

AccessResolve Property Dispute Resolution for Court-Ordered Clients: Practitioner Views

Research summary

Since 2012, Relationships Australia Victoria (RAV) has provided AccessResolve, a property dispute resolution service for court-ordered clients, on behalf of the Federal Circuit and Family Court of Australia.

AccessResolve uses a lawyer-assisted conciliation model, in which dispute resolution practitioners ('conciliators') may adopt an advisory role when necessary to help parties reach agreement. AccessResolve conciliators are legally trained, have family law experience, and are also qualified family dispute resolution practitioners.

In 2024–25, we conducted a survey of AccessResolve conciliators with the aim of identifying the main factors which help facilitate, or are barriers to, case settlement. This research follows a 2023 survey of AccessResolve clients which focused on service satisfaction and outcomes.

What we did

We analysed cases over a 6-month period using data from an online survey of conciliators for each of the 212 sessions held between September 2024 and March 2025.

Why we did it

AccessResolve consistently achieves strong settlement rates, particularly given that clients have already filed matters in court. However, these rates vary from year to year. Our aim was to measure variables which may affect outcomes of the AccessResolve service.

What we found

Appropriateness for conciliation

Conciliators felt that most (98%) cases referred to the service were appropriate. Only 5 cases were deemed inappropriate because of the number or complexity of issues such as property matters involving businesses, company tax implications or criminal investigations.

Settlement

In 2024–25, the service recorded an overall settlement rate of 62%. In our study sample of cases over 6 months, 59% of cases reached full (53%) or partial (6%) settlement.

Key findings

Practitioners most often cited these factors as facilitators of / barriers to settlement:

Facilitators

- Practitioner skill in encouraging compromise
- Lawyer encouraging negotiation
- Client attitude

Barriers

- Acrimony between parties
- Last minute or poor-quality documentation

Related research

Research Summary – AccessResolve Property Dispute Resolution for Court-Ordered Clients: Satisfaction and Outcomes' (2023). Visit rav.org.au/news/accessresolve-summary-2023

Documentation

Parties or their legal representatives must supply a Confidential Case Outline and Balance Sheet 14 days before their conciliation. Only 13% of parties in our study supplied documentation within this timeframe. Both the timing and the quality of the documentation, as rated by the practitioner, affected settlement rates.

Timing of document provision	Settled
On time (14 days prior) by both parties	64%
Late (1-13 days prior) by at least one party	60%
Last-minute (same day) by at least one party	49%

Last-minute documentation particularly hindered settlement. Late documentation affects conciliators' ability to prepare. It likely also reflects less case preparation by the lawyers involved.

Quality of documentation	Settled
Both 'complete' and 'satisfactory'	65%
'Incomplete' (≥1 document missing)	63%
'Unsatisfactory'	38%

The association between quality of documentation and likelihood of settlement is statistically significant.

Legal representation

Most AccessResolve conciliations (95% in this study) are conducted by videoconference. Whether or not lawyers were physically present with their clients did not affect likelihood of settlement for cases. However, cases where one party had no legal representation were more likely to settle (74%) than those where both parties were represented (56%). While lawyers may sometimes discourage settlement, clients who are prepared to settle are also less likely to retain lawyers.

Session duration

Nearly half of cases (45%) exceeded the allocated 3 hours per session. Sessions where partial or full agreement was reached were more likely to go over time than cases where no agreement was reached.

Where documentation was provided late, cases were more likely to exceed the allocated session length.

In cases that didn't reach full settlement:

- 44% of conciliators felt that extra time might have helped, with a further 15% unsure
- 57% of conciliators estimated that an extra 2 hours was needed, and 39% believed another full session was required.

Conciliators most often believed a second session would be useful in cases of partial settlement.

Factors assisting settlement

When we account for factors such as representation, quality of documentation, timing of documentation and session duration, we can correctly predict settlement outcomes in 62% of cases. AccessResolve conciliators identified a range of other key factors which assisted with case settlement.

Factors most commonly facilitating settlement

- In 90% of cases, conciliators' 'ability to encourage compromise'.
- In 86% of cases, 'lawyers encouraging negotiation and/or compromise'.
- In 80% of cases, 'clients' openness to negotiation and/or compromise'.

Qualitative insights from conciliator comments revealed that clients' understanding of the costs of proceeding with a dispute is also important. This relates to both conciliators' and lawyers' skill in assisting clients to weigh the costs and benefits of proceeding.

'This was a very modest property pool ... I reminded parties several times about the costs of proceeding to trial outweighing any possible benefits.'

– Conciliator

Conciliator comments also shed light on why timely provision of documentation is important:

'I did a fair bit of preparation... this greatly assisted as I could interrogate issues that both parties had different and strong views about.' – Conciliator

Barriers to settlement

In cases where no agreement was reached, conciliators cited a range of barriers to settlement.

Most cited barriers to settlement

- In 71% of cases, 'level of acrimony (hostility) between parties'.
- In 27% of cases, 'insufficient or inadequate documentation'.
- In 23% of cases, 'lawyers discouraging compromise or settlement'.

They gave examples of situations where:

- lawyers were minimally involved, did not manage client expectations of settlement outcomes, or pursued unrealistic claims
- they received documentation which was missing property valuations or other agreed facts that were necessary for negotiations to proceed
- lawyers genuinely differed in their legal opinions about likely court outcomes.

Conciliators also identified a wide range of other barriers including family violence, mental health, cultural issues, and ongoing parenting disputes obstructing negotiations on property matters.

Summary

AccessResolve overwhelmingly receives appropriate court referrals and currently records full or partial settlement in almost two thirds of cases.

Conciliators believe that their skills and those of lawyers in encouraging compromise are most important to settlement, along with the attitudes of clients themselves. Conversely, acrimony between parties, inadequate documentation and lawyer attitudes were commonly cited barriers to settlement.

Documentation is supplied on time in only a small minority of cases, yet both quality and timeliness of documentation affect likelihood of settlement.

Nearly half of conciliation sessions take longer than the 3 hours allocated. Conciliators believe that the ability to offer a second session would help more clients to reach agreement on a greater number of issues.

Our findings can help RAV ensure that AccessResolve is effective in resolving property disputes for as many clients as possible.