

**i** Opinions expressed in this report are those of the author and should not be taken to be those of The Legal Education Foundation.



## Researching the CRT

**Unlike traditional courts, online tribunals are constantly evolving. Their processes must be adapted to meet the needs of their users. Designers should be willing to take calculated risks – testing innovations and replacing them if they fail.**

For that reason, it is important for those who run an online court to gather data about its effectiveness. One way in which British Columbia's Civil Resolution Tribunal does this is by asking individual users to rate the effectiveness of the information documents it provides as part of its solution explorer process.

But Shannon Salter, who chairs the tribunal, told me that it does much more than that. Her team know the time of day that most users are online. She can see, at any moment, how the caseload is divided among different types of claim.<sup>1</sup> She knows which types of dispute tend to be resolved at an early stage and which ones are settled later.

And then there is the feedback. Users are not asked whether they think the tribunal reached the right decision. But they are asked whether they think they had a fair hearing. Were they treated with respect? Could they understand what was being asked of them?

"Those indicators have been really positive," Shannon Salter told me. But their real importance was that they offered an opportunity for continuous improvement. "Are there certain dispute-types that are more amenable to one mediation technique or another? Are there certain dispute-types that never settle – in which case why are we wasting everybody's time in, for example, a mediation phase?"

Richard Fyfe QC, deputy attorney general of British Columbia, thought<sup>2</sup> it was important to include user-feedback tools in the tribunal's design. "We're continuously trying to improve the services that we provide to the public and the way to do that is to hear, from the public, what works and what doesn't work."

In Shannon Salter's view, the public had to be at the centre of everything an online court did. Designers should not make the mistake of shutting their doors and making assumptions about what people might need or want, she said; nor how they might behave. What was needed was "rigorous, relentless user-testing" to identify small failings before they become bigger ones.

Public institutions were often frightened of public feedback and user-testing, she added. “We need to get over that fear and normalise these little failures. We need to make sure we’re tightly glued to public need. And that way to do that is through user-centred design.”

A fundamental problem for online courts is that some people are not online. When the CRT was being planned, it was thought that between five and 10 per cent of users would prefer to use telephone or paper-based processes.

That proved to be a mistake – though an understandable one given how little information was available at the time. “One of the challenges we had with implementation was the data paucity that exists, not just in Canada but in England and everywhere else. The justice system is not very good at collecting data. And when it does collect it, it can’t always retrieve it very well or make sense of it.”

Shannon Salter said she was responding to requests from academic researchers around the world at the rate of around one a week. There were also enquiries from foreign courts, including the courts of England and Wales.

“One of the contributions we hope to make is to be able to ‘open the cupboard’ and show people what’s going on. Even on our Twitter account,<sup>3</sup> we publish statistics on almost a weekly basis.”

And it was also important to respond to media requests. “We have an obligation to make sure that people are aware of this new way of resolving disputes and that we’re being transparent about what we’re doing and why. And one way to get the public engaged is to speak with members of the media and keep them informed.”

She had been talking to a local newspaper reporter only a few hours before meeting me, going through the figures and identifying trends in tribunal use. “I don’t think there’s anything to fear in that,” she said. “Interest from the media is a real opportunity to get the message out. It’s also an opportunity to start a dialogue about how our justice system can be reformed.”

## References

1. In December 2017, the top three strata explorations by strata owners or tenants were: the strata isn’t complying with something; the strata asked me to pay money, or I’m disputing an amount I paid; I want the strata to do or stop doing something. In explorations by strata councils, top three explorations were: the strata has an issue with an owner, tenant, or landlord; an owner or tenant has an issue with the strata; the strata has an issue with the strata manager, a service provider, the owner developer, or a neighbouring building. In small claims, the top three explorations were: there’s a problem with payments or money (exploration by sellers); a buyer hasn’t paid in full for a product or service (exploration by sellers); I bought goods or services for personal, family or household use (exploration by buyers). Source: CRT.

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2. Interview with the author, Victoria BC, 6 December 2017.

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3. @CivResTribunal

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