

Qualitative and Quantitative Research – Access to ADR

PowerPoint Presentation by

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Why and how? Indoor cricket..

- 1989 – Original work – Defamation Supreme Court
- 1991 – ENE and Case Appraisal
- 1994 – All cases finalised in one year in Supreme Court Commercial Division
- 1996 – 2000 - AAT, Federal Court, Family Court – ALRC
- 1998 – FTT
- 2002 – 2003 – FICS
- 2004 – Comparison of mediation, arbitration, between parties agreement, litigation – NSW District Court, NSW Supreme Court
- 2005 – AAT – Concurrent evidence. Intractable Disputes (environmental)
- 2006 – Manly Council
- 2007 – VCAT and CAV, Case management (District Courts and County Courts)
- 2007 – Collaborative Case Studies

What else – AI – deeper process work – tracking discretionary decision making.

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How?

- 1. Survey design – expert steering group.
- 2. Literature review
- 3. Data Collection – hard files and e files – design of instruments and modifications – pilot testing
- 4. Survey of representatives, staff, disputants / others (methodology – open forums or selected forums eg Manly, AAT; telephone surveys eg VCAT CAV, ENE; mail out surveys eg Settlement week)
- 5. Data cleaning
- 6. Analysis and use of other data sources. 7. Consultation and Report write up.

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What to explore?

- Particular issues – what are the system objectives and what do they mean?
- Perceptions and hard data relating to:
 - **Content** – fairness, complexity, outcomes, claim, date dispute arose and ended, cost, link with expectations, effectiveness (eg Commercial Division), branding – services and product.
 - **Process** – fairness, timelines, transparency, bias, understanding, control, pressure – often not facilitative, often not interest based, .
 - **Human/ Psychological factors** – respect, demographics, high conflict personalities, .

- Access – demographics, representation, other issues.

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What sources?

- What are the objectives - IDR and EDR - Health care complaints – see <http://www.safetyandquality.org/internet/safety/publishing.nsf/Content/complaints-management-handbook>
- EDR - Financial complaints – see <http://www.fics.asn.au/IndependentReview.asp>
- Consumer Affairs Victoria to Victorian Civil and Administrative Appeals Tribunal
- Other sources eg Rand - SOCAP consumer emotions study (and others).

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Some interesting findings..

- Many 'disputes' but not all go through some type of complaint handling process before they 'become' disputes.
- Most DR practitioners do not have an understanding of systems and processes at the complaints level.
- Most individual DR practitioners DO NOT have a complaints handling system and most organisational DR systems DO NOT.

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ACCESS ISSUES



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What happens?

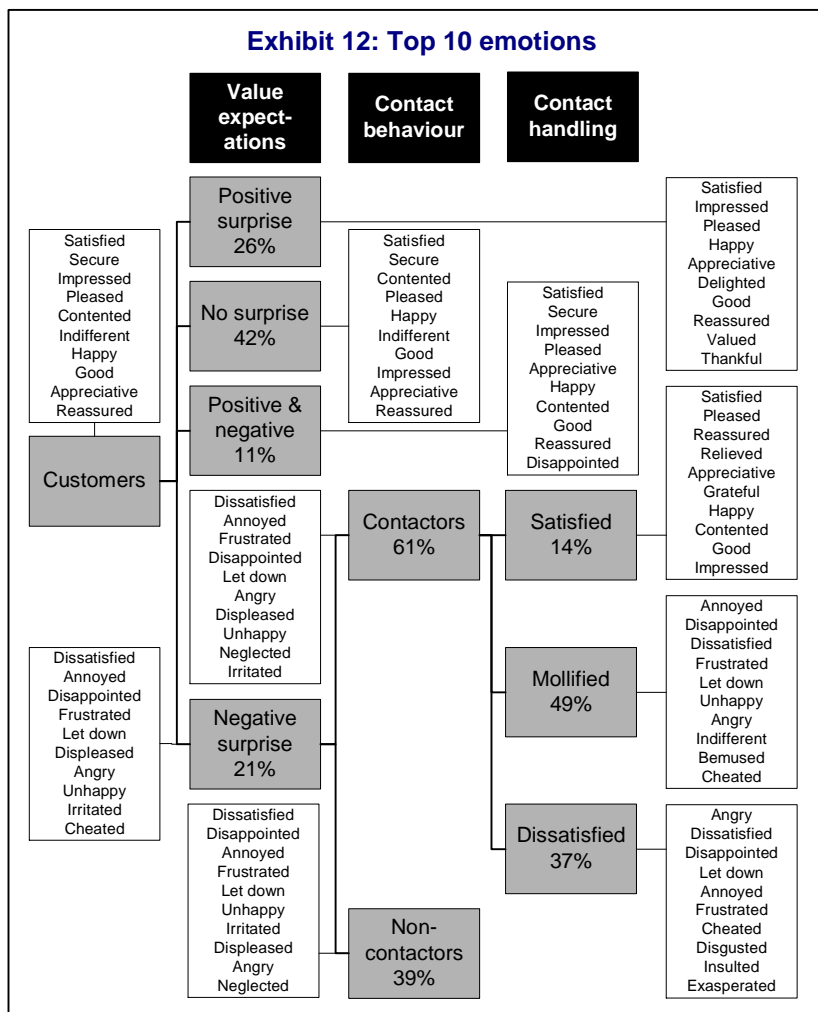
- Some people do not complain or raise issues in a dispute resolution system.
- Why? Education, geographical isolation, age, gender, computer literacy, engagement with front line staff, disability, language, culture – CAV and VCAT
- Complaints become ‘disputes’ and exit organisations for a range of reasons: The organisation or individual offering the services or goods does not:
 - (a) meet reasonable expectations or fails to communicate adequately in respect of substantive issues
 - (b) have *accessible* processes or systems in place
 - (c) handle the complaint in a respectful manner or the complainant has issues (eg HCP) that prevent resolution.

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Recent complaint work

- Core framework of Evalue Pty Ltd. SOCAP Consumer Emotions Study 2003 conducted by Evalue and Psychologica.....4,000 consumers – 9 companies in Australia.

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Systems and processes

- ISO 10002:2004 – now adopted and adapted in many countries around the world.
- *Quality management—Customer satisfaction—Guidelines for complaints handling in organizations.*