

Dispute Resolution (DR) or Alternative Dispute Resolution (ADR)

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This paper was settled jointly by the members of ADRAC.

What is the relevance of the acronym?

The use of the acronym ADR parallels the history of Alternative Dispute Resolution in Australia.

The term, ADR, very quickly achieved the status of being well-recognised and widely-used. In its early days, it was an umbrella term that incorporated three processes for resolving disputes, processes that were seen to be *alternative* to the court system. In 1986, the Australian Institute of Criminology convened a three-day seminar at which 24 presenters addressed many aspects of ADR, in the context of it being an *alternative system* of dispute resolution. Demonstrating the broad acceptability of the acronym, the speakers were drawn from many Australian and New Zealand sectors including: law, academia, law enforcement, corrective services, youth justice, family law, practitioner training, relationship counselling, as well as indigenous and community services.

In February 1990, the first issue of the Australian Dispute Resolution Journal was published (Volume 1, Issue 1). It has since progressed to being the Australasian Dispute Resolution Journal and is now cited as the ADRJ.

At the time of these two landmark events, the three ADR processes were: mediation, conciliation, and arbitration. Unfortunately, commentators did not always differentiate mediation, and the term 'ADR' was often used when what was being described was

clearly the specific process of 'mediation'. Despite this lack of clarity, ADR had established itself, even appearing in case law.

Although the range of dispute resolution processes has broadened significantly since the 1980s, the acronym has not changed, and ADR is accepted as referring to them all.

Why is an acronym important?

There was some concern in the 1980s that the use of the word 'alternative' invoked connotations of alternative lifestyles and that ADR processes would be perceived as somehow outside the sphere of acceptability, even seen as subversive to the legal system. Perhaps to address this concern, during the intervening years, many commentators have noted that the ADR acronym could have more than one meaning: *Appropriate, Accessible, Assisted, Affirmative, and Additional* Dispute Resolution have been suggested.

In recent years, many practitioners have expressed a preference for dropping the 'A' and using 'DR' in recognition that this is now an industry in its own right, and is no longer seen to be an alternative to other systems. Some have even suggested that, given the numbers of disputes being referred to non-curial processes, perhaps the court system is now the alternative. Such a discussion took place at the inaugural meeting of the ADR Industry Forum in 2014.

Ultimately, the two acronyms, ADR and DR, are accepted as referring to the same thing: a burgeoning set of processes whose intent it is to help people resolve differences and disputes without having to resort to the courts. Those who prefer to say 'ADR' are not excluding those who prefer 'DR', nor are those who prefer 'DR' excluding those who prefer 'ADR'.

What is important is the simple, recognisable expression and the broad, dynamic spectrum of services and approaches to which it refers.

What needs to happen with this issue?

It is ADRAC's view that the term 'ADR' is widely recognised both in Australia and elsewhere. It has achieved a level of recognition that is not necessarily tied to its original meaning: ADR is widely (albeit not universally) accepted in its own right rather than being an acronymic reference to Alternative Dispute Resolution.

Much as the word 'Esky' is taken to refer generically to a portable ice-box, rather than to its original specific brand, so ADR refers to the range of processes and approaches, rather than to the specifics of being alternative. The Federal Attorney-General's Department refers to both Dispute Resolution and Alternative Dispute Resolution, and many organisations now use the terms interchangeably. An internet search for 'dispute resolution' will include 'alternative dispute resolution' in its results, and vice versa; although a search for Alternative Dispute Resolution can produce a broader selection of relevant results.

Although ADRAC's name in full is Australian Dispute Resolution Advisory Council, it is ADRAC's view that both ADR and DR continue to have broad currency and recognition, and can be used interchangeably in many contexts. In other contexts, use of the terms interchangeably may lead to confusion (eg in the sentence 'Litigation is an adversarial form of DR' it would make little or no sense to substitute 'DR' with 'ADR').