ADRIA Action Plan for Mediation Advocacy

- **Presented for Board consideration and finalization – February 2017**

The Task Force recommended that the ADRIA Board of Directors adopt a multi-faceted, long-term, and progressive approach to Advocacy for the Mediation Profession in Alberta to enhance the potential for mediation through the following five key objectives:

1. **Increase Awareness** - ensuring Albertans are more aware of mediation (and other ADR options) and how such options can provide for less costly and more satisfying outcomes to disputes that arise in their personal and professional lives.

2. **Increase Access to and Use of Mediation (ADR First)** - working to increase the use of mediation as a dispute resolution option available to Albertans. Putting forth progressive initiatives with the courts, government agencies, regulatory bodies, municipal bodies, professional associations, organized labour, industry groups, non-profits and the business community to create new "3mainstream" opportunities for mediation and ADR.

3. **Advance the Business Case for Mediation** - promoting the economic argument for mediation (and related ADR practices) to demonstrate the value they provide to government, businesses, organizations and the public will increase investment in mediation and opportunities for mediators. Especially in times of fiscal constraint, the "business case" and industry-wide success indicators will ensure an organization's proposed or existing ADR program will be supported, or even expanded.

4. **Enhance the Value of the Mediation Profession** – by:
   - Advocating for fair and appropriate compensation that recognizes the unique skills and competencies mediators bring to resolving disputes and their personal investment in training and development
   - Supporting excellent training and education; and
   - Ensuring proper and effective credentialing.

   While recognizing pro-bono mediation activities are an important mechanism for developing skills and "giving back" to the community, our public institutions must be encouraged to do more to ensure their roster mediators are appropriately compensated and recognized for the significant role they play in reducing the heavy cost of workplace conflict, family breakdowns, litigation and the courts. Many of these institutions hope to increase the use of mediation in the resolution of disputes. Building public and organizational expectations for pro-bono or low-cost mediations will not sustain a profession and, over time, will compromise future quality and supply of mediators. Advocating for appropriate compensation is important to attract competent professionals and contribute to long-term viability of the profession.

5. **Protect the Public** – while mediation, (and other ADR professions such as Arbitration) are unregulated professions, the ADR Institutes of Canada and Alberta provide national standards, recognized designations, ongoing quality assurance and robust complaint policies that serve to protect the public. Continued diligence and attention to maintaining high standards of quality, and to building public awareness, will enhance the profession and increase demand for professionally qualified and designated mediators.

COLLABORATIVE STAKEHOLDER ENGAGEMENT

It was further recommended by the Task Force that these objectives can be best achieved through Collaborative Stakeholder Engagement. The five recommended stakeholder communities with whom ADRIA must work are:

A. The Courts and Justice System;
B. Other Government Ministries and Publically Funded Agencies;
C. The Business Community and Professional Associations;
D. ADR Associations and Partners; and
E. ADRIA Resources and Membership.

FEEDBACK FROM STAKEHOLDERS

Feedback from stakeholders, representing all groups listed above, was universally positive. In many cases, constructive feedback and perspectives were offered that will guide ADRIA in their advocacy efforts. Worthy of particular note was the fact that the cost effectiveness of ADR and mediation was fully acknowledged by all respondents, and that the research contained in the White Paper to this effect was fully accepted. Certainly some White Paper conclusions and recommendations were challenged, but always in a constructive fashion that consistently acknowledged the value of mediation, as well as the professionalism of the written paper.

MEMBERSHIP PERSPECTIVES

The top priorities or views, as expressed by the membership when consulted, were to:

- Improve GOA/Justice compensation levels for mediators;
- Reinstate the Rules of Court regarding mandatory ADR;
- Increase public awareness and demand for ADR, mediation and designations;
- Regulate the profession (noting that there were mixed views expressed on this issue);
- STOP apologizing for or justifying ADR advocacy (the research is conclusive);

AND – that the ADRIA Task Force's efforts were truly appreciated and valued by our members.

BOARD OF DIRECTORS RESPONSE TO THE WHITE PAPER RECOMMENDATIONS

The White Paper's recommended overarching recommendations and actions have been formally endorsed by the ADRIA Board following extensive consultation with stakeholders and members. These have been further detailed and structured into immediate (2017) and follow-on activities (2018 & beyond) in the table below.

The ADRIA Board of Directors will add Advocacy as a regular agenda item to their Board meetings, assess changing circumstances and opportunities as they arise, monitor progress, select or sustain appropriate advocacy action items, identify collaborative partners, and take concrete actions as a Board to advance the practice and profession of mediation.

The Board has adopted an approach to mediation advocacy that will be strategic and forceful. The Board will embrace new opportunities as they arise, be mindful of changing circumstances in government and/or the economy, and be willing to move in new and appropriate directions as circumstances dictate over the next several years.

The Board is committed to recording and sharing its successes, challenges and failures with the ADRIA membership and our collaborative partners in a meaningful and ongoing fashion.

Stakeholder Groups **Recommended Actions**	**Immediate - 2017**	**2018 & beyond**
	The Board's immediate communication plan involved customized letters to almost all stakeholders identified, accompanied by copies of the White Paper Executive Summary, AND a series of member consultation sessions that were hosted in Calgary, Edmonton and online. Create a standing Board agenda item (Med Advocacy)	Continue as a standing Board agenda item (Med Advocacy)
A. The Courts and Justice System		
(1) Encourage regular reviews of compensation and qualifications for mediators in various Court and Ministry of Justice mediation programs to improve consistency, comparability, and appropriateness; o Adopt program and compensation policies that fully and equitably value the unique skills and qualifications of staff and roster mediators; o Building on the Western Provinces Task Group, support the work of the task group to develop compensation principles, explore best practices and establish a degree of consistency among comparable programs; and	ADRIA meeting with Minister June 2016. Follow-up as appropriate. Supportive letter sent to Minister & CJ from AFMS & CDAA (Oct 2016). Monitor responses, and take next steps. Develop and enhance relationship with Minister and Judiciary Further improve ADRIA complaint mechanism	Focus on western province comparability within Justice Exploit statements attesting to the value of mediation and the profession Continue to increase diversion programs from the Courts Explore and embrace evaluative ADR processes Breakdown barriers and resistance

o Protect the public by ensuring access to robust complaint mechanisms, ensuring that roster mediators are members of recognized professional associations, are adequately trained and hold recognized credentials.	COLA analysis of roster compensation rates Add a retired Judge to the Board, or to serve in an advisory capacity Support moves to solo mediations for proven roster mediators, particularly those pursuing C.Med designations *Member perspective: Job 1*	Find support and funding for a collaborative public information campaign (eg Court TV)
(2) Enhance, promote and expand mediation as an integral and preferred component of Alberta's Court diversion programs; o Work to ensure the highest possible percentage of potential litigants are diverted to some form of mediation, ideally before ever entering the court system; o Reduce restrictions and reservations regarding the nature of disputes that can be addressed through ADR, mediation and restorative justice – building on best practices, established and proven in other jurisdictions; and o Institute an effective public information strategy to influence the early behaviors and choices made by those initiating or considering litigation.	Document diversion rates and pursue options to increase. Support initiatives to broaden the scope of cases sent to mediation. Research best practices for influencing early behaviours and choices made.	
(3) Ensure compliance of the mandatory dispute resolution provisions of the Alberta Rules of Court; o Updated and introduced in November 2010, The Alberta Rules of Court govern litigation processes at the Court of Queen's Bench, the Court of Appeal and, to a lesser extent, the Provincial Court (for circumstances not otherwise addressed in the Provincial Court Act). The latest update to the Rules introduced the requirement that all parties to litigation participate in at least one form of dispute resolution prior to proceeding to trial. Acceptable processes include judicial dispute resolution (JDR) and a number of other court, government or private dispute resolution options, including mediation. Enforcement of this Rule was suspended by the Court of Queen's Bench in February 2013, in response to the heavy demand for JDRs and the court's inability to provide the service,	Follow-up letters to Minister & CJ to reinstate ADR Rules. Seek a commitment to reinstate Capitalize on recent and continuing shortage of judges, AND changing attitudes re diversion programs and access to justice. *Member perspective: "Take down the White Flag", and be forceful in our arguments for increased ADR.*	

given what it stated were insufficient judicial resources. There are, however, other forms of dispute resolution specifically recognized within the Rule that could be used other than JDR. This suggests enforcement of the Rule need not be suspended. Therefore, ADRIA should work to ensure that compliance with the Rule is reinstated, focusing on dispute resolution options other than JDR for that compliance. This would generate greater demand for mediation in the private sector.		
(4) Optimize the value of Judicial Dispute Resolution (JDRs) processes: **o The appropriate and consistent use of JDRs as an evaluative dispute resolution process should be emphasized;** o JDR should be used primarily in situations where other forms of dispute resolution have been attempted by the parties and where they have not reached a resolution. It should be used judiciously, primarily as a last resort, not as the first go-to dispute resolution option. This would create more work for private mediators and reduce the burden on the courts to provide JDR as the dispute resolution option of first instance. Additionally, minimizing the use of JDR as a dispute resolution option of first instance would reduce the cost to the taxpayer that could and perhaps should be borne by the litigants themselves. o Acknowledging the heavy demand currently placed on the courts by the demand for JDR, options should be considered to reduce Alberta's overreliance on JDRs so that other dispute resolution options can be fully utilized. These might include: • Introducing an appropriate application fee for JDRs that recognizes the true cost of engaging the judiciary; and/or • Requiring another form of dispute resolution option such as mediation prior to accessing a JDR process; and/or • Introducing objective criteria and a triage process to identify more cases for mediation, separating them from those that should proceed directly to JDR.	Distinguish between JDR and ADR mediation. Distinguish between facilitative and evaluative JDRs, and in both cases, ensure that the process is understood by the parties in advance. Eg GOA websites and JDR explanatory materials Learn lessons from NJI (Lawrence Susskind) Support notion of requiring ADR mediation before JDR Make economic argument regarding the true cost of JDRs Explore fee structure for JDRs that does not compromise access to justice. Explain JDRs on ADRIA website Collaborate with Resolution Services Recruit a retired judge to ADRIA BoD, or in an advisory capacity Challenge JDR-centric thinking	Explore opportunities to collaborate with the NJI Judiciary conference? Joint training for judiciary? Expand and improve the (evaluative?) ADR resources available as viable alternatives to JDRs

(5) Promote effective ADR training and professional development partnerships: o Promoting high standards of practice in a consistent fashion within the Alberta courts and legal profession will lead to broader acceptance of ADR and mediation as a profession. Building upon ADRIA's expertise and experience, this entails working with the Alberta's judiciary, law schools, the Law Society of Alberta, the Legal Education Society of Alberta (LESA) and the Ministry of Justice and Solicitor General (Resolution and Court Administrative Services).	Collaborate with LESA, CBA, Law Society Share in ADR luncheons and professional development opportunities	Continue & expand
(6) Maintain an emphasis on early dispute resolution within the Reforming Family Justice System (RFJS) initiative; o With Alberta engaged in a proactive approach to reforming the family justice system, efforts to strengthen the Dispute Resolution sector's voice within existing and future Working Group initiatives will build demand for early resolution options, most notably mediation.	Work with RFJS leadership team (Justice, Judiciary, Law Society). Reframe as Family restructuring Create guidelines and a registry for a principled separation/divorce Host divorce-selfies on the ADRIA website, for those who engaged in mediation and/or adopted a collaborative, principled approach to divorce. Combine resources within the construct of an all-Alberta ADR Symposium	Lead the RFJS initiative
B. Other Government Ministries & Publicly Funded Agencies		
(1) Adopt consistent standards for government ADR programs and practitioners; **o Reduce inconsistencies within the programs offered by the Government of Alberta (GOA) Ministries, and reduce inconsistencies amongst comparable Federal and provincial ADR programs. Eliminate pro-bono (low bono) mediation for the provision of provincial public services and ensure that mediator compensation is fair and reasonable;** o Introduce common standards for staff mediators that ensure they are adequately trained, supported with ongoing professional	Create policy and content for pro-bono activities (academic, informative, encouraging) Partner with DRN to lead an Alberta ADR Symposium	Functional Authority discussions with GOA Promote/Adopt common baseline standards

development, and funded to pursue recognized credentials as a condition of employment; o Introduce common standards for roster mediators to ensure they are members of a recognized professional association, are adequately trained and hold recognized credentials; o Support the informal efforts of the GOA's Dispute Resolution Network (DRN); and o Consider creating a Functional Authority (FA) for ADR within the GOA to provide oversight and broad policy guidelines within which individual Ministries can customize their ADR programs to meet specialized needs.		
(2) Consider broad GOA policy directives that mandate development of internal and external ADR programs where such programs will benefit government functions, reduce the cost of litigation, enhance workplace relations, and improve the quality of daily interactions between Albertans and their government.	Propose to DRN Work with Resolution Services	Adopt Functional Authority (FA) approach to embrace common principles throughout GOA
(3) Initiate with ADRIA and other non-profit assistance an Alberta multi-media public service information campaign to promote ADR and mediation, including continuing work with International Conflict Resolution Day: o Place emphasis on the positive social values that ADR and mediation embody within family settings, business culture and the workplace, including relationship building, collaboration and consensus decision making; o Emphasize the reduced financial and emotional cost of mediated resolutions; and o Consider government-sponsored forums to advance the practice of ADR in Alberta.	Build the content. Seek partners and funding. Promote an all-Alberta ADR FSymposium & Learning Event Continue to support CR Day, including ADRIC efforts nationally Encourage BCAMI & Mediate BC to adopt the common date Cost of Conflict Business case development, ideally with ADRIC (including an emotional health ROI?)	
(4) Recognize, support and enhance Alberta's existing publically funded ADR programs, including but not limited to: o Municipal Dispute Resolution Services (MDRS) including providing input into MGA legislation changes regarding ADR planned for 2016; o Service Alberta's Registry and referral services for Alberta`s non-profit organizations and the general public;	Continue to support MDRS Advisory Group, and seek other such opportunities Reach out to Service Alberta and Alberta Culture's BDP (Board Development Program)	

o Alberta Energy Regulator's ADR program in promoting ADR resolutions within Alberta's energy sector; and o Alberta Culture & Tourism's programs and services to assist communities and non-profits in Alberta;	Support and advance ALRI proposals for non-profit law reform (specifically a default informal DR mechanism)	
(5) Explore Early Education programs and ADR resources in schools: o Build on the experience of the Peer Mediation and Skills Training (PMAST) initiative in Calgary, and the Restorative Action Program (RAP) program in Saskatchewan to explore new opportunities to integrate conflict resolution skills into the curriculum at all levels of Alberta`s Education System.	Continue to press for a meeting with the Minister of Education. Engage in curriculum development program recently initiated MOU with PMAST signed	Curriculum development is a multi-year undertaking by the GOA
C. The Business Community & Professional Associations		
(1) Develop a convincing business case for ADR and mediation, applicable to all sectors of the economy, including its applications for the attraction, engagement and retention of human capital; o In order to be successful, this initiative needs to be commenced under the umbrella of ADRIC, our national credentialing organization, with the support of affiliates like ADRIA across the country. This would allow for the critical mass and national effort needed to make an impact in the long term. Funding support by ADRIC (and other partners/agencies) will also be needed.	Make a joint grant proposal to ADRIC (from AAMS/ADRIA)	
(2) Engage the judiciary and legal profession to articulate and acknowledge the additional cost saving potential of utilizing ADR professionals who are not legally trained to conduct pre-trial mediations, provided they have the requisite training, experience and credentials to be effective. This would require **engagement with the National Judicial Institute (NJI), Law Societies, Legal Education Societies, Family Mediation Societies, etc.;**	Increased engagement with Law Society, CBA & LESA.	Actively press for change
(3) Work collaboratively with industry groups, organized labour and professional associations to develop awareness of, and interest in, ADR policies, programs, training and services that would have a positive impact on their respective employment sectors. Promote ADR communication skills as an essential leadership or professional competency. These include:	Develop speaking points and powerpoint presentations. Engage Board and volunteers. Create a Speakers Bureau and actively solicit speaking opportunities.	

o Human Resources Professional Associations (HRIA, CCHRA, HRPA, etc.); o Health Care Professions; o Engineering & Construction Sector; o Chambers of Commerce and Economic Development Groups; o Better Business Bureaus; o Small Business Associations; o Organized Labour groups, and o many others.	Develop webpage content	
(4) Develop a resource guide to assist organizations wishing to develop their own ADR policy or program, promoting high standards of mediator training and professional practice; o Ideally, this effort would also be commenced under the umbrella of ADRIC as the resulting resource and communication tools would be useful to all ADR Affiliates and Associations, in Alberta and across Canada.	Gather best practices and resources. Generate webpage content	Propose an ADRIC initiative.
D. ADR Associations and Partners		
(1) Increase mentorship and entry-level mediation opportunities. Where these opportunities involve pro-bono activities in sectors such as community mediation, ensure they do not undermine the professional aspirations of Alberta`s practicing mediators;	Explore mentorship and volunteer opportunities with partners	
(2) Clarify and work to create consistency with respect to organizational use of ADR/mediation definitions, models, styles, techniques, etc. The variety of terms and constantly changing language is confusing, especially to the general public, and does not contribute positively to the professionalization of mediation. Care needs to be taken with language choice and there is a need to use terms consistently within Alberta and beyond. ADRIC should play a leadership role in this area;		Potential joint AAMS/ADRIA proposal for ADRIC funding Create Canadian content for Wikipedia
(3) Support and actively engage with ADRIC committees that impact the mediation profession, notably designation standards, approvals and marketing; quality assurance; advocacy; organizational memberships; roster development; public information;	ADRIA Volunteer coordinator. Actively monitor and nominate candidates to ADRIC committee, such as we have recently done with Education. Connect with and recognize the efforts of our volunteer committee members	

(4) Promote high academic and educational standards for academic and learning institutions that offer mediation training, currently and in the future; o Seek to establish more degree granting and masters programs in ADR; o Encourage the introduction of post-secondary credit programs in ADR that are accepted by multiple disciplines as enhancements to primary professions; o Link post-secondary ADR programs and courses to ADRIA, such that training credits are earned towards national entry-level designations; and o Encourage the establishment of an ADR Centre of Excellence at an Alberta post-secondary institution.	Seek out and engage with existing programs – Advisory Groups, presentations, collaborative sharing of information. Currently on MRU AG Connect to specific occupational study programs (Law, HR, etc) Establish partnerships as practical with post-secondary institutions. Support ADRIC participation in recently established academic WG (title?)	Actively encourage the Centre of Excellence concept.
(5) Develop meaningful metrics for the evaluation of mediation programs, ideally on a national scale; and	Gather supporting research and documentation as practical.	Propose an ADRIC initiative
(6) Encourage other ADR non-profits to endorse and contribute to this Advocacy for the Mediation Profession initiative; o Jointly develop pro-bono mediation policies that will serve to provide meaningful training and experience without devaluing the profession; and o Focus on relationships with the ACR, AFMS, FMC, ARJA, AFCC, FOAJ, NCSA, AAMS, CAB, CMCS, MRJC, to name but a few important ADR organizations active in Alberta.	Continue active outreach, and increasingly engage Board members in this activity. Promote collaborative activities – conferences, luncheons, networking AND policy development. See out volunteer pro-bono opportunities in concert with policy development on this issue.	
E. ADRIA Resources and Membership		
(1) Provide feedback to the ADRIA membership on the Task Force White Paper Findings and Recommendations;	Membership consultations and updates must continue.	
(2) Continue tracking compensation issues, ideally on a national scale through regular surveys and market analysis, in concert with engaged and relevant partners;	Work with ADRIC and provincial partners to track. Engage an MBA student to conduct economic study	
(3) Seek out career and employment opportunities for trained mediators, including	Webpage content to be developed.	

roster development and opportunities, and assist ADRIA to advise the membership;	Practicum in Family Mediation recently established with GOA Support Community Mediation as an entry point for gaining experience.	
(4) Explore options for and feasibility of regulating the mediation profession in Alberta; *Note - Member perspectives mixed – very important to some, but others see disadvantages.*	Research the experiences of others eg HRPA, HRIA Consult with membership Discuss with Leadership (leading up to the ADR Symposium) Continue enhancements to function like a regulated profession. Actively support and lead Canada in securing members with national ADRIC designations	Focussed discussions and/or decisions, potentially at the 2018 Alberta ADR Symposium. Should there be a decision to regulate, commence the hard work of preparing a proposal to government.
(5) Celebrate volunteerism, including our members' generous pro-bono activities;	ADRIA Volunteer Coordinator position? Annual recognition and/or award?	
(6) Continue the dialogue and transparency with members and students regarding: o the financial viability of mediation as a stand-alone profession; o mediation career pathways and resources available; and o the impact of pro-bono and low bono activities on the profession.	ADRIA Policy and webpage on Pro-bono opportunities, cautions, overall Impact, etc. Continue current practice of upfront information to students. Develop candid webpage content.	
(7) Promote and enhance ADR Institute of Canada`s National Mediator designations; **o Ensure that ADRIC and ADRIA are effectively communicating and positively influencing public awareness of the significance of National Designations, and that the demand for designated mediators is increased;**	Effective Jan 2017 only those with designations are eligible for online directory. ADRIC considering similar measures. Increase public-facing web content at ADRIA, ADRIC and all Affiliates.	

o Consider unpaid and/or co-mediations as partial qualifications towards a Chartered Mediator (C.Med) designation; o Allow only designated members to be featured on ADRIC and ADRIA online Directories of professional mediators; and o Provide meaningful incentives to advance beyond the Q.Med designation.	ADRIC and Affiliate consultations ongoing to refine designation criteria. ADRIC insurance discounts favour designations, and further favour Chartered status. ADRIA Instructors must be Chartered. Coaches must be Q.Med qualified. Support ADRIC Marketing & Membership initiatives	
F. Additional ADRIA Initiatives (not specified in the White Paper)		