

Nominations of members for DR work- Board endorsed practice April 2016



1. Context

Resolution Institute is a professional membership organisation that focusses on standards of DR practice, support services to members and developing an environment in which DR services are frequently used. Resolution Institute encourages members to develop their own business, lead generation and marketing activities. In specific circumstances, Resolution Institute provides a nomination service for parties in dispute.

- a) When parties need a contractually agreed, independent and unbiased service to appoint a dispute resolver
- b) When a government, industry or agency scheme requires an independent and unbiased third party to appoint an appropriately qualified dispute resolver
- c) When in a rare case, an individual requests a dispute resolver.

2. Principles of current nomination practice

Resolution Institute prioritises appropriate transparency, quality, consistency, accountability and privacy as far as the law and other factors allow.

Transparency

The Board regularly reviews explanatory information and quantitative data about nominations (number, DR methodology and diversity of members nominated.) The Board seeks additional information as required to satisfy itself that the processes for making nominations balance privacy (see below) and transparency appropriately in that our processes are publically available and are consistently applied.

Quality, consistency and accountability

The nominations process is designed to ensure that a highly suitable dispute resolver is nominated to each dispute, using a consistent approach and selection criteria. For each nomination, Resolution Institute undertakes a rigorous process to ensure both suitability and diversity of practitioners is satisfied. More detailed information about this process is outlined in Section 4.

Privacy

Resolution Institute is committed to protecting privacy in all its record keeping and ensures its practices are consistent with the [Australian Privacy Principles](#) (APPs) in the [Privacy Act](#).

The intent of Australian Privacy Principle 6 is that an entity will generally use and disclose an individual's personal information only in ways the individual would expect or where one of the exceptions applies. Resolution Institute considers that members would expect that their personal information is collected so that Resolution Institute can provide services to them. These services include promoting the benefits of DR within the community, representing members' interests to government and statutory bodies, providing members with DR information, managing their training, accreditation, grading and CPD and in a relatively small number of cases in the circumstances described under *Context* above, provide them with nominations for work.

Australian Privacy Principle 11 requires organisations to take active measures to ensure the security of personal information it holds, and to actively consider whether it is permitted to retain personal information. Resolution Institute values the importance of securely storing personal information and has implemented a number of measures to ensure security. Any personal information obtained is securely stored at the Resolution Institute office, with approved and limited access.

3. Current Resolution Institute nominations

a) Referral from a clause in a contract

Some contracts include a dispute resolution clause which specifies that the Chair, Chapter Chair or Resolution Institute (IAMA or LEADR) nominates an arbitrator, expert determiner or mediator. The Chair of Resolution Institute also fills the role of President of IAMA and Chair of the IAMA Chapters.

In such cases Resolution Institute staff consistently apply the agreed selection criteria to choose and nominate an appropriate dispute resolver. The recommended nominee is referred to the Chair for appointment.

This nomination service attracts a nomination fee based on a sliding scale of fees for mediations and expert determinations and a flat registration fee for arbitrations, as established in the applicable Rules. In addition to the nomination fee, Resolution Institute also charges a set percentage of the dispute resolver's fees billed at the conclusion of the matter.

b) Panel for a particular scheme

Resolution Institute has been appointed to provide a nominations service for a number of dispute resolution schemes. Upon receipt of a request for a particular scheme appointment, Resolution Institute staff consistently apply the agreed selection criteria to choose and nominate an appropriate dispute resolver.

This service attracts either a set fee or a fee attached to the dispute resolver's fees, depending on the Scheme.

c) Individual requests

A very small number of individual clients may call to request a dispute resolver. Resolution Institute current practice is to educate such clients about dispute resolution and where appropriate, to encourage individual clients to use our search directories (on the Resolution Institute and the IAMA websites), or to contact the appropriate provider such as an FRC, a Legal Aid service or other.

In some cases, Resolution Institute provides a fee for service simple or complex search, using the agreed criteria to identify a shortlist of appropriate dispute resolvers for the parties to choose from.

4. Selection process

For each nomination application, Resolution Institute

- completes a comprehensive checklist about the dispute, ensuring compliance
- confirms appropriate grading and accreditation of member applicable to the particular dispute
- considers a core set of factors and other factors unique to the circumstances of each dispute. These factors include:
 - Jurisdiction
 - Technical specialty
 - Quantum of dispute
 - Real and perceived conflicts of interest
 - Risk of bias
 - Availability to provide expeditious service
 - Experience with similar matters and
 - Hourly rate charged /ensuring economical outcomes (sometimes, as with adjudications, fees are controlled by a government regulator)
- considers how many and how recently members have received nominations from Resolution Institute

5. Conclusion

Resolution Institute is committed to adding member value by increasing the market for dispute resolution and the supply of skilled dispute resolution professionals. When nominations are made, Resolution Institute is committed to information flow which is aligned with principles of appropriate transparency, quality, consistency, accountability and privacy.

Resolution Institute encourages to its members to extend their focus on business generation activities. Where a nomination is appropriate, Resolution Institute will maintain its commitment to ensuring that those clients and people contacting us for assistance in resolving disputes are provided with the very best standard of service.