

ADR clusters and hotspots

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This paper was prepared and settled jointly by the members of ADRAC.

What are ADR clusters and hotspots?

ADR clusters and hotspots are pockets of usage of ADR processes that are markedly higher than the usage rates in the wider community. The clusters, or hotspots, may be aligned with geographical context, social context, legal context or statutory context. They may also be defined by professional or cultural preferences.

At present, the existence of clusters and hotspots is known only through anecdotal reports.

Why is it important to identify ADR clusters and hotspots?

Knowledge about pockets of higher ADR usage can inform the strategic development of ADR and the availability of ADR practitioners. When more is known about existing pockets of higher usage, and what has caused them, it may be easier to predict future demand for ADR services.

What are some potential ADR clusters and hotspots?

There are many examples of areas, or circumstances, in which an ADR cluster, or hotspot, may develop: wherever a situation produces a spike in the number of disputes, there is the potential for a temporary ADR cluster or hotspot.

Farm Debt Mediation Schemes are intended to assist farmers whose debts threaten their ongoing ownership of their properties. Especially during periods of drought, there is likely to be increased usage of mediation in rural areas for disputes that are deemed to fall under the auspices of the Farm Debt Mediation Schemes.

When there has been a natural disaster, such as bush fire or flood, it is reasonable to assume that there will be an increase in various disputes in the affected communities, including disputes between insurers and policy holders. As demonstrated by the Pilot

Program conducted in the USA by the American Arbitration Association following Hurricane Katrina, ADR can be very effective in such circumstances.

It has been anecdotally reported that, when an organisation chooses to introduce a new system for handling employee disputes and grievances, there is an increase in the number of disputes being reported, leading to an increase in demand for mediation and other ADR processes. However, these anecdotal reports have not been substantiated by evidence-based data.

Unfortunately, there are no evidence-based mechanisms in Australia for reliably tracking and predicting either clusters and hotspots of ADR usage, or the spike in disputes that may produce them.

What needs to happen with ADR clusters and hotspots?

The existence of evidence-based mechanisms for tracking and predicting clusters and hotspots of ADR usage would inform the strategic development of ADR and would enable strong responsiveness to spikes in demand for ADR services. Fundamental to evidence-based research is valid, reliable data collection.

This would require a capacity for predicting increased numbers of disputes in response to certain events – be they natural, social, political, legal, or cultural – and, flowing from those predictions, a capacity for predicting increased demand for ADR services. Such a capacity is reliant upon effective connectivity, which can create engagement and open opportunities for influence within and among the three sectors of society: public, private and civil society.

ADRAC supports the development of such evidence-based mechanisms and of communication among public sector agencies, private sector businesses and civil society organisations which may occur simultaneously with the development of other evidence-based data collection and cooperation regarding ADR usage in Australia.