Factors which impact upon the selection of Dispute Resolution methods for commercial construction in the Melbourne industry: 
Comparison of the Dispute Review Board with other Alternative Dispute Resolution methods

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Abstract:
This paper provides an insight into the factors which impact upon the selection of dispute resolution methods for commercial construction in the Melbourne industry. The ten factors used are cost, speed, outcome, enforceability, privacy and confidentiality, open and fairness, control, flexibility creative remedies and relationships. The dispute review board will be compared with alternative dispute resolution methods to demonstrate the differences and the impact it has on construction performance, primarily time, cost and quality. Through questionnaire survey, the relative importance of these factors in the selection of dispute resolution methods is examined and through interviews, the efficiency of the current alternative dispute resolution methods operating in Melbourne is compared with the efficiency of the dispute review board. Concerns regarding the use of DRB arising from high costs, lack of faith in the board's ability to achieve qualities of neutrality and impartiality in the selection of broad members as well as the general attitude of resistance to change in the highly adversarial culture of the construction industry will be discussed. Negotiation is still the preferred method of dispute resolution in Melbourne.

Keywords: dispute review board, alternative dispute resolution, Melbourne construction industry

1 Introduction

Construction is a highly complex activity filled with uncertainties: economical, financial, and physical risks, as well as scope variations and documentation complexities (She, 2010). Research of the past indicates that during the construction process these risks can lead to disputes arising between two or more of the parties involved in the works (Goldfayl, 2004). In Australia, 50% of all projects over 500 million are delayed (Dawson, 2007).

The key requirements of any methods of dispute resolution are they must be based on justice and is fair and impartial (Goldfayl, 2004). Construction law in Australia is based the common law. For litigation, it is based on the adversary system consisting of a series of statements of facts and arguments of law put forward by the party to be disputed and challenged by the other party (McGranaghan, 1992). For other dispute resolution methods such as the Alternative Dispute Resolution (ADR) it is non-binding however when a written agreement has been concluded between the two parties then it becomes a contract which both parties are obliged to comply.

The Dispute Review Board (DRB or DB) is a Dispute Avoidance Procedure method to settle various construction dispute claims (Gerber, 2001). Other techniques include voluntary negotiations
between the parties; third party assisted negotiations such as mediation, conciliation and adjudication; and adversarial approaches such as arbitration or litigation (Sprague, 2006). The Melbourne construction industry is based more on relationships than most others and as a result dispute resolution using ADR methods, such as mediation allow flexibility in addressing technical issues and preservation of relationships as well as minimising adverse publicity (Sprague, 2006) (Megens, 2005). However, sufficient attention should be directed to the dispute resolution clauses at the time of contract preparation and negotiation to avoid costly, time consuming as well as distracting and ineffective dispute resolution processes later on. (Gould, 2006).

This research aims to explore the importance of the factors which affect the selection of dispute resolution methods in Melbourne when compared to the dispute review board as well as the efficiency of the current dispute resolution methods in Melbourne

2 Conflict and Dispute

Conceptually a conflict is a difference between two or more beliefs, ideas, or interests (Collin et al. 1996). Based on the above definition conflict in construction may include dissatisfaction, disagreements over contract administrator’s decisions, anger, hostility, and negative attitudinal propensities by parties (Aibinu et al 2008).

2.1 Disputes- When conflicts are unresolved

Dispute arises in a situation when a claim or assertion made by one party is rejected by another party and this rejection is not accepted (Kumaraswamy, 1998). A claim is an assertion of a right to money, and property, or a remedy and can be made under the contract itself, for breach of the contract, or for breach of a duty in common law (Powell-Smith and Stephenson, 1989). Construction claims can be in the form of money and time claims by the main contractor against the project owner for extension of contract time and additional payment arising from a specified event in the contract (Aibinu et al 2008). The claim can be any application to the project management team pursuant to any relevant clause of the contract including any variation to payments, extension of time and or damages for any alleged breach of duty by the employer or employer’s management team (Kumaraswamy, 1998).

3 Dispute Resolution Methods

The common dispute resolution methods operating in Melbourne are litigation, arbitration, mediation, conciliation, adjudication, mini-trials, facilitated negotiation, partnering and expert determination.

3.1 Litigation

Litigation is a legal proceeding in a court or a judicial context to determine and enforce legal rights (Hill, 2008). This is the least preferred method in the construction industry as the courts act on the adversary system (Bailey, 1998) and damage business relationships (Sprague, 2006). Besides the slow, expensive, time consuming, risky and stressful procedure which litigation brings, there is no real certainty of results other than a certainty of at least one loser (Merritt, 2006).

3.2 Arbitration

Arbitration is a mini-trial for a law suit ready to go to trial, held in an attempt to avoid a trial and is conducted by an independent person, usually with some relevant skill or knowledge, to determine the dispute (Bailey, 1998). During the arbitration process, parties make submission to an arbitrator and are bound by the arbitrator’s decision (ACDC, 2005).
3.3 Mediation

Mediation is a prominent ADR method used in the Melbourne construction industry and is now a firmly established preferred dispute resolution tool for construction claims (Megens, 2005). Mediation is an attempt to settle a legal dispute through an active participation of a third party, a mediator, who works to find points of agreements and make those in conflict agree on a fair result (Hill, 2008). Resolution is attempted but settlement is not always achieved (Hill, 2008).

3.4 Conciliation

Conciliation is similar to mediation however the main goal is to conciliate by seeking concessions.

3.5 Adjudication/Security of Payment

Adjudication is the process where an independent person, the adjudicator, makes a determination as to the amount, if any, which the respondent owes to the claimant, on a specific date it was (or will be due) to be paid and on what interest applicable (IAMA, 2006). The objective is to impose a settlement on parties.

3.6 Mini-Trials

Mini-trials are a structured information exchange attended by representatives authorised to settle the dispute and are used where a dispute exists between the key decision makers of both parties (Sprague, 2006).

3.7 Facilitated Negotiation

Facilitated negotiation involves an independent and objective person which enters the negotiation session to assist the parties in reaching agreement (Berman, 1995). The purpose is to facilitate a mutual understanding of both parties rather than settlement (Sprague, 2006).

3.8 Expert Determination/Appraisal

Expert determination is a person who a specialist in a technical subject who may present his or her expert opinion without having been a witness to any occurrence relating to the lawsuit or criminal case (Hill, 2008). The critical areas of importance for the ‘expert’ are to remain independent of, and act fairly and impartially between parties and to adopt a suitable procedure whilst avoiding unnecessary delay and expense in the given circumstances (Sprague, 2006).

3.9 Partnering in Alliance Contracting- towards proactive dispute avoidance

Partnering is a project procurement method where the parties to the contract share a common goal aim to complete the project successfully (Sprague, 2006). This is achieved by sharing both the benefits and risks of the project. Partnering is a proactive dispute avoidance technique. It is based on relationships and trust that all parties share a common goal (Eilenberg, 1996). Under this procurement method, a contract is set up with an agreed target price and incentives for parties.

4 Factors which impact upon the selection of dispute resolution methods

Many researchers and practitioners have investigated the attributes of ADR methods. York (1996) was concerned with the practical issues and identified time, cost and preservation of relationships, enforceability, degree of control by parties, flexibility in procedure and confidentiality as factors which had an impact upon the selection of dispute resolution methods (Cheung et al 2002). David (1988) focused on social and human issues such as impartiality, consensus, and continuing business relationships (Cheung et al 2002).

Cheung et al (2002) has identified ten criteria as the most common factors which affect the performance and selection of dispute resolution methods. These are:
4.1 Cost
The costs associated with dispute resolution involve reaching settlement agreements including expenses relating to revenue, the neutral third party fee, documentation, and settlement costs. Cost is one of the most critical criteria for organisation when assessing which dispute resolution method to use for dispute resolution as it affects the profit share of the project outcome. In assessing the suitability of a case for ADR, a cost-benefit analysis of the costs and value of the case must be undertaken. This involves trading off the various criteria and also helps the parties to better understand the issues involved and the expense likely to be incurred if the dispute continues. (Cheung et al 2002).

4.2 Openness, Neutrality and Fairness
Neutrality and fairness depend heavily on the competence, training, and integrity of the neutral third parties. During the resolution process, a neutral third party owes a duty of care to his or her clients to remain impartial. He or she facilitates the parties’ reaching a settlement but must make a conscientious effort to avoid personal biases. The neutral third must not have any professional or financial relationship with any party otherwise the information must be disclosed to the other party. Finally, the neutral third party must be agreed by both sides. Since the choice of the neutral third party is of paramount importance there must be a code of conduct to monitor the standard of professional mediators, conciliators, and arbitrators. This will enhance the trust and comfort level between parties to voluntarily reach a settlement.

4.3 Speed
Time is money in the world of business and project management. Lengthy delay of dispute resolution will delay the progress of works resulting in extra costs and incur potential penalty points.

4.4 Outcome
The outcome of a construction dispute is usually related to the costs liability. The party which initiates the dispute feels that the other party owes costs for reasons such as variation of payments, quality of workmanship, and final payments or owes compensation costs due to factors such as delay of works, payment for extension of time and liquidated damages.

4.5 Privacy and Confidentiality
Confidentiality is an implied and inherent feature of ADR processes that parties to a dispute are not allowed to disclose any information or materials to the public unless by mutual consent of the parties.

4.6 Enforceability
ADR methods of dispute resolution are non-binding therefore it cannot be enforced upon by the courts unless a written agreement is concluded. However, the selection of a competent neutral facilitator with excellent negotiation skills can encourage the parties to settle.

4.7 Preservation of Relationships
A continuing relationship is one of the key elements for any organization to strive for. A good relationship is always based on trust, common interests, and respect and requires the effort and commitment of the parties to make it last. ADR methods allow parties to negotiate the process of dispute resolution and the neutral facilitator assists both parties to always focus on the issue of the dispute and to try to achieve a win-win situation which is crucial to the Melbourne construction industry as it is heavily reliant on relationships (Sprague, 2006).
4.8 Flexibility
The non-binding nature of ADR methods is likely to encourage cooperation for all parties to reach an agreement through negotiation as it is more flexible than traditional methods.

4.9 Creative Remedies
Creative agreement is directly related to the skills, experience, and inherent character of a neutral third party. Depending on the nature and requirements of the parties, he or she should try to come up with a solution that can satisfy both parties’ needs. Settlements can include human factors such as business relationships and personal issues can be considered. Lateral thinking by the facilitator is vital as it takes the various factors into consideration before reaching a settlement. Reality testing by writing down the pros and cons of each possible outcome will allow parties to feel fully informed with the decision making power in their hands.

4.10 Degree of Control
When parties feel in control of the outcome and processes involved to reach an agreement, it will also mitigate the adversarial climate between disputing parties.

5 Dispute Review Board-Overview of the structure, components and use
The Dispute Review Board (DRB) consists of three qualified members committee, nominated by both parties, formed at the start of the project and meet periodically on site to discuss issues (DRBF, 2007). Then they form non-binding recommendations. If the parties are unsatisfied, they can turn to other methods of binding or non-binding methods of such as mediation and conciliation or any other ADR methods (DRFB, 2007).

5.1 Selecting, nominating and appointing Board Members
The three members nominated by both parties (Gould, 2006):
- They must not have any financial ties to any party either directly or indirectly involved in the contract, not be currently employed by any party directly or indirectly in respect of the contract, and
- Not have a close professional or personal relationship with a key member of any party directly or indirectly involved in the contract that could give rise to the perception of bias
Each party selects one member which is approved by the other party and then a third member is chosen by the two selected members. The three DRB members then selects one as the chair with the approval of both the contractor and the owner.
Members must be qualified in both the technical and legal facets of construction practices and methods.

5.2 Formation of DRB clause into the contract at the commencement of the project (Gaitskell, 2005):
When DRB is established before the commencement of the project, the members will have the relevant design documentations, specifications and project scope as well as understanding the contract conditions.

5.3 Periodic visits on site to resolve issues (Gaitskell, 2005):
Meeting 3 to 4 times a year or more frequently as agreed by both parties
Issues are seen, heard and resolved as they arise on site.

5.4 Issuing non-binding recommendations (Gaitskell, 2005):
DRB can act as a flexible and informal advisory panel. Before issuing a recommendation, the DRB may be asked for general advice on any particular matter. The DRB would then look at documents
and or visit the site as appropriate and most usually, provide an informal oral recommendation, which the parties may choose to adopt. 
If the parties were not satisfied, the DRB would follow the formal procedure of exchange of documents and a hearing and afterwards issue a formal written recommendation. 
The decisions made by the board are non-binding but are generally accepted by the parties due to the merit of the expert opinion been admissible of the matter proceeds to arbitration or litigation.

5.5 Costs associated to implement the Dispute Review Board (DRBF, 2007):
The fees will be shared by both parties. 
The fees will range between 0.05%- 0.25% of the project value and will act as an insurance premium against potential heft dispute costs if the claim progresses to litigation and arbitration.

6 Analysis of how the DRB should perform with the ten factors which impact upon the performance and selection of Dispute Resolution Methods

Ten factors were used to test the performance and selection of dispute resolution methods namely, cost, speed, outcome, enforceability, privacy and confidentiality, open and fairness, control, flexibility, creative remedies and relationships as identified by Cheung et al, (2002).

6.1 Cost
The direct fees for the DRB ranging from 0.05% to 0.25% of the total construction cost. The fees are shared by both parties which mitigate the conflict of interest and perception of bias that all three DRB members will take one particular side. In mediation, conciliation and other current ADR methods operating in Melbourne, there is only one member facilitating the negotiation for settlement between two parties.

6.2 Openness, Neutrality and Fairness
Neutrality, openness and fairness are the core values of the DRB. The board members must not have financial ties with any party. If there is a conflict of interest, it must be disclosed to all parties. The selection process for the DRB members is a consensus approach.

6.3 Speed
The DRB is established before the commencement of the project. It will involve the experts every early on the project and potential claims dispute may be identified before the issues surfaces as the conflict is resolved as they arise on site where as the current ADR methods in Melbourne resolve disputes after the event has occurred. This solves the problem of delaying the time to sort out missing documentation and historical information to make an accurate determination. Additionally, the periodic site visit will improve the adversarial nature between conflicting parties when liability can be determined before the conflict turns into a dispute.

6.4 Outcome
The DRB has the flexibility of acting as an advisor as well as issue non-binding recommendations. The use of lawyers on the board is discouraged to avoid an adversarial climate however the question of liability is ruled upon by three members. This should encourage the parties to accept the board decisions especially if the contract language includes a provision for the admissibility of a DRB recommendation into any subsequent arbitration or legal proceeding.
6.5 Privacy and Confidentiality

The code of ethics for DRB stipulates that the DRB must keep all information arising from the DRB review and hearing confidential and since the dispute is resolved on site, no external party will know that an issue exists. This should preserve business relationships and prevent any unnecessary complexity which may arise from external parties after hearing about the dispute.

6.6 Enforceability

The DRB is non-binding however, the goal of the DRB is facilitate the conflicting parties to resolve their differences so that construction works can continue on site.

6.7 Preservation of Relationships

Both parties agree on the selection of the DRB members at the appointment of the board. This means that all parties are willing to cooperate with each other in good faith and trust the board's decision making abilities when a conflict arises. If the parties are unsatisfied with the decisions of the DRB, they are free to sort dispute resolution methods.

6.8 Flexibility

The DRB can act as a flexible panel acting as an advisor which will facilitate the negotiation process more than the current ADR methods which can only act as a neutral facilitator as with mediation or act to make a judgement of a technical issue as with expert determination. Litigation and arbitration are the least flexible methods as it is only interested in the issue which relate to a point of law and does not take into account of any other factors.

6.9 Creative Remedies

The DRB is a panel of three experts with different but relevant qualifications, skills and more than ten years of experience within the construction industry. The blend of qualifications and experience of the three-person DRB can provide a powerful combination of decision-making abilities than one person trying to make a judge within their limits of understanding and experience which is the case with expert determination.

6.10 Degree of Control

As mentioned before, the DRB members are agreed upon by both parties and the board resolves issues on site. The board can also act as an advisory panel which is not possible with the current operation of ADR methods. These factors give both parties a feeling of being control of the outcome and processes involved to reach an agreement.

7 Methodology

The entire process comprised of a pre-interview questionnarie, structured interview and a post interview questionnaire to examine the respondents' perception of the DRB's conflict management mechanisms in comparison with other dispute resolution methods.

Pre-interview questionnaire: The respondents were asked to comment on their experience with the current dispute resolution mehtods operating in Melbourne as well as the efficiency of the methods.

Interview Questions: and then they were asked to read some information regarding the use of DRB and they were asked questions regarding their perception of the DRB as well as any concerns regarding the implementation of the mechanism in the Melbourne construction industry.

Questionnaire: There were eleven survey questions asking the respondents to rank from the likert scale of 1 to 5 (1 for extremely unimportant and 5 for extremely important), whether they think the ten criteria factors are important in the comparison for the selection of dispute resolution methods.
7.1 Population and Sample

The population sample was restricted to the Melbourne industry. The research sample consisted of twenty one respondents which undertook both the structured interview and questionnaires. The research sample included: five architects, three engineers, three quantity surveyors, two development managers, three project managers, one project director, one CEO, one site foreman and two construction managers. Fifteen of these participants had over ten years of experience in their respective field of work. Eighty percent of the respondents answered that the project size their company generally undertake is in excess of $10 million. The average number of disputes that each building professional had been involved in over the last five years was five which confirms that these respondents have had a reasonable level of experience.

7.2 Data Analysis Tool

7.2.1 Structured Interview Analysis

The structured interview has been analysed using the "grounded theory" approach, an example can be referred in Strauss and Corbin (1998).

7.2.2 Questionnaire Survey data analysis

To measure the performance of the conflict management mechanisms of the DRB in comparison with other dispute resolution methods a mathematical equation, Relative Importance Index (RPI) was used for the analysis of the quantitative data.

7.2.3 Relative Performance Index

To determine the performance of any dispute resolution method when compared with DRB on each criterion, the respondents’ ratings are transformed in Relative Performance Index (RPI) for each criterion. RPI is computed using the following mathematical expression:

\[ RPI = \frac{\Sigma Wi}{(A \times n)} \]

Where \( \Sigma Wi \) is the total score assigned importance of a decision criterion by all the respondents; 
\( A \) is the highest weight (5); and 
\( n \) is the number of respondents.

The computed RPI are then ranked for each dispute resolution method on each criterion. The areas of comparative advantages of the DRB over dispute resolution method on each criterion were identified.

8 Results

8.1 Analysis of Data from Pre-Interview Questionnaires

The results of this section present the demographics of the respondents and the current climate of dispute resolution in the Melbourne construction industry.
8.1.1 Profile of Respondents

As shown in figure 8.1.2 48% of the respondents held positions in a managerial capacity and 52% of the respondents held positions as a consultant in design, engineering and cost management. This demonstrates that all the respondents who participated in the research had the capacity of to make decisions regarding dispute resolution in their organisation.

8.1.2 Respondents Age

As shown in figure 8.1.3, 76% of the respondents were over thirty years old. 33% of the respondents were between the age group of 30-40 years old and 29% of the respondents were between 40-50years old. 14% of the respondents were between the ages 50-60 years and held positions in senior management and 24% of the respondents were between the ages of 25-30years. Different age groups of professional have a different perception towards conflict management due to the length of their life and work experience.

8.1.3 Years of Experience in the Construction industry

As shown in figure 8.1.4, 33% of the respondents had more than 20 -30 years of experience within the construction industry, 24% of the respondents had 10-20 years of experience, 14% of the respondents had more than 30 years of experience and 29% of the respondents had less than 10
years of experience. These respondents worked in a range of middle to senior management positions. Senior managers focus on strategic views whilst middle managers focus on efficient project operation and younger managers bring creativity into the workplace.

8.1.4 Size of Projects

![Size of Projects](image)

Figure 8.1.5 Size of projects which the respondents’ organisation usually undertook.

71% of the respondents worked in large corporations which usually undertook big projects in access of more than $30 million. Usually, the larger projects have more complexity and risks associated than smaller projects and so are more likely to encounter disputes.

8.1.5 Contractual disputes encountered during the past five years

![Contractual disputes](image)

Figure 8.1.6 Number of contractual disputes encountered by the respondents during the past five years.

As shown in the pie chart above the 72% of the respondents encountered between one to three disputes during the past five years.

8.1.6 Types of Dispute

![Type of Dispute](image)

Figure 8.1.7 most common type of disputes which were encountered by the respondents who participated in the research.
As shown in figure 8.1.7 the most common types of dispute encountered by the respondents were all related to money, in particular 37% of the disputes were related payment for variation, 17% of the disputes were related to quality of materials and 14% of the disputes were extensions of time.

8.1.7 Most commonly used Dispute Resolution Methods

As shown in figure 8.1.9 negotiation was the most commonly used method for dispute resolution followed by mediation. Respondents preferred to negotiate at all times to resolve disputes.

8.1.8 Overall satisfaction with the current dispute resolution methods

Respondents were most satisfied when negotiation was used for dispute resolution. Through the interviews, respondents were most satisfied with the outcome of negotiation and emphasised the importance of excellent communication skills and the preservation of relationships in the Melbourne construction industry.

8.2 Analysis of Interview Responses -Perception of the current operation of dispute resolution methods in Melbourne

Participants were asked to comment on the efficiency of the dispute resolution processes in Melbourne. Every respondent agreed that litigation was the least efficient and preferred method as it was time consuming, costly with no guarantee of satisfactory results and was just a ‘revenue for the lawyers‘. Of the twenty one respondents, thirteen professionals were moderately satisfied with the current operation of mediation in terms of the time involved in the process and outcome. Three respondents did not have any strong opinion towards any ADR methods as they felt dispute resolution ‘was just part of their job in project management‘ as the Melbourne construction industry has an adversarial work culture. Five of the respondents felt confident about their negotiation ability
to resolve conflicts and the ability to maintain relationships with their contractors and subcontractors as they only collaborated with people they knew. Participants were then asked if they felt that an unresolved issue often had a detrimental impact on the cooperation, coordination and communication between parties before the conflict is transformed into a dispute. Sixty five percent of the respondents commented that with any conflict that arises cooperation between parties always broke down first. Thirty percent of the respondents felt that communication became the most difficult task as unsatisfied parties were often unresponsive to written confirmations and other correspondence requests. One project manager stated that when subcontractors and contractors became uncooperative the problem of coordination delayed the project. All respondents emphasised on the importance of preserving relationships in the Melbourne construction industry.

8.3 **Perception and concerns of the Dispute Review Board method**

<table>
<thead>
<tr>
<th>Positive Perception of DRB</th>
<th>Concerns regarding DRB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experts will be involved in the project very early with the formation of DRB clause into the contract at the commencement of the project.</td>
<td>Practicality of achieving qualities of neutrality, impartiality and independence in the selection, nomination and appointment of the DRB members</td>
</tr>
<tr>
<td>Selection process is open.</td>
<td>Melbourne Construction industry is relatively small and more reliant on relationships than US market.</td>
</tr>
<tr>
<td>Fairness can be achieved in the extent that both parties agree on the other party's chose of member.</td>
<td>Adequate knowledge of DRB members in all stages of the project.</td>
</tr>
<tr>
<td>Use lawyer is discouraged.</td>
<td>Fairness may not be achieved it influenced by political interests.</td>
</tr>
<tr>
<td>Independence could be achieved as board members have no financial ties with any party.</td>
<td>DRB's function is perceived to be very similar to a panel of three expert witness so impartiality may not be achieved.</td>
</tr>
<tr>
<td>DRB will enhance cooperation among the project manager, the owner and the contractor as all parties have the intention to abide by the board's ability to make decisions and investigate any unreasonable behaviour when the board is formed at the start of the project.</td>
<td>Use of Design and Construct contracts may not be suitable for DRB design is not fully documented before the construction starts therefore the experts' knowledge of the design documentation is limited.</td>
</tr>
<tr>
<td>Incorporate a spirit of cooperation among parties.</td>
<td>that the periodic site visits needed to be weekly and at the end of every milestone to effectively mitigate conflicts transforming into disputes.</td>
</tr>
</tbody>
</table>

Adversarial attitude between will not improve if DRB members can determine the liability before the conflicts turns into a dispute as the notion of liability is subjective.

Fee of 0.05%-0.25% of the total project costs was too high to be factored into the overall construction cost for preservation of relationships is not a strong enough incentive for most respondents to implement the DRB at the current cost structure.

Small matters can inflate unnecessary with the existence of the DRB whereas before, the matter could have been resolved through private negotiation.

Whether decisions be accepted depends on the person and their credibility.
8.4 Importance of the selection criteria for dispute resolution methods

Respondents were asked to rank on a 1-5 likert scale the perceived importance of the ten criteria in the selection of dispute resolution methods. Results from the Relative Importance Indices analysis are displayed in table 5.1.

Table 8.4: Importance of Factors which may influence the selection of dispute resolution methods

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Total Score</th>
<th>RII*</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost</td>
<td>105</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Open and fairness</td>
<td>98</td>
<td>0.933</td>
<td>2</td>
</tr>
<tr>
<td>Speed</td>
<td>98</td>
<td>0.933</td>
<td>2</td>
</tr>
<tr>
<td>Privacy and Confidentiality</td>
<td>65</td>
<td>0.619</td>
<td>8</td>
</tr>
<tr>
<td>Outcome</td>
<td>98</td>
<td>0.933</td>
<td>2</td>
</tr>
<tr>
<td>Enforceability</td>
<td>83</td>
<td>0.79</td>
<td>6</td>
</tr>
<tr>
<td>Relationship</td>
<td>88</td>
<td>0.838</td>
<td>5</td>
</tr>
<tr>
<td>Flexibility</td>
<td>63</td>
<td>0.6</td>
<td>9</td>
</tr>
<tr>
<td>Creative remedies</td>
<td>51</td>
<td>0.486</td>
<td>10</td>
</tr>
<tr>
<td>Control</td>
<td>70</td>
<td>0.667</td>
<td>7</td>
</tr>
</tbody>
</table>

*RII= Relative Importance Index

Results indicate that the cost, with the highest ranking of 1, was the most important criteria when considering the selection of dispute resolution methods. The second most important factor in the selection of the dispute resolution methods are open and fairness, speed and outcome. Preservation of relationship and enforceability was the third most important factor when considering methods of dispute resolution. Degree of control ranked 7 and privacy and confidentiality ranked 8. The ranking of this research demonstrates that respondents are primarily concerned with the tangible benefits of dispute resolution. However, preservation of relationships is crucial for the Melbourne construction industry. Flexibility scored a lower ranking of 9 and creative remedies scored the lowest ranking of 10. This indicates that respondents are less concerned with how disputes are resolved but focus on the results of the outcome.

9 Conclusion

Negotiation is still the preferred method of dispute resolution in Melbourne. Cost achieved the highest ranking RII value of 1 indicating that it was the most important performance criteria when in the selection of dispute resolution methods. Other critically important factors are speed, outcome, open and fairness as well as relationships. Flexibility and creative remedies received the lowest ranking score of 9 and 10 in RII indicating that in the context of project management professionals are more interested in the immediate tangible outcome when selecting dispute resolution methods than long term intangible benefits such as improvement in the process of dispute resolution for future benefits.

The spirit of cooperation is evident in the dispute review board but is inadequate to improve adversarial attitude between parties. Extensive training at the graduate level is needed in order to change the general attitude of the high level of resistance to change in Melbourne. The notion that “things can’t improve” and “disputes is just part of the job in this industry” hinders the potential for the Melbourne construction industry to develop in full capacity and compete at international level.

Further research can be done in the field of organisational change and learning to improve the training in organisational leadership and conflict management in project management.
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