

AccessResolve Property Dispute Resolution for Court-Ordered Clients: Satisfaction and Outcomes

Research summary

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 since 2012.

AccessResolve uses a lawyer-assisted conciliation model, through which practitioners adopt an advisory role when necessary to assist parties to reach agreement. For example, practitioners may provide guidance on whether settlement proposals would fall within the range of outcomes likely to be considered by a court.

Lawyers are active participants in the conciliation process, and assist in preparing and exchanging information, clarifying details and drafting agreements.

AccessResolve consistently achieves high settlement rates of 70% or more each year, above the settlement rate of traditional family dispute resolution (FDR) services. These results are more significant given AccessResolve cases are arguably among the more intractable; with AccessResolve clients having already filed matters in court and often having waited for some time to attend court before being ordered to attempt conciliation.

We undertook to evaluate AccessResolve with a view to whether client satisfaction, practitioner impartiality and client self-determination could be achieved when conciliation was court-ordered.

What we did

Clients who attended an AccessResolve session between April 2019 and September 2020 were invited to participate in a short, online survey. Responses were collected from 68 clients, and interviews with a subsample of 14 clients were conducted between September and October 2020.

Why we did it

While settlement rates are important, it is valuable to evaluate a service more broadly. In particular, we wanted to know whether the principles of practitioner impartiality and client self-determination – which are valued features of regular, voluntary family dispute resolution – can be maintained under a court-ordered conciliation model.

Summary

Findings suggest that there are important elements of the AccessResolve conciliation model which underpin high settlement rates.

78%



of respondents were 'very much' or 'somewhat' satisfied with the way their conciliation was carried out.

90%



of respondents stated that their practitioner was 'very much' or 'somewhat' impartial and even handed.

69%



of respondents were 'very much' or 'somewhat' satisfied with their conciliation outcome.

82%



of respondents felt that they were 'very much' or 'somewhat' able to express their point of view in conciliation.

Some interviewees described a strong sense of self-determination in the process, though others felt they lacked control when faced with a limited range of realistic outcomes.

'I'm very grateful that there is this process. I'm really thankful for that because it has reduced a lot of nastiness, a lot of time and a lot of expense. So, for that, I think it's fantastic.' [Client, settled, assets of \$1M or more]

The following questions guided our evaluation:

- What are clients' experiences of AccessResolve?
- How does the advisory role used by practitioners affect clients' perceptions of impartiality?
- How does input from practitioners and lawyers affect clients' sense of self-determination?

What we found

Client satisfaction

Overall levels of service satisfaction were high, as measured by responses to 2 survey statements:

- 78% of respondents were 'very much' or 'somewhat' satisfied with the way their conciliation was carried out.
- 69% of respondents were 'very much' or 'somewhat' satisfied with their conciliation outcome.

These results suggest that for many clients, experiences of conciliation are positive even when the desired outcome is not achieved. This is further demonstrated in feedback from clients who did not reach a settlement through AccessResolve but still reflected positively on the service:

'Mediator was great. I'm sad to not resolve the issues in this way.'

Clients were particularly satisfied with practitioners. For example, almost all respondents (97%) agreed that 'the practitioner offered helpful information and advice'.

Practitioner impartiality

The vast majority (90%) of survey respondents felt that their practitioner was 'very much' (69%) or 'somewhat' (21%) impartial and even handed.

Interview participants – including those who did not reach a settlement – also spoke positively about practitioners' fairness:

'I think he was really impartial, which was really good, and he made it very clear that he wasn't sort of interested in what had gone on before. It was just about now and trying to get this sorted, which I thought was good.' [Client, no settlement reached, assets of \$100K-\$199K]

Client self-determination

Clients' capacity to direct their own outcomes is known as self-determination. Studies suggest that separating individuals who feel they have influence over their post-separation arrangements are more likely to feel that the arrangements are fair, and to comply with them. When survey respondents were asked whether they were able to express their point of view during the AccessResolve process, a clear majority (82%) felt that this was 'very much' (52%) or 'somewhat' (31%) true.

Several interviewees expressed that the opportunity to be heard was appreciated and also empowering:

'You can sort it out now or get a judge to decide, and if a judge decides, you don't really know what will happen, whereas, through mediation, you have a bit of control.' [Client, no settlement reached, assets of \$100K-\$199K]

Furthermore, some interviewees expressed a strong sense of ownership over settlement outcomes achieved:

'I got the final figure higher than he [lawyer] basically told me to accept. So I was pretty proud of myself.' [Client, settled, assets of \$100K-\$199K]

On the other hand, 4 interviewees felt they lacked a sense of self-determination in the negotiations due to the circumstances of the actual disputes, with none of the settlement options palatable or in their own interests. Two of these clients did not accept a settlement proposal, indicating that they maintained ultimate control in terms of outcomes.

The role of the practitioner

No one interviewed suggested that their practitioner gave too much advice or exerted too much control during negotiations. However, a minority of respondents who felt they lacked self-determination during negotiations also felt time pressures, as well as powerlessness when practitioners and/or solicitors explained the potential costs of going to court.

The role of the lawyer

The AccessResolve model can involve advice from both practitioners and parties' lawyers. While such input could theoretically reduce clients' sense of self-determination, over 92% of respondents agreed that having their lawyer present in conciliation was 'somewhat' or 'very much' helpful.

The majority of clients interviewed also felt that their lawyers were supportive of the conciliation process and that preparing for conciliation was much easier with the help of a lawyer:

'I was very involved with my lawyer all the way leading up to this... and he was fantastic.' [Client, settled, assets of \$500K-999K]