



## Alternative ways to resolve disputes

### Alternative dispute resolution? (ADR)

A simpler way to resolve problems and disputes where parties cannot reach agreement but wish to avoid Court proceedings.

ADR is increasing in popularity such that there are now regulations relating to some ADR processes.

### The benefits of ADR

- Most ADR is investigatory. The problem is researched and not simply determined on the basis of conflicting evidence produced by opposing parties.
- It is private avoiding adverse publicity possibly damaging to reputations.
- The cost may be cheaper than Court proceedings.
- The procedure for resolving the dispute, and the timescale for the procedure, can be fixed by reference to what the parties find convenient.
- The process can be less confrontational and may preserve relationships where parties wish to have continuing professional or personal relationships once the dispute is resolved.
- The process may resolve the entire dispute or certain aspects of the dispute which can reduce any later Court proceedings making them less costly.
- The range of achievable solutions is wider than Court proceedings. The procedure may be designed to achieve specific types of solution which the parties find acceptable but which may not be possible from Court proceedings.

### What are the types of ADR?

There are two main categories:

- Imposed
- Voluntary

The imposed ADR procedures occur when parties have to resolve issues by ADR under a contract or because of membership of an organisation where there is a binding requirement for ADR resolution procedures.

Voluntary procedures are where parties agree after a dispute that ADR is a suitable method of attempting resolution.

The simplest form of ADR is direct negotiations between the parties which can result in a solution to the problem. If that does not solve the problem, there are the following types of ADR procedures:

- Conciliation or mediation
- Adjudication
- Arbitration

Conciliation is a process for identifying what each party wants to achieve from a solution and helping them to achieve that aim by agreement. If successful, this process results in a solution acceptable to all parties.

Mediation focuses on the problem and proposes alternatives for resolving the problem.

With mediation and conciliation the outcome does not prevent Court proceedings if an agreement is not reached.

Adjudication is a process where an independent person examines the evidence of each party and makes a decision. This process does not usually prevent any party going to Court subsequently if not satisfied.

Arbitration is a more formal procedure. Most arbitration awards bind all parties. Overturning or altering an arbitration award by going to Court is only usually possible if the award is based on an error of law or the findings in the award are such that no reasonable arbitrator could have come to that decision.

“Wasting time  
going around  
in circles?”



### What are the disadvantages of ADR?

ADR depends on co-operation. If a party refuses to participate, ADR will not solve the problem.

If one party requires immediate action, ADR is not appropriate. For example, an injunction to protect ongoing physical or economic damage.

If the time limit for making a Court claim is about to expire, ADR may not be appropriate as ADR does not prevent Court time limits running unless both parties agree to extend the limitation period to enable ADR to take place.

A decision or award may have to be enforced through the Courts once the ADR process is complete.

ADR does not provide enforcement procedures if a party is determined not to abide by the ADR outcome.

### Can ADR prejudice Court proceedings?

In general, ADR does not prejudice subsequent Court proceedings unless the terms of the ADR settlement prevent subsequent Court proceedings.

A benefit of ADR is that the process discloses facts and evidence from each party so all concerned have a greater understanding of the issues involved. This means any subsequent Court proceedings may be simpler, shorter and less costly.

The ADR procedure can include a term which prevents any party from referring to anything disclosed in the ADR.

### What does ADR cost?

As procedures vary so do costs. The cost of ADR depends on the complexity of the issues, how long

it takes, and what is involved. Generally, each party agrees at the start of the ADR to meet their own costs and to share the costs of any independent party that is involved. The outcome of ADR may include an award of costs between the parties.

### How can Mander Hadley help me with ADR?

Good, informed legal advice is appropriate before deciding how to resolve your dispute. This is especially so if your dispute is subject to time limits or the merit of your claim is uncertain. Advice is appropriate during the ADR process itself on procedures, documents, evidence and strategy to ensure you achieve the best possible outcome.

### How do I make an appointment to discuss ADR?

You can request an appointment to see one of our experienced Solicitors by calling either:

- Our Coventry office on 024 7663 1212 or
- Our Kenilworth Office on 01926 857 631 or
- Email us on [enquiries@manderhadley.co.uk](mailto:enquiries@manderhadley.co.uk)

### How soon can I have an appointment?

Our staff are committed to responding to your initial enquiry by no later than the following working day. Arrangements can be made for you to see a Solicitor or one of our executives as soon as possible.

### What shall I bring with me to the initial appointment?

- Documents to confirm your identity.
- All relevant documents about your dispute.
- Your objectives from the process.

**Although helpful, the brief information included in this document is intended as a guide only and does not constitute legal advice. For more detailed information regarding any of the matters raised in this guide, tailored to suit your specific circumstances, please contact a member of Mander Hadley's dispute resolution team.**