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Mediation the future, says Hulls

Michael Pelly | March 07, 2008

THE nation's longest-serving attorney-general, Rob Hulls, has questioned whether the adversarial system has reached its "use-by date" and has vowed that mediation will take centre stage in pending reforms to Victoria's legal system.

Mr Hulls, who opened a new mediation centre in the Victorian Supreme Court this week, said he had "no doubt" that not enough had been done to promote alternatives to litigation.

Traditional processes such as discovery and interrogatories, he said, were "not always advancing solutions to problems, but certainly advancing the bank balances of lawyers".

Mr Hulls said that between October 2005 and July 2007, 94 Supreme Court cases were referred to mediation, 59 per cent of which were resolved at or after master-assisted mediations.

This saved 311 sitting days, or more than a year's worth of court time.

The Victorian Law Reform Commission's review of the state's civil justice system, led by Peter Cashman, was presented to Mr Hulls this week. The introduction of "pre-action protocols" are a central part of the recommendations.

Dr Cashman has also proposed that a party might be prevented from taking certain steps in a proceeding, or forced into mediation.

Mr Hulls also said he was committed to exploring judge-led mediation.

He said work had already begun on reviewing the Government's justice statement and that alternative dispute resolution and mediation would be "at the heart of our forward agenda".

"We aim to strengthen alternative dispute resolution (ADR) in Victoria, both in relation to court-based mediation and community and business-orientated ADR," Mr Hulls said.

The new centre would "play an active role in furthering the successful use of court-led mediation to resolve disputes".

Mr Hulls said at least a third of Victorians were directly involved in a dispute of some kind - from neighbourhood disputes to multi-million-dollar commercial disputes in the higher courts - between March 2006 and March 2007.

"As the overall number of disputes continues to rise - as indeed does the number escalating to the courts - one has to question whether the adversarial system of justice isn't past its use-by date.

"Our current processes of whipping off a letter of demand as the first action in attempting to resolve a dispute immediately embroils parties in an often costly legal battle.

"Quite simply, the public are demanding more accessible and affordable justice and we have to find new and innovative ways of doing things."

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