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ADR in practice

Communities of practice – can they help separated families using ADR?

Brian English, Colleen Brown and Margaret Halsmith

Editor's note: This article is based on a paper presented at the Australasian Evaluation conference in Adelaide in 2004.

Recent thinking has underlined that effective knowledge management (KM) can be achieved through 'communities of practice'. A community of practice (CoP) is a group of people who share a concern, a set of problems, or a passion about a topic, and who deepen their knowledge and expertise in this area by interacting on an ongoing basis with a collective expectation that positive change will occur as a result. Reported benefits include increasing access to expertise across organisational strongholds, as well as assisting practitioners to improve their understanding of best practice and innovation in their field. More generally, CoP are said to bring about greater alignment between the strategic objectives of an organisation and its day-to-day operations.

Given these benefits, Legal Aid, Western Australia (LAWA) has established a CoP for its ADR program. The aim is to give quality assurance for this program, and shape and meaning for practitioners and managers alike. Key issues in the early stages of the CoP centred on identifying and building relationships between members. More recently, the focus has shifted from establishing the value of having a CoP to clarifying the logic that links CoP activities to desired outcomes for the organisation, and ultimately, ADR clients (the families and children concerned).

Measuring the value added by a CoP in the ADR area, particularly the benefits for parents and their children, is an important topic for evaluation practitioners. Accordingly, key issues addressed in this article are:

- (1) What is a CoP?
- (2) What is the logic that links CoP

activities to desired outcomes for clients?

- (3) How has this logic been applied in the family law area ADR in Western Australia?
- (4) What does a CoP have to offer organisations looking to address quality assurance issues in service provision?
- (5) What lessons are there for evaluation practitioners working in this area?

ADR services in Western Australia

The aim of the LAWA (Legal Aid Western Australia) ADR program is to assist as many family law clients as possible to achieve fair and durable agreements through a process other than litigation.

The LAWA ADR model has the following characteristics:

- pre-mediation telephone screening of both parties
- limited generally to one conference
- the chairperson (CP) may wear two hats, as facilitator and person making recommendations for future legal aid
- CP may give a third opinion and/or information if parties become deadlocked in negotiation
- mandatory legal representation
- CP may suggest options having assisted parties to identify client options and to generate new options
- CP may exert pressure to settle, and
- CP formally switches hats if no settlement, asks for submissions, and makes the parties aware of the recommendation regarding further funding, for example, no aid, aid for another conference, or aid for litigation for one or both parties.

Each CP has either a background in social science or law and has completed at least a specifically tailored three-day chairperson's course offered by LAWA. Overwhelmingly, CPs are established and experienced family lawyers. The

remainder are qualified family and child mediators pursuant to the Family Law Regulations who have been introduced to the overall group at different intervals since 2001.

LAWA progressed the planning of the expansion of the ADR program into regional areas in 2004 with a 'whole of agency' consultative approach to ensure commitment and awareness of the program. This involved:

- consultation meetings with local private practitioners and referring agencies
- the delivery of specialised ADR solicitor training and community focus training about the program
- identification of facilities to provide the conferencing program to people who reside in rural, remote and regional areas
- working with local referring agencies to support the process of referring clients to the program, and
- workflow systems and processes reviewed and refined to ensure a seamless process for referrals to the program.

The delivery method for the ADR program allows accessibility and flexibility when offering an ADR conference. Depending on local resources and the needs of the clients, a conference can be organised either face-to-face, via a telephone or video linkup, or under some circumstances a combination of two. There may be circumstances where conferences will be conducted with the solicitors and CP travelling to other regions and in some cases a conference will require two CPs acting together.

The ADR Unit at LAWA conducted 450 conferences in the year 2003-2004 – and the demand continues to increase strongly. For example, ADR grants as a percentage of total Commonwealth family law grants in Western Australia as at 31 December 2003 was 53 per cent, well in excess of the target (25%) and result for 2002/03 (23%). Assuring



quality in the provision of ADR services is therefore a high priority for LAWA. This means paying attention to a raft of issues, for example, leadership, codes of conduct, management systems, training and development, party feedback, record keeping and research and evaluation.¹

Communities of practice

As Thomas points out, in seeking to manage and enhance service quality, institutions need to encourage everyone to reflect on themselves in the context of the institution and the sector in which they work.² In her own words, "To be fully professional we must account for all of what we do, and do it with full awareness of context. This, I believe, is how quality is achieved".³ LAWA is

example, through the sharing of new developments in their field of expertise). Specific benefits for organisations include the development of new business practices, the fostering of innovation, an increase in productivity (for example, because of shortened learning curves for new employees), and the reinforcement of the strategic intent of the organisation as employees understand how their role impacts on (adds value to) other staff and organisational processes, and the organisation as a whole.⁶

LAWA ADR CoP

The idea of the development of a CoP at LAWA was introduced in recognition that effective knowledge management was essential for quality assurance and the meeting of relevant standards in this

of the contributions of core members be?

- what would the benefits of membership be and how could the knowledge gained be stored, measured and accessed?
- how much corporate sponsorship would there be by LAWA for ideas generated by the CoP?
- what role would the CoP co-ordinator take?
- how could immediate value for members be generated?

More recently, the focus has shifted from establishing the value of having a CoP, to conducting a formative evaluation of this initiative.

'Clarificative' evaluation for the ADR CoP

Program evaluations are undertaken for a number of reasons.⁸ The most common reasons are to determine the impact of an existing program, provide feedback information on a regular basis to facilitate program management, obtain guidance on the modification of program inputs and processes, clarify the underlying program logic,

and assist in program development by identifying areas of client need. These five reasons comprise the key dimensions of the five major evaluation forms identified by Owen and Rogers: impact evaluation, monitoring evaluation, interactive evaluation, clarificative evaluation, and proactive evaluation. Clarificative evaluation requires practitioners and managers to think through and make explicit the logic that supports the program, including assumptions about how its components link to produce the desired outcomes.⁹

In light of this, Legal Aid is undertaking a clarificative evaluation of the ADR CoP. The aim is to ensure managers and practitioners involved in the ADR CoP have a shared understanding not only of the expected benefits, but also the way the CoP is intended to unfold. The logic that links the ADR CoP activities to desired outcomes for individual practitioners, partner organisations, and ultimately,

Communities of practice constitute an important aspect of an organisation's knowledge strategy, a knowledge management mechanism for developing and applying the capabilities required to execute business strategy.

seeking to achieve this critical self-reflection in relation to its ADR services through the formation of an ADR Community of Practice (CoP).

Communities of practice constitute an important aspect of an organisation's knowledge strategy, a knowledge management mechanism for developing and applying the capabilities required to execute business strategy.⁴

A review of the literature⁵ indicates there are two types of benefits from investing in a CoP, both of which are highly relevant to ADR quality assurance standards, viz, benefits for individual practitioners, and benefits for the sponsoring organisation. Specific benefits for individual practitioners include access to new knowledge and the opportunity to learn, an increased level of trust, mutual obligation and shared sense of purpose in relation to other professionals with whom they work, as well as the opportunity to broaden their professional networks and generally add value to their professional lives (for

area (see Appendix A for examples of the draft standards prepared by the National Alternative Dispute Resolution Advisory Council).

Following Wenger, McDermott and Snyder⁷ the first step was to introduce the CoP initiative to a 'core group' of experienced CPs.

Some of the issues raised once the CoP started to take form included:

- what topics would CoP members find interesting enough to sustain the sharing of information and skills?
- how would the core group members feel, being private practitioners, about not being remunerated for their contributions?
- what might the core members gain over and above the other members of the CoP for their extra contributions?
- what would the strategic intent of the CoP be?
- how, when, and in what form, would the initiative be introduced to the intended members of the CoP?
- what would LAWA's expectation

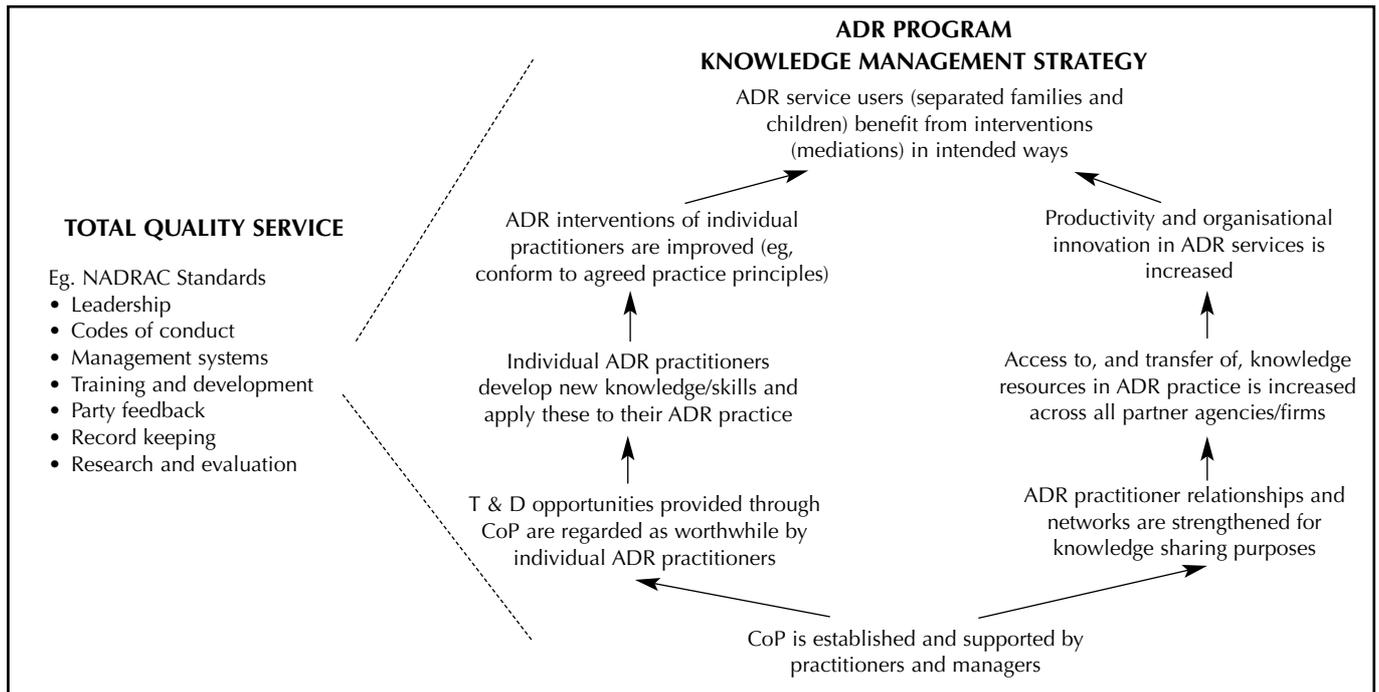


Figure 1. Linkage of ADR CoP activities with desired outcomes

clients of LAWAs ADR services (that is, the families and children concerned) is presented in Figure 1. This was developed in light of published literature on CoP, their intended benefits for individual practitioners and sponsoring organisations, and the link between knowledge management strategies and quality assurance for ADR services.

Monitoring the implementation of the ADR CoP

In an enlightening article on program logic, Funnell presents a matrix designed to clarify the link between 'immediate impacts', 'inter-mediate outcomes' and 'ultimate outcomes' on the one hand, and performance information that can be used to evaluate a service, on the other.¹⁰ The following tables illustrate how this matrix is being applied to the ADR CoP for evaluation purposes (in relation to impacts and outcomes for *practitioners* (see Table 1) on the one hand, and the *organisation* (see Table 2) on the other). The aim of the evaluation is to determine how the implementation of the CoP can be improved as it is being implemented.¹¹

Looking to the future

As a number of writers have pointed out, prescriptions for addressing the raft of issues concerning quality management in the services sector often rest on the

soundness of the idea that employers and employees alike '... should unite under the quality banner so as to continuously improve service quality to the customer'.¹² Questioning this, as they go on to say, means *ipso facto* accepting that staff and clients alike may be active participants in imbibing, thwarting, facilitating, internalising or resisting the quality imperative.

The LAWAs CoP initiative is seen as an opportunity not only to genuinely engage ADR practitioners and managers in critical self-reflection about ADR service quality,¹³ but also to bridge the gap between practitioners' expectation of autonomy in how to meet the standards of their profession, and management's requirement for formal quality assurance mechanisms that build organisational capacity. Formative evaluation of this initiative is seen as the key to continually improving organisational learning regarding ADR practice and better managing LAWAs knowledge resources in this area. Clarificative evaluation has set the scene for the ongoing monitoring of the implementation of the ADR CoP as well as an impact evaluation in the future.

To sum up, we believe the LAWAs ADR CoP offers an exciting opportunity to develop an effective learning-action network¹⁴ which links ADR practitioners and managers together by

the flow of knowledge, information and ideas in the interests of better addressing the needs of separating families. ●

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Table 1
Program Logic Matrix for LAWA ADR CoP:
Practitioner level

Outcomes hierarchy	Success criteria	CoP activities	Performance measures
Ultimate outcome			
ADR service users (separated families and children) benefit from interventions (mediations) in intended ways	<ul style="list-style-type: none"> • 80% of disputes are settled by ADR conferencing • 80% of clients satisfied with ADR outcomes 		<ul style="list-style-type: none"> • Conferencing settlement rates • Client satisfaction with ADR outcomes
Intermediate outcomes			
ADR interventions of individual practitioners are improved (eg, conform to agreed practice principles)	Currently being developed	Currently being developed	Currently being developed
Individual ADR practitioners develop new knowledge/ skills and apply these to their ADR practice,	Currently being developed	Currently being developed	Currently being developed
T&D opportunities provided through CoP are regarded as worthwhile by individual ADR practitioners	Currently being developed	See Appendix B for a list of initiatives by the CoP core group eg CP training programs	Currently being developed
Immediate impact			
Intention to establish an ADR CoP is supported by key stakeholders (eg practitioners and managers)	<ul style="list-style-type: none"> • 80% of current CPs express an interest in and support the establishment of an ADR CoP 	<ul style="list-style-type: none"> • Identify existing networks of CP and bring together to discuss CoP • Establish a CoP 'core group' 	<ul style="list-style-type: none"> • The percentage of CP who seek information about the proposed CoP • The percentage of CP who strongly support the establishment of an ADR CoP

training and/or qualifications to meet the standards which have been set. A part of this role could also be to monitor the performance of those ADR practitioners to ensure that the standards are maintained.¹⁶

Appendix B

Activities initiated by the ADR CoP 'core group'

The 'core group' of the LAWA ADR CoP has embarked on a training strategy to increase awareness, knowledge, and expertise to increase suitable and appropriate referrals to the ADR program. A range of training programs are offered and delivered to external and internal participants.

External training

- In line with our training focus and regional outlook, ADR Chairperson training was conducted in Perth and Bunbury in November 2001 and February 2002 respectively. The training took place over a period of three days each time and was designed and delivered with the assistance of Professor John Wade of Bond University.
- The feedback for each training course was excellent and both courses were booked out within 48 hours of them being announced. We continue to have regular requests for further courses, both for new chairpersons and for our experienced group of chairpersons.
- The current number of trained chairpersons is 52 although some have chosen not to continue to chair conferences. In order to have a fair allocation system LAWA has designed an electronically generated allocation taking into account gender balance and conflict of interest amongst other things.
- As the program has developed, we have monitored the need for further training opportunities for chairpersons. So far in 2004, two courses have been offered. LAWA ran a three day basic course to increase the number of chairs in regional areas. An intensive two day course was also held for the more experienced chairs.
- In addition to the chairperson training, LAWA has conducted half day training sessions for family

St Leonards.

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Appendix A

Example Draft Standards for

ADR (National Alternative Dispute Resolution Advisory Council)

The Training and Development Draft Standard reads:

Service providers should ensure that initial and continuing training, professional development and support of individual practitioners is based on performance and appropriate to the demands of delivering high quality service. A planned approach to training and access to development opportunities are aspects of this responsibility.¹⁵

The Management Systems Draft Standard reads:

It would be appropriate for service providers to have mechanisms in place to ensure that the ADR practitioners it provides or recommends have appropriate

lawyers who represent clients at ADR conferences. This ADR solicitors training has taken place in Perth, Albany, Geraldton and Bunbury and has resulted in 95 solicitors being trained specifically for our conferences including 15 solicitors in regional areas.

- In 2003, a half-day information awareness training session was offered in the Midwest/Gascoyne, Southwest and Great Southern regions to promote and increase awareness of the ADR program. The training sessions resulted in the attendance of 33 representatives from referring agencies. The purpose of the training was to:
 - increase the awareness and understanding of the program
 - explain the program as an alternative to going down the litigation path
 - outline the referral process
 - complete steps to participate in the program, and
 - provide information on the role of a solicitor representing a client in an ADR conference.

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Endnotes

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2. Thomas H (2003) 'The arguments for and the meaning of quality', *ELT Journal*, 57.

3. Above note 2 at 240.

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5. Young S and Mitchell J (2002) 'Communities of practice: Benefits for

Table 2
Program Logic Matrix for LAWA ADR CoP:
Organisational level

Outcomes hierarchy	Success criteria	CoP activities	Performance measures
Ultimate outcome			
ADR service users (separated families and children) benefit from interventions (mediations) in intended ways	<ul style="list-style-type: none"> • 80% of disputes are settled by ADR conferencing • 80% of clients satisfied with ADR outcomes 		<ul style="list-style-type: none"> • Conferencing settlement rates • Client satisfaction with ADR outcomes
Intermediate outcomes			
Productivity and organisational innovation in ADR services increases	Currently being developed	Currently being developed	Currently being developed
Access to, and transfer of, knowledge resources in ADR practice is increased across all partner agencies/firms	Currently being developed	Currently being developed	Currently being developed
ADR practitioner relationships and networks are strengthened for knowledge sharing purposes	Currently being developed	See Appendix B for a list of initiatives initiated by the CoP core group eg networking meetings	Currently being developed
Immediate impact			
Intention to establish an ADR CoP is supported by key stakeholders (eg practitioners and managers)	<ul style="list-style-type: none"> • 80% of current CPs express an interest in and support the establishment of an ADR CoP 	<ul style="list-style-type: none"> • Identify existing networks of CP and bring together to discuss CoP • Establish a CoP 'core group' 	<ul style="list-style-type: none"> • The percentage of CP who seek information about the proposed CoP • The percentage of CP who strongly support the establishment of an ADR CoP

VET professionals', *11th Annual Vocational Education and Training Research Conference*, Brisbane, Australia.

6. See also Carlsson S A (2003).

'Knowledge managing and knowledge management systems in inter-organizational networks', *Knowledge and Process Management*, 10.

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11. See 'interactive evaluation' in

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16. Above note 15.