



Let's Talk!

ALTERNATIVE DISPUTE RESOLUTION (ADR)
A GUIDE



Royal Canadian Mounted Police Gendarmerie royale du Canada

Canada

Contents

| | |
|--|----|
| INTRODUCTION . . | 1 |
| A MESSAGE FROM THE COMMISSIONER AND DSRRs | 2 |
| OFFICE OF THE ADR ADVISOR | 4 |
| WHAT IS ALTERNATIVE DISPUTE RESOLUTION? . . . | 5 |
| GUIDING PRINCIPLES | 6 |
| PUTTING THE PIECES TOGETHER | 8 |
| WHERE DO I GO FROM HERE? | 9 |
| CAN I INITIATE ADR? . . . | 9 |
| HOW DO I APPROACH THE OTHER PERSON TO TRY ADR? | 10 |
| DID YOU KNOW? | 11 |
| GEARING UP FOR MEDIATION | 12 |
| THE MEDIATION PROCESS | 13 |
| A SHORT GLOSSARY | 14 |
| ALTERNATIVE DISPUTE RESOLUTION (ADR) | 14 |
| NEGOTIATION | 14 |
| MEDIATION | 14 |
| FACT-FINDING OR INVESTIGATION | 14 |
| EARLY NEUTRAL EVALUATION | 15 |
| PEER REVIEW PANELS | 15 |
| NON-BINDING ARBITRATION | 15 |
| ARBITRATION | 15 |
| WHAT PEOPLE ARE SAYING | 16 |
| CONTACT NAMES AND NUMBERS | 17 |

INTRODUCTION

THE RCMP'S NEW ALTERNATIVE DISPUTE RESOLUTION (ADR) SYSTEM will help to address all disputes early at the lowest possible level through face-to-face communication and negotiation. It is simple to use, and easy to access. This new approach to resolving disputes can be summed up with a friendly "Let's talk" motto, which aims to prevent disputes before the paper trail begins.

FAIR, FRIENDLY, FLEXIBLE AND FAST

ADR IS FAIR.

Since the solution to the problem is arrived at and is agreed upon by both parties, people feel that they have been treated fairly.

ADR IS FRIENDLY.

It helps preserve and even strengthen working relationships.

ADR IS FLEXIBLE.

There are many ways to resolve disputes informally and quickly. People using ADR are able to choose a method that they are comfortable with, ranging from a one-on-one talk to mediation.

ADR IS FAST.

Many disputes have been resolved in days as opposed to years once a grievance enters the formal system.

A Message from the Commissioner and DSRRs

Our new Alternative Dispute Resolution (ADR) system, based on a solid foundation of common sense, was created by dynamic groups of employees representing all levels and ranks. Open communications will support a new way of doing business on which we can build our future together. The old "If you don't like it, grieve it" attitude is out. Talking with each other to solve problems before they begin is in.

In the past we haven't been renowned for talking with each other, and many of our processes, including the formal grievance and discipline system, have left us drowning in paper and sometimes in despair.

We encourage each and every employee – from officers to constables – to take an active interest in our new and unique ADR system, and to use its principles on a daily basis when dealing with each other. Our ADR system is a joint initiative of management and employees and promotes people talking to each other as the best way of dealing with differences before they turn into disputes. While it is not rocket science, it does put a human face back into relationships, with respect and dignity.

We pledge our full, enthusiastic support for, and commitment to ADR. Here are some points to think about.

Remember that agreeing to talk does not promise a solution to the dispute: if a solution is arrived at, it is agreed upon by management and the employee.

ADR should never lead to a compromise in the values or integrity of the Force and it can never interfere with an external criminal proceeding.

- ▶ ADR provides an environment where both sides can communicate. Even in situations where no settlement is reached, often great strides are made in rebuilding relationships, enhancing communication, improving understanding about facts, and narrowing issues that will have to be dealt with if the case returns to the formal process.

Settlement terms take into account all competing interests. An early settlement of a long-deadlocked or bitter case can relieve stress on all employees and their families affected by the case. Financial settlements, if any, are not automatic. If they occur, they are based on legitimate rationale, within the limits of authorities vested in the Force, and are negotiated taking into consideration the history of each case.

Naturally, agreements must respect the law. For example, any agreement that includes payment of money and reimbursement of expenses must comply with all Treasury Board directives.

ADR should be considered as a possibility in all cases, by both management and employees. This principle has the endorsement of the majority of the DSRRs and SEC.

If a dispute does arise, it should be resolved at the lowest possible level. Direct and early face-to-face discussions are recommended. If the dispute cannot be resolved this way, people should contact their ADR Co-ordinator, DSRR or Administrative Services. They will offer advice and explain different ADR processes.

To ensure the impartiality and independence of the ADR system, we have created an Office of the ADR Advisor. To learn more about this new office and the role of the ADR Advisor, please see page 4.

We are committed to our Mission, Vision and Values, which includes our commitment to the employees of the RCMP. This commitment includes open, honest and bilateral communication at all levels to resolve issues, and it is essential for the welfare of our employees and our organization to support the ADR process.

Phil Murray
Commissioner

Reg Trowell &
Murray Brown
DSRRs
National Executive Committee

Office of the ADR Advisor

The National ADR Steering Committee, a body made up of senior management and DSRRs, has created a permanent Office of the ADR Advisor, to be headed by Insp. Paul Hames, formerly the National ADR Co-ordinator. He will be accountable to the Commissioner and responsible to the National ADR Steering Committee. This reporting structure will ensure the impartiality and independence of the Office of the ADR Advisor.

As ADR Advisor, Insp. Hames will be a neutral champion of ADR across the Force and will assist the organization in conflict management and cultural transformation. To achieve these objectives, Insp. Hames will continue to fulfil the mandate of the ADR Project and its components, such as training, mediation, communications, and liaising with divisional advisory committees. Other expanded responsibilities will emphasize improvements in Forcewide conflict management and conflict prevention such as: Identifying issues and systemic problems; encouraging and recommending rational policy changes; communicating to employees what issues are being dealt with, and dealing with perceptions; developing methods that ensure that conflict solutions uphold the Mission, Vision, and Values of the Force; developing mechanisms to build trust in managers' abilities to resolve problems; proactively identifying occasions for guidance and constructive intervention; and developing processes that ensure ADR is "the way we do business".

A message from the ADR Advisor

I am proud to be a part of this innovative and exciting initiative called ADR, which has proven, through the hard work and dedication of many people right across the Force over the past two years, to be a positive instrument in advancing the RCMP to a new way of doing business. Its simple, common sense and down to earth "Let's Talk!" approach to resolving conflict is truly a breath of fresh air. Looking back on my diverse background, which includes General Detachment Policing, Highway Patrol, General Investigation Section, Integrated Intelligence, Internal Investigations, and Detachment Commander, I can see where ADR would have been an invaluable way of preventing and resolving conflict. I am looking forward to my new role as ADR Advisor and welcome any suggestions or comments. - Paul Hames

What is Alternative Dispute Resolution?

ADR IS COMMON SENSE. It is a simple formula for building strong relationships. It is a new way of doing business, a change in attitude. It offers fresh approaches to finding sensible solutions to conflict. With ADR, **talk comes first.** Early face-to-face discussions between parties tend to offer the best results. Only when matters cannot be resolved at that level should further steps, such as mediation, be taken. It should be the responsibility of the people involved in a dispute to try to solve it at the lowest possible level before a paper trail begins.

Alternative Dispute Resolution refers to informal methods used to resolve disputes, such as simple negotiation and mediation, which are outside of the formal grievance and discipline system. The objective of ADR is to offer a

**FAIR, FRIENDLY,
FLEXIBLE AND FAST**
way for people to jointly work out a resolution to a dispute that leaves everyone happier with the outcome.

THE BENEFITS OF ADR

Building strong relationships

The new ADR system will help improve morale, communications, motivation, relationships, productivity, and the working environment by resolving internal conflicts at the lowest possible level. This should also result in a decrease in the number of cases entering the formal system, time processing formal grievances and costs.

"I want to sincerely thank you for taking the first step in giving this family back its life."

- a spouse

GUIDING PRINCIPLES

Any issue should be eligible for ADR. There may be some unusual exceptions.

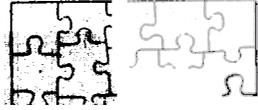
2. The process is voluntary. People should be encouraged to make informed decisions as to whether to engage in ADR.
3. Participants should consider implications in relation to other processes that might be underway affecting the issues (such as statutory deadlines, criminal cases, Treasury Board directives).
4. There may be other stakeholders to consider, inside or outside the Force, who should be contacted and their roles considered.
5. Issues should be resolved at the lowest possible level, i.e., with an attempt to deal with the person you have the problem with first, although it is recognized that there are situations where this is not possible.
6. Legitimate management functions should not be bypassed: use the first levels of management to attempt to solve the problem, although it is recognized that there are situations where this is not possible.
7. There should be a variety of ADR tools and they should be appropriate to the circumstances.
8. Issues should be resolved in a timely manner.
9. There are questions that should be considered to ensure informed participation.

10. Participation in ADR should not require a loss of the right to seek other redress except as a term of settlement of the issues.
11. The process is voluntary but an agreement, once achieved, is binding. Parties should consider their capacity/authority to agree.
12. Unless the parties agree otherwise, all discussions/agreements are confidential within the limits of existing legislation, e.g., Access to Information Act, Financial Administration Act, and Privacy Act.
13. Participants will be given time to make considered decisions.
14. Except as required to implement an agreement there will be no publication of the mediation, fictionalized or otherwise, without the consent of the parties.
15. ADR is a way of doing business, a management style, and part of the skill sets of every employee.

Note:



ADR should be kept as informal and flexible as possible.



Putting the ⁵

The Alternative Dispute Resolution (ADR) system will:

- ▶ Resolve issues at the lowest possible level
 - Protect employee's time limits
 - Create time limits on both parties
 - Allow management to delegate decision-making power
- ▶ Create incentives to communicate
 - Be non-prejudicial to other remedies
 - Include an explicit right for either party to withdraw
 - Recognize the benefit of parties' communicating, irrespective of outcome

The Alternative Dispute Resolution (ADR) system will *not*:

- ▶ Be formalized beyond effectiveness
- ▶ Have limitations on entry
 - Be precedent driven (contracts are private) but will remain consistently fair
- ▶ Have right of appeal once an agreement has been reached

ADR sounds great.
Where do I go from here?



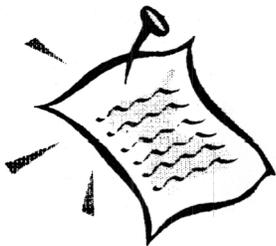
Contact your ADR Co-ordinator, DSRR or Administrative Services for information on the ADR system in your area.

Can I initiate ADR?

Yes! The sooner the better. As more time goes by, it will become harder to agree to a solution that satisfies everyone. Each side will become convinced they are "right" and the other side "wrong".

Let's Talk!

- ▶ A "Let's talk" informal approach between two parties is recommended to settle the dispute at the lowest possible level.
- ▶ If you would like a third-party coach or mediator or a more structured form of ADR, you should contact your ADR Co-ordinator, DSRR or Administrative Services for assistance.



Note:

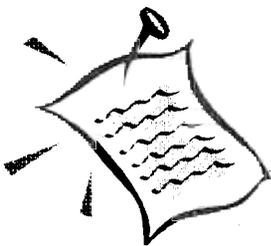
If public servants wish to participate in ADR they should contact their union rep.

How do I approach the other person to try ADR?

Not everyone will immediately agree to participate in ADR. They may need more information about how the process works. They may need time to realize the added costs (both emotional and monetary) and time involved in taking the dispute a formal route. They may not understand that ADR is a voluntary process that may simply involve meeting to listen and talk.

Often, emotions are riding high and people may be angry or so set on their need to prove the other person “wrong” that anything other than having “their day in court” will not appeal to them. Sometimes, merely waiting a few days or weeks can make a difference and parties may be more willing to discuss other options more calmly and openly.

If you need help to contact the other party and explain to them the advantages of using ADR, you may wish to consider consulting a third party – an impartial outsider to the dispute – to assist you. They are often called upon to make such presentations on the benefits of ADR and have the skill and experience to answer any question about the processes.



Note:

Don't be discouraged. Even if the other person is insistent on proceeding along the formal route, remember that ADR can be initiated at any time - even after a formal grievance has been filed or disciplinary action taken. Where a party to the mediation is a manager, the ADR Co-ordinator will ensure that the management representative has authority to make the necessary decisions.

Did you know...

ADR is confidential

- ▶ Within the limits of existing legislation, e.g., Access to Information Act, Financial Administration Act, and Privacy Act
- ▶ No official recording of notes/proceedings/negotiations

Notes made by all parties are to be destroyed at the end of the process, unless agreed upon

Non-precedent setting

ADR offers formal written agreements

To ensure finality of issues for both parties, agreed upon results are binding

Many cases have been mediated already, including:

transfers, medical discharges, harassment issues, disciplinary issues, policy issues, staffing issues, termination of employment, promotional issues



Note:

As the RCMP Act requires, you must still file a Grievance Presentation form 3081 within 30 days, but once ADR starts, the formal grievance will likely be held in abeyance.

Gearing up for Mediation



Here's the scenario: You're excited about our new Alternative Dispute Resolution (ADR) system and you're determined to make it work for you. You believe in the "Let's talk" approach to solving problems before they begin, and you've tried it, but it just didn't work. Don't despair. Mediation may be the solution to your problem.

As part of the RCMP's commitment to ADR, about 150 employees from across the Force have received training in mediation, and they are gearing up to work for you. External mediators can also be called upon as needed.

Mediation is an excellent option when talking out a problem face-to-face doesn't work. Sometimes emotions are too high, or people have difficulty seeing the other person's point of view. A mediator doesn't take sides, but helps people develop their own creative solutions to problems. Mediation has great potential to help resolve conflicts that may otherwise get bogged down in the formal grievance and discipline system.



Note:

Participants must show respect for each other, act in a civilized, professional manner, and act in good faith.

The mediation process

If the disputants cannot successfully negotiate for themselves, the mediation process affords the parties a structured voluntary method of ADR. An impartial third party assists the disputants in resolving their own conflicts privately and confidentially in a cooperative manner. The paramount factor is that the authority for dispute settlement lies totally with the parties themselves. The mediator is not a decision maker, rather his/her role is one of guiding the disputants through the process.

The steps

A simple mediation contract will be signed by the parties. This contract stipulates the guidelines that must be adhered to: disputants must agree to make full, honest disclosure; all communications and written materials arising from mediation cannot be used in any other resolution process; all written documentation will be destroyed at the conclusion of the mediation.

- 2 Upon resolution, a memorandum of understanding (MOU) is drafted by the mediator using the language of the disputants. This document clearly defines the terms of the agreement, specifying each party's undertakings in a positive tone. It outlines who does what, when and how, within the time frames set out in the MOU, and details what happens should the agreement not be followed.
- 3 During mediation, any party, including the mediator, can withdraw from the process at any time. Should this occur, the formal grievance process can be utilized to resolve the dispute.



A short glossary

Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution refers to informal methods used to resolve disputes, such as mediation and simple negotiation, that are outside of the formal grievance and discipline system. The objective of ADR is to offer a fair, friendly, flexible and fast way for people to work out jointly a resolution to a dispute that leaves everyone happier with the outcome.

Negotiation

Negotiation takes place when parties discuss the issue and determine what interests they have in common to arrive at a mutually satisfactory outcome. It is voluntary, non-adjudicative and informal.

Mediation

Mediation is "assisted negotiation". It is voluntary. It involves the intervention of a neutral and impartial third party selected either internally (from within the RCMP) or externally. The mediator assists in clarifying issues, identifying underlying causes, and arriving at appropriate remedies to resolve the dispute. The mediator cannot impose a resolution on the parties. The mediation may be either a formal meeting or a series of meetings with the mediator "shuttling" between the parties, or an informal series of conversations assisted by the mediator. It is confidential, i.e., that the information exchanged during the process is regarded as "without prejudice" communications for the purpose of settlement negotiations and must be treated as confidential by the parties or their representatives unless otherwise required by law, e.g., Access to Information Act, Financial Administration Act, and Privacy Act.

Fact-finding or investigation

The neutral fact-finder investigates a case either formally or informally. The fact-finder's report may or may not include recommendations to be acted on by management.

Early neutral evaluation

An employee can ask to have a highly respected neutral listen to both sides and offer an opinion on the issue. The neutral can be from inside or outside the Force, and the opinion offered is not binding. However, since the neutral offers an objective opinion, people involved in a dispute are inclined to accept the advice.

Peer review panels

Peers of the employee are randomly selected to hear both sides of the issue and advise the employee and CO on the merits of the case. Studies have shown that peer review panels often act as an incentive to resolve the issue through negotiation or mediation even before the panel is convened.

Non-binding arbitration

Two parties present their facts and positions to a qualified neutral person selected jointly, and this person advises the parties as to what he or she feels would be a fair settlement. It differs from mediation in that the parties are offered an opinion on what may be the final outcome if formal channels are pursued. The parties are free to accept or reject the neutral's advice.

Arbitration

Arbitration is the same as above, except that it is binding.

No one would talk much in society, if he knew how often he misunderstands others.

- Elective Affinities, 1808

What people are saying

"Success stories are pouring in of cases that have been resolved through Alternative Dispute Resolution (ADR) methods." - Pony Express

"I don't know where I would be if it weren't for ADR." - a constable

"Sincere thanks for your efforts in this project. Your assistance is progressive, vibrant and tremendously welcomed". - a constable

"ADR is not merely a new system or process, but something that is going to affect our organization's culture in a very positive way. Those involved with ADR, whether through training or as "users" will no longer deal with people or issues the same way." - an inspector

"The mediator was empathetic, non-judgmental and neutral to both parties involved. I walked away feeling I had been fairly treated by all concerned. What was most interesting was to be able to view this matter from the prospective of the employer ... I congratulate and fully support those responsible for initiating this method to resolve disputes." - an employee

"The ADR program was able to resolve in a matter of hours what had previously taken almost three years." - an employee

"This is an excellent process." - an employee

"(The member has) become dependable, conscientious, contributing, pleasant and one to whom the other members had suddenly started turning for advice and direction and he comes to work whistling." - a commanding officer

"...I want to sincerely thank you for taking the first step in giving this family back its life..." - a spouse

ADR Contact Names and Numbers

| ADR Advisor | Paul Hames | (613) 993-4047 |
|----------------|--------------------------|----------------|
| A | Ed Brake | (613)990-ADR1 |
| B | Greg Morrow | (709) 772-0405 |
| C | Francine Séguin | (514) 939-8381 |
| D | Garnet Woodman | (204) 983-7770 |
| E | Dave Zack | (604) 264-3207 |
| F/Depot | Lori Demyen | (306) 780-6920 |
| G | Bob Connell | (403) 669-5103 |
| H | Jim White | (902) 426-3508 |
| HQ | Marie-Thérèse O'Sullivan | (613) 993-2848 |
| J | Pierre Beaudoin | (506) 452-3461 |
| K | Dennis Doll | (403) 945-5435 |
| L | Chuck Snow | (902) 566-7135 |
| M | Brian Huddle | (403) 667-5512 |
| O | Harold Dolan | (519) 640-7285 |

97/09