

Governments and ADR – States and Territories

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

ADR strategies by states and territories indicate a somewhat fragmented approach without overarching dispute resolution plans. There is some reliance on previous work undertaken by NADRAC, which appears to guide some of the approaches.

State and territory governments

Most state and territory governments centralise their ADR policy-making, implementation and advice through the Attorney-General's Department, the Department of Justice or through Legal Aid services. Some states and territories have embedded ADR practices more extensively than others in broadening the parameters for the types of disputes that are considered appropriate for ADR.¹

Most states and territories have specific ADR services. Below is a snapshot.

In **New South Wales (NSW)**, the Department of Justice delivers no cost services through [Community Justice Centres](#), which provide assistance with disputes concerning neighbours, family relationships and children, work and employment, business and consumers, money, communities and associations, as well as Court referrals. NSW also provides a specific [Mediation for Aboriginal and Torres Strait Islander people](#) service. A unique feature is the dedicated [NSW ADR Directorate](#) that co-ordinates, manages and drives ADR government policy, strategy and growth in NSW. NSW is committed to increasing awareness and use of ADR and CJs to resolve disputes as outlined in the [NSW 2021 A Plan to Make NSW Number One](#) paper.

In **Victoria**, the [Dispute Settlement Centre of Victoria](#) (DSC) provided by the Department of Justice and Regulation delivers mediation, conflict coaching, telephone advice, training and education. Whilst including assistance for common disputes (such as neighbourhood, behaviour, workplace and Magistrates' Court and Police referrals), the DSC also provides a specific service for family meetings

¹ The ADR services at State level usually apply to civil issues but in some limited cases can include post-conviction criminal matters referred by the Courts.

involving older Victorians, a service not offered in other states. A video titled "[Step To" - Dispute Resolution in Action](#) shows a successful multi-party mediation bringing together youth, the police, a Magistrate and a local council and community organisation to resolve a dispute that affected a small country town.

In the **Australian Capital Territory**, the government funds the [Conflict Resolution Service](#) (CRS) offering free and low cost ADR services including conflict coaching, mediation, facilitation, community education, outreach programs and training in mediation across disputes such as neighbourhood, family, workplace, commercial and small business and youth. The CRS provides links on its website to ADR services in interstate equivalents. The CRS publishes an [Annual Report](#) each year outlining services and programs, statistics on the number of ADR processes performed, types of disputes (issues and behaviours), client demographics (such as age, suburb, gender), client feedback and interestingly, information on the pathway from which clients gain knowledge of the CRS.

In **Queensland**, the government provides free mediation through [Dispute Resolution Centres \(DRC\)](#), with a fee charged only for facilitations and workplace mediations. Like NSW and Victoria, the DRCs also provide Justice Mediation for matters currently before a Magistrates' Court that are referred by the Court or police, as well as neighbourhood disputes, family and intergenerational disputes, workplace and commercial disputes, disputes relating to relationship separation, property settlement disputes and multi-party disputes.

In **Western Australia**, the Department of the Attorney General provides the [Aboriginal Mediation Service](#) as well as ADR for family disputes, neighbourhood disputes, community disputes, housing disputes, funeral disputes, coronial disputes and multi-party disputes. The [Small Business Development Corporation](#), a separate statutory body, also offers ADR services for a range of situations within that context.

In **South Australia**, the [Legal Services Commission](#) provides information on the use of ADR and relevant links to organisations, legislation in which ADR is available and to providers such as [Community Mediation Services](#), which is available to residents throughout South Australia at no cost and can assist in a range of neighbourhood disputes.

In **Tasmania**, the [Department of Justice](#) provides a list of the areas of complaints or disputes and the various mechanisms relating to each of those disputes ranging from tenancy, energy, government, building and construction and legal aid for [family dispute resolution](#). They also offer a list of references to external mediation services, but refer to [non-government groups](#) rather than mediation providers specifically. Tasmania has an [Alternative Dispute Resolution Act 2001](#) which relates to mediation and neutral evaluation, its costs, referral by a court, agreements, privilege, and liability of mediators and evaluators.

In the **Northern Territory**, the Northern Territory Government and the Department of Attorney General have established a centralised [Community Justice Centre](#) (CJC) to provide mediation services at no cost. The CJC provides ADR in local communities for people's behaviour, relationships between family members, small claims/civil claims and Victim Offender Conferencing and Personal Violence Restraining Order

mediations.² The CJC website includes information about dispute resolution, mediation training and accreditation, including information in various community languages.

Local Government

Use of ADR by local governments routinely relates to neighbourhood disputes which are referred to the established state services. ADR services in most instances are free of charge with some states requiring a small fee for specific disputes.

Areas of exploration for future services

There appears to be inconsistent uses of terminology in relation to ADR processes. There is no one-stop centralised information service on what each state or territory offers in ADR which direct the public to their relevant state service.

It may be worth exploring ADR services specifically required for particular demographics such as youth (teenagers between the ages of 13 and 17) to encourage and influence dispute prevention as well as resolution.

The above snapshot focuses upon particular operational initiatives in ADR.

Getting to grips with policy formulation and delivery across state/territory bureaucracies is much harder. ADR as a topic no longer appears to be the specific reportable responsibility of declared areas within government agencies ADR as a subject area appears to have less traction now at a governmental level than was the case 5-7 years ago. The reasons for this are unclear.

² Referred to the CJC pursuant to s86 of the *Justices Act* where a Magistrate may refer the matter before it is set down for a hearing. The CJC received five referrals of matters for Conferencing under section 84 of the *Youth Justice Act 2005*.