



Australian Government
Attorney-General's Department

Civil Law Division

Alternative Dispute Resolution in the caretaker period

The Office of Legal Services Coordination (OLSC) has received many enquiries from departments and agencies relating to the handling of Alternative Dispute Resolution (ADR) involving the Commonwealth during the caretaker period.

OLSC provides the following information to assist departments and agencies in this regard.

Alternative Dispute Resolution

Government agencies are required to consider ADR prior to initiating court proceedings and continually assess the use of ADR during those proceedings and a similar approach to ADR as set out for litigation (see OLSC's Guidance Note 6: handling legal issues and litigation in caretaker) should be taken in any caretaker period.

ADR can continue (as part of ordinary matters of administration) but the caretaker conventions may restrain making major decisions or providing advice in relation to ADR. Deferring ADR may be appropriate where acceptable to non-Commonwealth parties, but where delay would not be in the interests of justice then Commonwealth agencies should seek ways to progress ADR which avoid major commitments of the incoming government. Note, where decisions which would involve major commitments are unavoidable, the relevant Minister could be advised to consult with the relevant Opposition spokesperson.

This note is to be read in conjunction with the Department of the Prime Minister and Cabinet *Guidance on Caretaker Conventions 2010*, available at <<http://www.dPMC.gov.au/>>.

If you require further information or advice on specific cases please contact OLSC and PM&C's caretaker contacts.

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