



# The way forward with ADR

With the growing presence of alternative dispute resolution (ADR) and pre-action practices in civil disputes, the consideration of issues in this Australasian Institute of Judicial Administration (AIJA) report should be of great interest to practitioners.

Professor Tania Sourdin and her research team at the Australian Centre for Justice Innovation (ACJI) comprehensively explore the use and effectiveness of civil pre-action requirements in Australia to encourage the resolution of disputes without recourse to a court or tribunal.

Incorporating the input of numerous leading academics, members of the judiciary and practitioners, the report presents a balanced perspective of the benefits and challenges of civil pre-action requirements. It follows a meticulous research methodology that synthesises academic literature, case law, statistics from civil litigation files and information from focus groups, allowing insightful conclusions to be drawn.

The author investigates the key pre-action areas of process efficiency, both nationally and internationally; perceptions including fairness and justice; the effect of costs in

terms of finance, time and other impacts; the timing of dispute resolution interventions and the interrelationship to case complexity and behavioural obligations; systematic impacts and recent international approaches and issues relating to disadvantaged and self-represented disputants. It is written in a clear and uncomplicated style with a useful incorporation of figures and tables to aid in the presentation of data.

Throughout, the report makes recommendations on potential improvements to ADR practices in key pre-action areas which serve the mutual interest of the lawyer, disputants and the courts. Practitioners will find the exploration of the *Civil Dispute Resolution Act 2011* (Cth), including commentary on the requirement to take 'genuine steps' to be extremely useful.

As the report itself notes, the recommendations made will be significant for all courts and tribunals adopting pre-action requirements. With an increasing prominence of ADR processes in civil disputes, it is definitely worthy of a read.

*Reviewed by James Semit, an intern with the Institute of Arbitrators & Mediators Australia and a law/science student at the University of Queensland.*

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