees

General

- (a) Lead on promotional work
- (b) Lead on responsive work
- (c) Research and papers including statistics
- (d) EU cross-referencing
- (e) What if any conferences and seminars should be held, how should they be organised, by whom and when

Members agreed that by close of play on Friday, 30th May 2003 they would submit to the Secretary by email ideas for work and priorities written up as a single side of A4. These would include topics, way ahead and allocation of persons to such tasks as well as ideas for funding if appropriate. These proposals, which should be regarded as brain-storming, would be circulated by the Secretary and then discussed with a view to a road map for the work of the CMC being agreed at the June 2003 meeting.

ACTIONS

- (a) **Members** to produce ideas for future work by Friday 30th May 2003
- (b) JD to circulate submissions
- (c) **Members** to discuss ideas at the June meeting.

9. **Allocation of members to priorities**

Members agreed that this would be premature before the process in (8) had been completed.

10. AOB

(a) **Funding**

Members and providers agreed each to send £100 to the Treasurer to provide an initial float for essential items before the next meeting. This would include some note paper and so forth. The Treasurer kindly agreed to open a bank account for the CMC. In the longer term, members agreed urgently to consider proposals for funding. It was suggested, by PN, that in the long term the CMC may need to employ a part or full-time administrator and funding would be essential for that purpose.

ACTIONS

- (a) **Treasurer** to open a bank account and to report to each meeting on the financial position of the CMC.
- (b) **Members** to consider a basic auditing system for the CMC.
- (c) **Members** to consider long term funding.

(b) **Address**

AC kindly agreed that the CMC could use the Chartered Institute's address for correspondence. The contact details are therefore:

Civil Mediation Council
12, Bloomsbury Square
London WC1A 2LP

Telephone (for the Secretary) – 0845 083 3000
Email (for the Secretary) – alto@clara.net

(c) **Web address**

JD mentioned that he had purchased www.civilmediation.org for the CMC's future use and that appropriate email addresses could be issued to members and officials.

ACTION

JD to establish email addresses.

(d) **Contact details for members**

A contact address sheet is attached. Members are asked to inform the Secretary of any changes, errors or omissions.

11. **Date of Next Meeting**
26th June 2003 at 1630 at 12, Bloomsbury Square.

SBN thanked AC and the Chartered Institute for their continued hospitality.

The meeting closed at 1710.

Minutes drafted by JD

Approved and signed:

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CONTACT EMAIL ADDRESSES

Sir Brian Neill

bneill@aol.com

Elected Independent Mediators

Heather Allen

heather@heatherallen.com

John Bishop

john.bishop@masons.com

Philip Naughton QC

pn@3sergeantsinn.com

David Richbell

david@richbell.org

Stephen Ruttle QC

ruttle@brickcourt.co.uk

Elected ADR Providers

ADR Chambers – Harry Hodgkin

hodgkin@adrchambers.co.uk

ADR Group – Richard Schiffer

Richard.schiffer@wallace.co.uk

CI Arb – Allan Connarty

aconnarty@arbitrators.org

CeDR – Karl Mackie

kjmackie@cedr.co.uk

In Place of Strife – Mark Jackson-Stops

stops@mediate.co.uk

Elected Academic and Designated Bodies

UWE - Jonathan Tecks

Jonathan.Tecks@uwe.ac.uk

Law Society - Evlynne Gilvarry

evlynne.gilvarry@lawsociety.org.uk

Bar Council – Michel Kallepetis

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Lord Chancellor's Department

heather.bradbury@lcd.gsi.gov.uk

Jonathan Dingle – Secretary

alto@clara.net

CIVIL MEDIATION COUNCIL - BOARD MEMBER NOMINATION FORM

Nomination:	School of Psychotherapy and Counselling at Regent's College
Contact address:	Inner Circle, Regents Park, London NW1 4NS
Contact email:	spc@regents.ac.uk
Contact telephone:	020 7487 7406

From: (nominator – person or organisation)	PAUL RANDOLPH
Nominator's contact address:	New Court Chambers, New Court, Temple, London EC4Y 9BE
Nominator's email: (personal email please)	paul@paulrandolph.net
Nominator's telephone:	020 7583 5123

Reasons/Information:

The School of Psychotherapy and Counselling has been providing training courses in 'Mediation Skills for Accreditation as a Mediator' since May 1999.

The Law Society have fully reviewed the course and have approved it for the purposes of their Civil/Commercial Panel, confirming that it "satisfies the Law Society's Training Standards for Civil/Commercial Mediation". The Legal Services Commission has also approved the course, declaring (in their Funding Code Manual para 7.7 – 3C/057) that mediators accredited by the School are "regarded as suitably qualified and capable of being funded under certificates". The Bar Council and the Law Society have both approved the courses for the purposes of CPD accreditation. The Judicial Studies Board has included the School's name in their list of Mediator Providers.

The training for accreditation as provided by the School is unique. It is a marriage of law and psychology, producing "psychotherapeutically trained" mediators, with an additional insight into the psychology of conflict. Graduates of the School's courses, are thus equipped to conduct all forms of civil mediation, whether in commercial, international, or professional disputes.

It is the School's view that it is vital for a mediator training organisation to be represented on the Council. In training mediators, the School performs the function of the 'manufacturer', with the mediator providers acting as 'retailers' selling the product. Consequently, it is important for their to be a proper interaction, and exchange of views, ideas, and discussion how the product can be improved for the benefit of the consumer, as well as how the product can more effectively be marketed, and retailed. It is only in this way that we might hope to increase the take-up of mediation amongst the public, the legal profession, and the judiciary.

The most appropriate forum for such debate and dialogue is a Council such as the Civil Mediation Council.

Data Protection Act – all information on this form will be stored electronically and circulated to all ADR addressees: provision of information is deemed to be consent to such storage and circulation. The Nominator is responsible for the nominee's consent.

ADR PROVIDERS' WORKING GROUP

REPORT

11th NOVEMBER 2002

Introduction

1. At a meeting of representatives of over 35 ADR providers, professional bodies, independent mediators and practitioners at the Chartered Institute of Arbitrators, London on 25th April 2002 it was unanimously agreed that a Working Group should be assembled:
 - (a) to consult widely amongst inter alia providers, users, the judiciary, the LCD and the professional bodies; and
 - (b) to consider and to make recommendations as to the possible formation of an overarching ADR body of some kind; and
 - (c) to consider for what purposes the body might be formed; and
 - (d) to consider what form the body might take.
2. The Working Group was mandated to report to a reconvened meeting in the Autumn as to its findings and recommendations. The report was originally sought by 31st July 2002 but that date did not prove practicable because of the volume of material to be considered and a three month extension was needed.
3. The Working Group met regularly through the Summer and Autumn of 2002 under the chairmanship of Sir Brian Neill culminating in the unanimous adoption of this report on 11th November 2002.

Executive Summary

4. Establishment of a Civil Mediation Council ("the Council") is recommended.
5. The Council should be a neutral, advisory and non-membership body whose objectives are legal reform, education and to act as a focal point for information. These would be attained by promoting the greater use and awareness of mediation and dispute resolution options in civil and commercial disputes to all concerned, including the judiciary, lawyers, professionals, industry and the general public.
6. The Council is not conceived as a regulatory body.
7. The Working Group recommends that the Council be established by the reconvened meeting for a term of two years to act under the interim control of a Board of 15 members, chaired by a judge, managed by a working committee and if necessary supported by a small secretariat. Amongst its tasks in the first two years would be the development of the attached "Proposal" document into an effective constitution and the identification of sources of such funding as may be necessary for its objectives and purposes.

The Working Group

8. The members of the Working Group were:
- | | | | |
|-----|-------------------------|--------------------------|-----------|
| 8.1 | Sir Brian Neill | Lord Justice (retired) | Chairman |
| 8.2 | Elizabeth Birch | Mediator, ACI | |
| 8.3 | John Bishop | Mediator, Masons | |
| 8.4 | Nicola Cohen | Academy of Experts | |
| 8.5 | Jonathan Dingle | Mediator, ADR Chambers | Secretary |
| 8.6 | John Gunner | Director, InterMediation | |
| 8.7 | Prof. Martin Partington | Academic member | |
| 8.8 | Sam Passow | Mediator, ADR Group | |
| 8.8 | James South | Mediator, CEDR | |
| 8.9 | Tony Willis | Independent mediator | |
9. The Group thereby represented and encompassed the views of many leading providers, independent groups, mediators and practitioners. It sought submissions from all interested parties and over 50 responses were received. These have all been taken into account in arriving at the recommendation.

The background

10. The Working Group met against the welcome background of mediation and ADR continuing to become a recognised and increasingly adopted means of resolving disputes either before or during the litigation process. It considered the very timely EU Green Paper and noted that court-based schemes were coming further to fruition. Cases such as *Dunnett v Railtrack plc*, *Hurst v Leeming* and most recently *Cable & Wireless v IBM* [2002] EWHC 2059 had sent clear messages to the community that mediation or other ADR should be used in most cases or else severe costs sanctions were likely.
11. The Working Group found a demand for information about mediation and ADR – both from the courts and the wider community. Judges and potential users want to know more about mediation and other dispute resolution options such as early neutral evaluation and private trials. Some, including the court-based schemes – seek information on accreditation and standards.
12. The leading providers do, to some extent, satisfy this demand but there is a reported general feeling, in government, amongst the judiciary and potential users that the absence of a collective source of information is a structural weakness. In particular, respondents to the Working Group's call for input highlighted the lack of an industry website, a national forum for debate on relevant topics, a register of providers and mediators, and an independent source of inherently reliable information.
13. There was also a less strong view in some quarters that there should be a regulatory body covering mediators and dispute resolution practitioners and overseeing accreditation, continuing professional development and ethics. The Working Group investigated these points. There was no evidence found that the present absence of a regulatory body prejudiced users of mediation.

The scope of the investigation

14. The Working Group analysed the responses and the members' own experiences (which through their personal experiences or those of the organisations they represented covered the greater part of the United Kingdom's use of mediation). It also took into account the import of the comments received from a wide range of respondents as well as the views expressed at the meeting on 25th April 2002. The Working Group was concerned that its remit should not be too wide. Family mediation and community mediation are already served by established organisations and no benefit was seen in attempting to duplicate their coverage although links should be maintained.
15. At an early stage, therefore, the Working Group resolved to address the issues arising in the areas of civil, commercial and employment law including personal injury and clinical negligence. Equally, the Working Group acknowledged the key role in arbitration played by the established bodies and especially the Chartered Institute of Arbitrators. It was therefore agreed to limit the research and work to what was seen as the less supported areas of mediation and other non-statutory dispute resolution options.
16. It became apparent to the Working Group that if an organisation was created solely to represent providers it would not necessarily be in the best interests of the community as a whole – or indeed the providers themselves. Both would benefit from a level of independence that transcended sectional interests although the importance of having a solid foundation based on long-term experience could not be underestimated.
17. The Working Group identified that for a trade association there might be not inconsiderable problems in attempting to define an eligible 'provider'. Nor did it consider that the body's legitimacy would be enhanced by being funded exclusively through those engaged in providing mediators. Such an organisation risked being perceived as inadequately representative of all the different sectors and interests involved in mediation - from the mediators through to the ultimate users
18. That said, the need for a body was reinforced by calls for its establishment from all sections of the community. Amongst the clear majority opinion that this was a very desirable step were the views of a leading academic who said that an appropriately representative and independent body should make a "tremendous contribution" to the development of ADR generally and mediation in particular. It would be "incredibly useful" to the judicial committees, to government and to the professional bodies to have a single point of reference that combined the experience of the established providers with the perspectives of busy individual mediators. Academic views as a whole were that such a body, properly organised and tasked, could provide the necessary support to judges, commerce and other potential users of mediation and associated dispute resolution methods – and thereby further improve the civil justice system.

19. From a user's perspective a leading in-house insurance lawyer said "I do not believe there is sufficient information in the public domain about ADR. It does need to have sponsorship at a far higher level than it currently does...For that reason I would certainly welcome an appropriate association or body representing the ADR community as a focal point for the advancement of mediation."
20. Similarly, a representative of a major industry wrote "With use of ADR on the increase, an over-arching body could lead to more consistency in ADR practices. It is suggested that if such a body is set up, it should be a talking shop with the minimum of administration." This was echoed by a number of regional mediation groups one of whom said that "We believe an association would be a useful focal point for the advancement and greater use of mediation. We do however have two concerns. Firstly that if other forms of ADR are promoted at the same time this will have less impact with the public and secondly that the temptation some have for over-regulation should be resisted."
21. A solicitor wrote that "Mediation has never once been raised by (a particular court) of its own initiative, in any of my cases. Notwithstanding efforts by the JSB, the level of ignorance about mediation amongst many judges is quite appalling. More efforts in the direction of Judge intervention seem to me to be vital now (particularly in the light of Dunnett and Cowl)" and another "I think this is an excellent initiative. With reference to property valuation and the healthcare property market in particular I believe it would be most useful for banks and other lenders to understand the alternatives that are available to them in resolving a claim for negligence for example before resorting immediately to a litigation process."
22. The extracts set out above are a very short but representative sample of the responses received and reflect the great majority of opinions expressed. It is right to record, however, that some respondents were sceptical citing amongst other things the failure of the Joint Mediation Forum, the risk of a body becoming "a toothless talking shop", the fact that the major providers were capable of organising themselves quite sufficiently and, in one case, a solicitor wrote "Personally I cannot see any role for the organisation you suggest. There are a number of providers of ADR services, among whom there is healthy competition. An over-arching organisation would tend to suggest the formation of a cartel."
23. These as it were dissenting views were carefully weighed and the Working Group found them useful modifiers to the central theme. So too did the Working Group take into account the carefully expressed reservations of one provider which was concerned at the risk of duplication of effort, dissipation of resources and possible conflict of interests that might result. The Working Group was satisfied that these issues could be allayed by a carefully crafted constitution and the representation of major providers and practising mediators on the Board of the Council.

The conclusions

24. From its deliberations the Working Group concluded that it was:
- 24.1 highly desirable to establish a neutral and independent body to represent and promote civil and commercial mediation;
 - 24.2 not practicable or even essential at this stage in the development of mediation to seek to impose regulation and common accreditation standards on mediators;
 - 24.3 important to establish a focal point for issues, a forum for debate, a possible cycle of conferences and seminars, and a portal for access by potential users and referrers including judges;
 - 24.4 important to establish and foster the fullest understanding amongst the judiciary, litigators and actual and potential users of mediation, including means of access, cost-benefits and simplicity of procedure;
 - 24.5 highly desirable to offer to government and others access to the views of the mediation community through an independent body;
 - 24.6 important that the proposed body was led by representatives of the full range of the current participants in mediation including providers, users, mediators and the professional bodies under a constitution; and
 - 24.7 highly desirable to establish such a body as soon as funding allowed.

The Civil Mediation Council

25. The Working Group concluded that subject to the approval of the reconvened general meeting there should be established a body, perhaps a Company Limited By Guarantee, called the "Civil Mediation Council". The objects, structure and purposes are summarised in the proposal at Annex A.

Way Ahead

26. The Working Group proposes that the general meeting be reconvened at the Chartered Institute of Arbitrators at 4pm on Thursday, 5th December 2002 to receive this report and to consider its recommendations including the proposed constitution of the Civil Mediation Council at annexed to this report. A notice of the meeting and an agenda will be sent out later in November.
27. If the recommendations in the report are adopted it will then be necessary to consider and to make provision for the implementation of the report and for the election of the Board.

Acknowledgments

28. Finally, I would like to take this opportunity to thank all those who contributed to the task of the Working Group. This includes contributors, respondents and our hosts at the Chartered Institute of Arbitrators and the Academy of Experts as well as the members of the Working Group who gave so willingly and extensively of their time. I would also like to make special mention of the invaluable work of Jonathan Dingle who acted as our secretary and without whose help our task would have been much more onerous.

11th November 2002

Sir Brian Neill
20 Essex Street London
Chairman – ADR Providers Working Group
sirbrianneill@clerksroom.com

PROPOSAL FOR A CIVIL MEDIATION COUNCIL

1. It is proposed that there should be established from 25th April 2003 a body to be known as the Civil Mediation Council ("the Council"). The Council (which may be Company Limited By Guarantee) should be controlled by an elected body acting under a constitution it shall adapt from this proposal.

Objectives of the Council

2. The Council's objects would be:
 - 2.1 to be a neutral and independent body to represent and promote civil and commercial mediation and other dispute resolution options as alternatives to litigation and thereby to further law reform and access to justice for the general public;
 - 2.2 to be a focal point for the impartial and learned consideration of issues surrounding mediation and other dispute resolution options;
 - 2.3 to be a forum for debating issues surrounding mediation including through an annual series of conferences and seminars;
 - 2.4 to be a portal for access by potential users of and referrers to mediation and other dispute resolution options including judges, lawyers and the general public;
 - 2.5 to establish and foster the fullest understanding amongst the judiciary, lawyers and the general public of mediation and other dispute resolution options, including means of access, cost-benefits and the simplicity of mediation procedure;
 - 2.6 to offer to government and others access to the considered views of the mediation community as a whole;
 - 2.7 to collate and offer appropriate information on and about mediation and other dispute resolution options including the means of access to services and practitioners;
 - 2.8 to assemble and make generally available an impartial online library of information about mediation and other dispute resolution options including practice methods, accrediting bodies, providers and practitioners; and
 - 2.9 to liaise with all other relevant bodies, persons and departments for the achievement of its purposes.

Structure

3. The Council would for up to the first two years be an interim body consisting of:
 - 3.1 An appointed governing Board of 16 members, the composition of which would in the first instance be established by those present at the meeting of 5th December 2002 and which would thereafter be determined in such a way as the Board of the Council shall determine in accordance with its constitution and objectives.
 - 3.2 The Board would include as its Chairman an established judicial figure, ideally a serving judge with direct experience of a court-based mediation scheme. The Chairman would serve for a term of two years and would be selected by the Board. The Chairman would be non-voting except where the council was otherwise deadlocked.
 - 3.3 The Officers of the Council would be drawn from the Board (elected annually by it) and would include an honorary secretary, an honorary treasurer and a spokesman (for external communications).
 - 3.4 The Board would meet at least three times each year.
 - 3.5 A management committee to be elected annually by the Board would meet at least six times per year and would include the Officers, together with a chair and one further member assigned from the Board.
4. The Council would be empowered to employ such staff as its funding allowed and purposes required and to lease appropriate premises if necessary. In both cases, however, it is envisaged that the Council will adopt a low administrative and secretariat profile and to this end the Council would be entitled to accept hosting offers that in its view did not compromise its independence.
5. The Board would (subject to the endorsement of the recalled general meeting) for the first two years only comprise:
 - (a) A judicial chair selected by the Board following its establishment.
 - (b) Five practising mediators from different groups, firms, chambers, areas and affiliations to be appointed by a further general meeting.
 - (c) An academic member to be appointed by the general meeting: the Working Group proposes calling for nominations in due course.
 - (d) Five representatives of civil mediation providers: the Working Group proposes these be the CEOs or senior nominees from the Academy of Experts, ADR Chambers, ADR Group, CEDR and InterMediation.
 - (e) A non-voting government representative to be invited from the LCD.
 - (f) One non-voting representative to be invited from each of the Law Society, the Bar Council and the Advice Services Alliance.
 - (g) In addition, invited observers from interested bodies including the Chartered Institute of Arbitrators, the CBI and Mediation UK.

6. The Board and management committee would be honorary bodies to whom the Council may, should it desire, allow travelling and subsistence expenses but no other remuneration.

Functions

7. The discharge of the Council's objectives would be by means to be determined by the Council and its management committee as funding and resources allow and shall be carried out pursuant to the constitution that it shall adopt.

Monitoring and audit

8. The Council would be subject to appropriate financial audit. The mechanism will be proportionate to the funding level and the source(s) and requirements of the funding agencies. The Council's output would be scrutinised by the Board by means of performance indicators to be provided by the management committee and such secretariat as the Board authorises.

Statements of policy

9. The Board will decide the means by which any policy statements can be cleared before being made verbally through its President or spokesman or through written material.

Membership

10. There will be no membership of the Council – corporate or individual – other than through membership of the Board. No membership fees shall be collected although grants and donations shall be permissible: any such grants and donations shall be transparent and openly recorded. The Council may invite subscribers to join a “mailing list” who will benefit from immediate receipt of such documents and publications as the Council may produce.

Fee collection and charges

11. It will be a matter for the Board to determine, having regard to its reasonable funding requirements, whether any fees need be charged for the mailing list publications, information or services it provides. It is intended, however, that the Council will maintain its independent status through grant related funding.
12. The Council would, subject to its reasonable needs and other funding, be at liberty to make appropriate charges to cover the costs of such educational activities, conferences and seminars as it may convene. The Council shall be at liberty to make a reasonable operating surplus on such activities always providing the same is thereafter directed to its objectives.

Information centre

13. The Board will establish and maintain a comprehensive information centre in such format and ways as it shall deem appropriate.

14. This is likely to include, for example, a web-site portal covering the range of mediation and other dispute resolution options, their availability, information on becoming a mediator, accreditation options and accrediting bodies, training courses, statistics, useful links, and current issues.
15. The web-site may in due course and subject to the guidance of the Board, be developed to include further resources including an online library and detailed information.

Insurance and due diligence

16. The Board will require the management committee to ensure that the Council conducts its internal and external affairs with due diligence and underpinned by appropriate professional and other indemnity insurances. The Council would take appropriate steps to ensure that its members are not personally liable for the acts or omissions of the Council acting as a body.

Equal opportunities

17. The Council will be an equal opportunities body and employer. It will foster and encourage Board membership, representation and involvement by and with all sections of the community.

Constitution

18. The Council shall during its first two years cause to be drafted and adopted an appropriate constitution which would reflect the aims and objectives of this proposal and enshrine in its terms the wider obligations of the Council to the community in general towards fostering and promoting mediation and other dispute resolution options to allow access to justice.
19. It is recommended that the Council incorporates a provision whereby its constitution would be capable of amendment by a vote of 75% of the members Board. Other decisions would be by simple majority with no proxy voting.

Data Protection / Freedom of Information

20. If and to the extent that the Council comes to hold relevant personal information it will comply with all pertinent legislation.

General meetings

21. General meetings of the Council would be open to all those whom the Board shall following due consideration determine appropriate to its objectives.
22. These are likely to be those who subscribe to the Council's mailing list but may also include those who have or are likely to have an appropriate professional, academic or other interest in the work of the Council.

23. By way of guidance this may include those who are involved in the provision or supply of relevant civil, commercial or employment mediation services, independent mediators, representatives of users, government, and those with professional body and established academic interests.

Further information / communication

Please address any enquiries about this Report or Proposal (including nominations) in the first instance by email to the Secretary as follows:

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