

Establishing and building an ADR practice

Di McDonald and Michael Tiernan elaborate on the skills and expertise needed for a successful ADR business.

Nicole Cullen and Sally Wiencke report on the Victorian Chapter event.

The report is based on Nicole's and Sally's notes and so can not be assumed to be direct quotations.

Setting up and growing a successful ADR business requires a suite of skills and expertise.

Two important questions you need to ask before even starting a business are:

- Have I got the aptitude and suitability for ADR work?
- Have I got what it takes to run a business?

In ascertaining whether you are suitable for ADR work, ask yourself what you really want to do and why you want to be an ADR practitioner.

- How do you respond to conflict?
- Are you comfortable with conflict?
- How do you deal with your own personal conflict?
- What motivates you to want to perform this type of work?

Some people complete mediation training, but then find in practice this type of work is not for them. Others find that some ADR practices, for example evaluative processes, are more suitable for them than face-to-face processes such as mediation.

It is usually best to build a business working within your field of expertise and comfort level.

Your unique selling proposition

If you decide to go ahead with an ADR business, some people suggest not to give up your day job straight away. If you can, transition into your ADR business slowly and give yourself a chance to ensure it's right for you.

Then decide if your unique selling proposition is your own personal services, or whether you are going to establish and run a business which employs others.

Identify what services you will offer and know your market. Ask colleagues to hold the mirror up for you to identify your strengths and weaknesses. If you offer too many things, you may water down your skills. Become a specialist in a niche market and be very clear.

...clear differentiation was working to their advantage.

- Are your services explained in a way that is easily understood by your target market?
- How do you differentiate yourself from others offering the same services?

The experience of those who practiced this was that clear differentiation was working

to their advantage. It is also important to have a clear mission statement.

If you are offering mediation services, are you clear on which model of mediation you offer or, if a range of models is offered, are those clearly explained?

To be good, you have to mediate a lot. To get experience you can contact LEADR for role playing, or contact established mediation businesses to enquire if you can sit in on a mediation. If you are just starting out, you can ask to be involved in a mock mediation offered by one of the training organizations such as LEADR. You can also contact colleagues and offer to co-mediate.

What it takes to run a small business

If you are planning to establish your own ADR practice, you will also need to know how to run a small business.

It is important for you to understand, or to delegate effectively, matters such as the business structure, business planning, employment arrangements, tax obligations and concessions, budgeting and day-to-day accounting.

Employ expertise and have good supports.

Identify what complementary skills you need to run your small business. Employ expertise and have good supports.

Estimate your cash flow requirements. How much do you need? What will you make?

Don't spend the money until you have it. Start up can be an expensive procedure. Michael Tiernan summarises the expenses

to consider when starting an ADR business. (See box at end.)

Marketing and networking

Over and above the usual things such as brochures and websites, one of the best ways to promote your business is to establish real and valuable relationships with your target market. Know the market, get close to it and make yourself available as the first port of call for helpful dispute resolution advice for your good contacts.

Ring people and remind them of your presence. Build good relationships with human resource managers and directors.

Some practitioners send out a regular newsletter (say twice a year) and these types of communications help to remind your target market of your services. Ring people and remind them of your presence. Build good relationships with human resource managers and company directors if they are the gate keepers to your target market.

Network; go to conferences and be seen. Ask participants to feedback to employers their experience of mediation.

Do what you can to determine the right pricing in the sector in which you offer services. Determine your referral sources and analyse where your work comes from. Consider enlisting yourself on one of the many mediation panels.

De-briefing and mentoring

Running a small ADR practice can be a lonely experience and there are many ways to counter this including networking with peers, undertaking courses and having a formal mentoring relationship with a suitable person. Several attendees

commented on the benefits of having a mentor .

Also recommended was to use the expertise of a co-mediator.

Expenses in starting an ADR practice

- Consultants
 - Legal advice and documentation
 - Accountant
 - Computer and software consultant
 - Management and marketing advice
- Regulation
 - Relevant regulatory or professional body registrations
 - Workcover
 - Tax registrations
- Premises and equipment
 - Fitout including desks, partitions, carpet, electrical, renovations, etc
 - Purchase or lease expenses including security deposit
 - Furniture and equipment
 - Computers and printers
 - Photocopiers and scanners
 - Safe
 - Signwriting, signs
- Insurance
 - General
 - Professional indemnity insurance
 - Top-up professional indemnity
 - Industry insurance (eg legal)
- Finance
 - Bank charges and interest
 - Overdraft
 - Funding of unbilled disbursements
 - Working capital
- Staff
 - Workcover
 - Superannuation
 - Wages
 - Tax
- Intellectual property and precedents
 - Practice management software
 - Precedents
 - Library
- Communication and marketing
 - Telephones
 - Website and broadband
 - Marketing material including advertising, brochures, signage
 - Logos and design
 - Yellow pages and communication
- Stationary and office supplies
 - Letterhead, business cards, etc
 - Paper and pens to staplers and whiteboards
- Subscriptions and memberships
 - Professional body membership eg LEADR, LIV, etc
 - Journals, magazines and newspapers
 - Library and on-line services

Di McDonald

Di McDonald is Managing Director of ResolutionsRTK and an experienced corporate speaker, trainer and mediator. She sits on several boards in the health and consultancy fields, and has a background and formal qualifications in behavioural science, education, counselling, management and mediation. She also has a Masters of Management (Organisational Systems) and is currently undertaking a Doctorate focusing on Conflict Management.

Di has been a pioneer in workplace mediation actively working in the field since the late 80s. Her first experience of mediation was as a participant. She was so impressed with the ability of mediation to “transform” one's approach to conflict that she trained as a mediator.

Michael Tiernan

Michael Tiernan is a solicitor of 24 years experience who until recently was a partner at Maurice Blackburn Cashman where he worked for over 17 years. Michael is a mediator accredited by LEADR and The Law Institute of Victoria. He has been appointed to the Alternative Dispute Panel of The Office of The Small Business Commissioner. He is authorised to undertake mediations in the Supreme and County Courts and VCAT and has been included in the Magistrates Court Pilot Program. Both the Victorian WorkCover Authority and the Transport Accident Commission have approved him to mediate in their matters.

Through Tiernan Consulting, Michael offers various mediation services including:

- Court mediations for personal injuries matters
- Workplace mediations
- Business dispute mediations
- Commercial lease mediations.

Reporters

Nicole Cullen is an accredited member of LEADR and Chair of the Victorian Chapter. Nicole has been resolving conflict since 1990. Having worked as a lawyer with Allens Arthur Robinson and the Commonwealth Bank of Australia, Nicole has also served as the Deputy Chairperson of the Superannuation Complaints Tribunal and as manager of the national dispute resolution scheme established by the Financial Planning Association. Nicole is a director of Financial Services Complaints Pty Ltd which provides services to assist corporations to improve their internal capacity to resolve disputes and to deal with difficult behaviours.

Sally Wiencke is an accredited member of LEADR and Events Coordinator of the Victorian Chapter. Sally works primarily in the area of workplace dispute resolution. Sally has over 22 years experience working with complex psychological injury claims where conflict in some form is preventing a successful return to work. Sally works within a behavioral risk management framework, utilizing her diagnostic skills to assess the conflict, and then responding appropriately with either mediation, conflict coaching using the Cinergy™ model, facilitated discussion, EAP counseling, or a team intervention. Sally is a coach in the mediation training courses run by LEADR and The Trillium Group and provides a wide range of training tailored to meet individual and employer's needs.