

Mediator Standards Board | Update on the NMAS Review Process

Background

As you know in 2019, the Board commenced a review of the National Mediator Accreditation System NMAS by engaging an independent contractor, Resolution Resources (RR), to conduct an analysis of the practice of mediation in Australia. This process involved extensive engagement and conversation with all Board members, State and Commonwealth courts and tribunals, law societies, bar associations, universities and training organisations, accredited and non-accredited mediators, and various other stakeholders across the dispute resolution community.

Resolution Resources delivered its final report in the second half of 2022 which included a finding that, whilst the facilitative model of mediation remains a strong foundation, many accredited and non-accredited mediators step outside of that model in their day-to-day practice. The research highlighted that the practice of mediation has evolved over time and developed a wide reach including to workplaces, elder mediation, legal processes, restorative justice processes, indigenous peacebuilding, and the list goes on. The NMAS seeks to deliver a system and set of standards that serves all these various fields of practice.

The research also found that there was a perceived need for greater clarity in the training requirements for accreditation and how, once accredited, mediators could seek further opportunities, if they desired, to seek more advanced levels of accreditation.

Since the delivery of the research the Board has spent significant time developing a revised set of national standards recognising these key findings whilst seeking to stay true to the original objects of the Board; that is, promoting and maintaining consistent and quality mediation training, accreditation and practice, primarily for reasons of consumer protection.

The new standards are structured in a more flexible way that will provide more guidance to stakeholders and the opportunity for the standards to continue to evolve alongside the practice of dispute resolution in Australia.

In October of last year, a draft of the revised standards was published. What followed was an extensive consultation process, including a series of online presentations and Q&A sessions with the Board's directors. The Board also received and has since reviewed dozens of written responses from various stakeholders and dispute resolution practitioners as well as members. This feedback has led to amendments to the earlier draft, with the final version due over coming months.

The Board is extremely grateful for the feedback received. The Board believe that the consultation and our community's input have been valuable contributions to developing the new standards. The Board incorporated many of the suggestions and insights. While it has not been possible to satisfy all the wishes of those who have provided feedback, the Board believes that the AMDRAS will support the reality and practice of dispute resolution practice in Australia. Essentially, nearly all of the NMAS remains in the expanded AMDRAS. It has also been subjected to a thorough professional editing to ensure clarity.

The Recognised Mediator Accreditation Bodies (RMABs) remain central to the AMDRAS system under the new name of Recognised Providers (RPs) which can be either a Recognised Training Providers (RAPs) and/or Recognised Accreditation Providers (RAPs). The Accreditation System will remain decentralised and RPs will also be able to retain their own systems of advancement and specialisations if they choose to do so.

Key Features of AMDRAS

Key features of the new system are as follows

- Facilitative mediation is the foundation for all initial training and accreditation but, as before, there is provision to allow accredited mediators to deliver transformative, narrative, advisory and evaluative processes (where appropriate).
- The essential section outlining accreditation, training and practise is now contained in Part 5 of the AMDRAS titled "Professional Practice Domains."

- The four Professional Practice Domains are Professional Knowledge, Professional Skills, Professional Ethics and Responsibilities and Professional Development.
- Each Professional Practice Domain consists of various associated “Professional Attributes” to help users of the standards understand more readily and systematically their roles and responsibilities. These come directly out of the RR research with over 800 mediators but has been elaborated upon by the subsequent review/consultation and by ensuring that all relevant aspects of the NMAS were incorporated and accommodated.
- Greater clarity is provided to the process of learning mediation through the “Certificate of Training” which is the first step towards accreditation and also appropriate for those who wish to complete mediation training with no immediate intention to become accredited and practicing mediators.
- Like NMAS, AMDRAS will continue to consider alternative accreditation pathways for Mediators where relevant and appropriate.
- AMDRAS introduces areas of specialisation and is inviting sectors of the dispute resolution community, to work with the Board to articulate specialisations. It is expected that specialisations will involve training additional and supplementary to the core AMDRAS training.
 - Without being pre-emptive, the Board has expressed interest in engaging with those practicing conciliation, disputes within certain legal contexts, family dispute resolution practitioners, elder mediators, restorative justice practitioners and indigenous peacebuilders. As these various specialisations vary widely, criteria for them will be developed on a case-by-case basis. This will be done in consultation with these various practitioner groupings and with members.
 - Moving towards recognising specialisations is in line with the initial research findings conducted by RR. This identified the need to allow for mediators to be recognized in their various specialist areas of practice while enabling access to a comprehensive regulatory system and the benefits that it can bring.
- Levels of accreditation will be introduced, namely Accredited Mediator, Advanced Mediator and Leading Mediator, each with different practice and CPD requirements. These levels have been developed in response to community input and is in line with many professions currently utilising and recognising levels of accreditation and experience. Mediators and RPs will select whether they participate in these.
 - The Accredited and Advanced levels have been introduced to differentiate between those recently accredited, or who provide mediation services infrequently and those with greater experience.
 - The Accredited level is for those recently accredited.
 - The Advanced level can be sought after 4 years of accredited practice and 150 practice hours plus completion of a specialised “Practicum” or equivalent if seeking an alternative pathway.
 - These levels have been introduced recognising that it can be difficult for some mediators to secure work in the early stages of their mediation career, and that others choose to practice mediation part-time or periodically. Accordingly practice requirements for Accredited Mediators has been reduced from 25 to 20 hours per each 2-year accreditation period and the definition of “practise” widened. CPD has been kept at 25 hours for all levels, but Advanced and Leading Mediators practice hours requirements will be increased to 40 hours per accreditation period.
 - RPs will be able to also keep their own specialisations as developed for their fields of practice. The introduction of these levels will hopefully assist in the development of more diverse and sophisticated training outcomes at the practice level.
- The category of Leading Mediator (after 6 years as an Advanced Mediator and 250 hours of practice or equivalent through the alternative pathway) will be available to those who have significant experience and are proven contributors to mediation and dispute resolution practice in Australia. It is envisaged that Leading Mediators will perform a leadership role, including by mentoring and supervising less experienced mediators and practitioners, this being a further need identified in the Review.

- The Board is introducing a non-practicing certificate with guidance for those who want to take a “break” from their practice.
- AMDRAS provides greater detail and guidance regarding training, continuing professional development, complaints handling, and ethics, all with a view to improving quality and consistency of mediator training, accreditation and practice. These are of course all subject to legal and statutory regimes which may impact some RMABs. This responds to the identified gaps in the previous system that were identified through the review. This detail and guidance also respond to calls from training and accreditation bodies for more support in these areas. RMABs will still be able to utilise outside providers such as Universities to provide their training.
- Training providers under AMDRAS will need to be registered and again provision for those organisations which may have structural constraints in doing this is provided for.
- A modest increase in the initial “Certificate of Training” hours (from 38 to 45), the introduction of a written assessment and a slight increase in the time allowed for simulated assessments (1.5 to 2 hours) to respond to feedback from the training community that many students struggle to complete all stages of the mediation process during their assessment.
- A model complaints management outline has been provided as an appendix to AMDRAS. This is based on a verified widely used model and intended as a guide to the minimum requirements for such a process. It is not intended as “the process” that needs to be used as many RMAB processes have different timelines and emphases depending upon their professional needs and requirements. Most RMABs will already comply with this requirement and the model is intended to act as a template and guide for RMABs to ensure they have an adequate complaints process in place. The Board respects that certain of our members are subject to legal and statutory regimes that will see them comply with these requirements already and this aspect of the new standards have been introduced to support those of our RPs that do not have such systems in place.

Transition

Prior to the release of the new standards, the Board will be publishing guidelines for each of the major stakeholder groups (mediators, RPs and RTPS) and transitional provisions. The Board recognises that the transition from NMAS to AMDRAS will likely impact resourcing and requirements of all organisations involved in mediator training and accreditation. To this end the Board has begun a review of the current fee arrangements to provide some greater compensation to RMABs for the increased complexity. The Board also recognises that practitioners who are currently accredited, and those that have commenced or completed NMAS training, will be keen to understand the impact on their current and future status.

The transitional provisions will provide all training and accreditation bodies with a period of 12 months to transition from NMAS to AMDRAS. During this time existing RMABs and accredited mediators will be automatically re-registered under the new system with the opportunity to begin training and accrediting to the AMDRAS standards once the revised processes have been reviewed and approved by the board. The transition period will begin on 1 July 2024 and last until 30 June 2025.

The culmination of the review process and introduction of AMDRAS represents an important evolution of mediator accreditation, training and practice in the Australian dispute resolution landscape. Once settled and operating the system will hopefully continue to evolve and be adaptable to the changing requirements of a more diverse and complex environment. The combination of a decentralised system with adherence to a core set of principles has served the Australian community well since 2008 and the Board believe will continue to do so through AMDRAS.