



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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Independent dispute resolution providers in New Zealand

A 2015 snapshot

Introduction

The Government Centre for Dispute Resolution (GCDR) surveyed independent providers of dispute resolution services (that is, those not employed by Government) to obtain a more comprehensive understanding of the current dispute resolution service provider market.

There were 117 respondents to a survey run as a Request for Information on the Government Electronic Tenders Service (GETS) website from 19 January 2015 to 13 February 2015. While there are likely to be more than 117 providers of dispute resolution services in New Zealand, the survey provides some indication of the market.

This report provides a summary of the survey results. A list of survey questions can be found in Appendix 1.

Please contact us at gcdr@mbie.govt.nz if you would like further information or have any comments about the survey.

Summary

Dispute resolution services are available throughout New Zealand. Mediation is the most common type of dispute resolution offered and it is used mostly in the subject areas of family, commerce and the workplace. Many clients are private individuals, but clients are also drawn from the corporate and government sectors.

Providers are largely located in small businesses with fewer than five employees. They tend to be experienced and belong to one or more professional association. Almost all providers are qualified through accreditation to one or more of these professional associations, and some have additional tertiary level qualifications in dispute resolution.

Key points

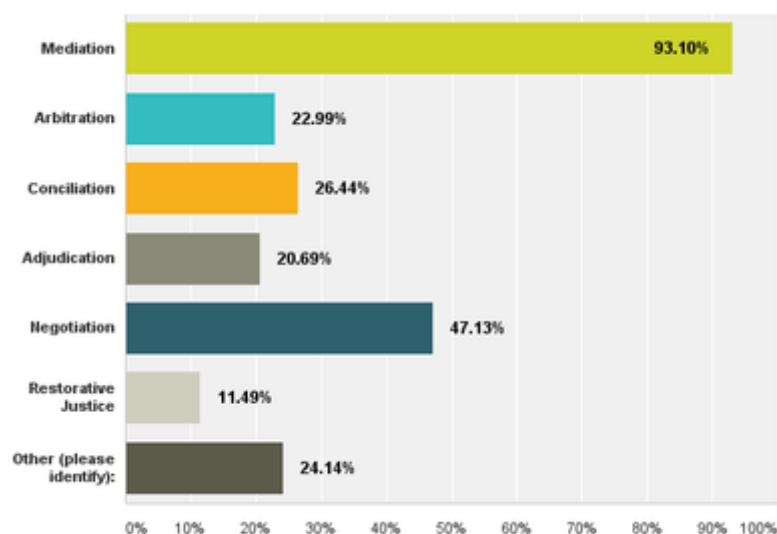
- Mediation is the most common form of dispute resolution service offered
- Services are most commonly provided in the subject areas of family, commerce and the workplace
- Independent providers responding to the survey are experienced, with nearly half having provided services for ten years or more
- Users and purchasers of services are individuals, companies and government
- Most providers are located in small businesses
- Most providers belong to a professional body

- Some providers have dispute resolution qualifications in addition to accreditation to a professional body
- Dispute resolution services are available throughout New Zealand
- There is some indication of increased demand, mostly in the family area
- A very small number of respondents not currently working in this area indicated they were looking at moving into the provision of dispute resolution services.

Summary of survey results

The Alternative Dispute Resolution (ADR) best practice project was developed through opportunities arising from the MBIE merger.

Mediation is the most common type of dispute resolution offered



Mediation is by far the most common type of dispute resolution and was offered by 93 per cent of respondents. This was followed by negotiation at 47 per cent. Smaller numbers of respondents reported providing conciliation, arbitration and adjudication services.

Almost a quarter of respondents reported providing “other” types of dispute resolution services. This showed that a wide range of dispute resolution mechanisms, including early resolution techniques were being used. Examples included expert determination, mini-trials, neutral third-party evaluation, expert evaluation, case

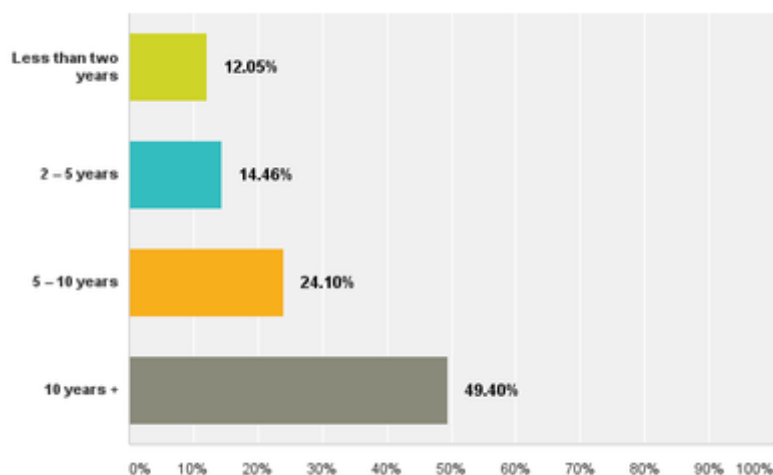
appraisal and non-binding arbitration. A small number of respondents also mentioned advisory services related to dispute avoidance, for example commercial and contractual advice, funding, tendering processes or due diligence services.

Services are most commonly provided in the areas of family, commerce and the workplace

Respondents reported a variety of areas of work. A total of 80 respondents answered this question, and they were able to provide more than one answer.

The three most common areas of work were family, commercial and employment/workplace, with responses fairly evenly spread across these areas.

Providers are experienced, with nearly half providing services for ten years or more



Many providers responding to the survey had lengthy dispute resolution experience. Almost half of all respondents had been providing dispute resolution services for ten or more years, with another quarter having provided services for 5–10 years. One possible explanation is that more experienced providers were more likely to complete the survey.

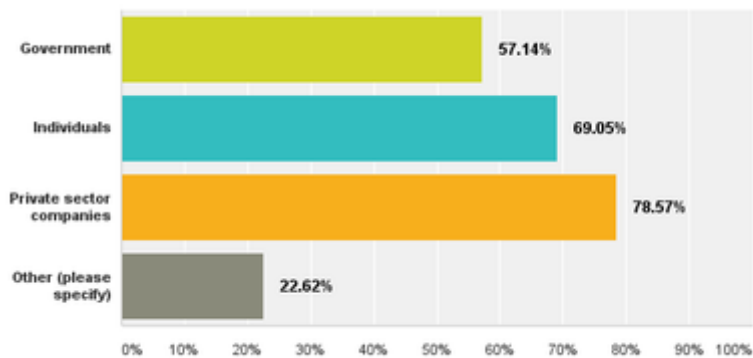
Clients are individuals, companies and government

Seventy-nine respondents answered this question, and they were able to provide more than one answer.

Almost two-thirds of responses identified the general public or private individuals as the users of their services, for example, families, parents, separated couples and caregivers, employees and homeowners.

The commercial sector was the second most common group of clients, with just under half of respondents noting they had commercial clients, such as employers, insurance or financial service providers and building and construction companies.

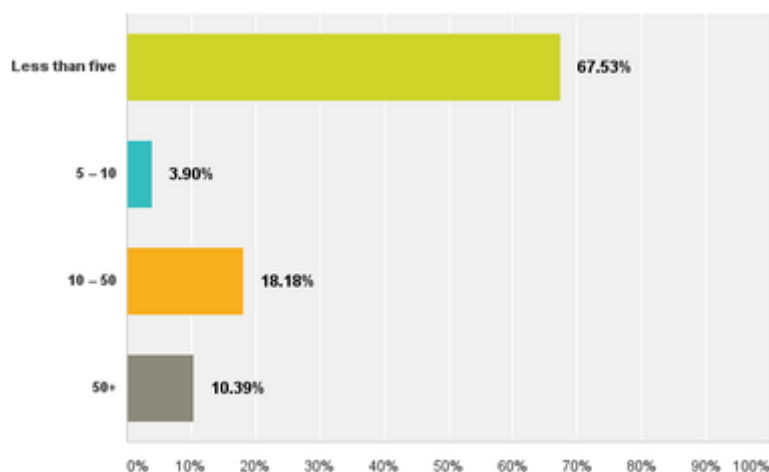
Companies, individuals and government purchase services



Private companies were the most common purchasers of services, followed by individuals and then government. (Respondents were able to provide more than one answer.)

Purchasers in the “other” category included community or not-for-profit organisations, churches, universities, industry organisations and Māori land trusts.

Most providers are found in small businesses



Most independent dispute resolution providers are in small businesses, with just over two-thirds of respondents working in firms with less than five employees. This category includes sole operators, although the survey did not provide this level of detail.

The numbers of respondents reporting higher numbers of fulltime equivalent personnel (14 respondents with 10-50 personnel and eight with 50 or more personnel) was surprising and may reflect a number of respondents from law firms. (Responses to other questions indicate that over a third of responses were from lawyers.) Other possible explanations may be firms that offer dispute resolution as just one aspect of their work, or a number of respondents from the same larger-sized organisation.

Most providers belong to a professional body

Almost 90 per cent of respondents belonged to either LEADR & IAMA or AMINZ, with many belonging to both.

Just under a third of respondents were members of the New Zealand Law Society. (While not a requirement to offering dispute resolution services, practising lawyers will be members of the Law Society and will hold a practising certificate). All but one of the larger-sized firms had staff who were members of either LEADR & IAMA or AMINZ, or both.

Some providers also have other dispute resolution qualifications

Seventy-seven respondents answered a separate question about accreditation and qualifications and they were able to provide more than one answer to this question. Some respondents answered on behalf of a number of professionals in their firm; these were counted as a single response.

Twenty-five respondents held a New Zealand dispute resolution tertiary qualification, such as a graduate diploma in dispute resolution. About half of these respondents (12) were also accredited to LEADR & IAMA or AMINZ, or both.

A number of tertiary qualifications outside of the area of dispute resolution were also reported. Fifteen respondents were qualified in related specialist subject areas such as law or psychology. Of these 15 respondents, nine were also accredited to a professional body.

Six respondents held overseas tertiary qualifications (both dispute resolution qualifications and in related or technical subjects), and a further five respondents were members of overseas professional bodies. There was little overlap within this group, with only one of the respondents having an overseas qualification and also an overseas accreditation, and none having a New Zealand accreditation.

Professional body accreditation

While six of the 77 responses were unclear, 44 respondents indicated they were accredited to LEADR & IAMA or AMINZ or both. Accreditation involves completing a training course and passing an assessment. Of accredited respondents, 12 had advanced accreditation credentials. In addition, ten respondents had received dispute resolution training without indicating that they had been accredited (that is, they either stated they had training only, or it wasn't clear from their answer whether they were accredited).

The differences in responses to the questions about accreditation and professional bodies may suggest that many respondents "took it as read" that membership of a professional body requires accreditation. While many respondents may hold this view, it should be noted that it is possible to hold an associate membership without being accredited. Despite this, the responses to this question are likely to under-represent levels of accreditation.

Dispute resolution services are available throughout New Zealand

Eighty-five respondents answered this question and they replied from around the country. While some areas were not represented by the location of the dispute resolution business, respondents indicated that they provided services to every region in New Zealand (the survey listed regions by local government area).

While we are not able to determine from the results that dispute resolution services are physically available in every locality, the responses do indicate coverage across New Zealand (i.e., some services may be provided by phone or through regular travel to an area).

An indication of increased demand, mostly in the family area

Of the 67 respondents who responded to a question about whether they had experienced an increase in demand over the last two years, 73 per cent had done so. The greatest number of respondents had experienced increased demand in the area of family dispute resolution, with smaller numbers recorded across a range of areas including employment, commercial and restorative justice.

Seventeen respondents answered this question by type of service offered. The top two types of services with increased demand were general dispute resolution services or mediation, followed by a variety of other services including training and coaching, facilitation and complaints resolution.

Seventy-two percent (84) of respondents anticipated expanding their dispute resolution service in the future in response to a question specifically about this. One or more responses were permitted either by type of dispute resolution service (e.g. arbitration and mediation), geographic area or subject area (e.g. employment or family). Forty-nine responses indicated anticipated increased demand by subject area, and forty responses indicated increased future demand in the type of dispute resolution service or in a particular geographic area.

A very small number of respondents indicated they were looking at moving into the provision of dispute resolution services

The final section of the survey focused on people not currently providing dispute resolution services, but intending to in the future. The survey may not have attracted

responses from people training, or from others contemplating moving into dispute resolution service provision. With only six responses to this part of the survey, numbers are too small to usefully analyse.

Appendix 1: List of survey questions

- Question 1 Do you currently provide dispute resolution services?
- Question 2 What type of dispute resolution services do you provide?
- Question 3 What sector or subject matter do you provide dispute resolution services for (e.g. family, construction, employment, etc.)?
- Question 4 How long have you been providing dispute resolution services?
- Question 5 Who are the users of your services?
- Question 6 Who purchases your services (e.g., government agency such as the Ministry of Justice, private company, individual clients, etc.)?
- Question 7 How many fulltime equivalent personnel (employees or contractors) do you have in total?
- Question 8 Do you or your staff belong to any of the following dispute resolution professional bodies – AMINZ, LEADR, NZLS?
- Question 9 Do you or your staff have any dispute resolution-related qualifications? If so, please name them below.
- Question 10 Where is your business located?
- Question 11 What geographical areas do you provide services to?
- Question 12 Has demand for your services increased over the last two years? If so, demand for which services?
- Question 13 Over the next two years do you intend expanding your dispute resolution services in any of the following areas: type of dispute resolution, geographical area, subject area.
- Question 14 If you don't currently provide dispute resolution services but intend commencing work in this area in the future, please advise what type of dispute resolution services you intend providing.
- Question 15 What sector or subject matter would you provide dispute resolution services for?
- Question 16 Who will your clients be?
- Question 17 Who would you contract with to provide services (if relevant)?

- Question 18 Where would you be located?
- Question 19 What geographical area do you intend covering?
- Question 20 Do you have anything else to add?