

## ALTERNATIVE DISPUTE RESOLUTIONS (ADR)

There can be many issues following a relationship breakdown, which can be resolved without going to court. Many cases are resolved through one of the below methods, known as Alternative Dispute Resolution, or ADR.

### FAMILY MEDIATION

Both parties attend meetings with an independent, impartial, and qualified mediator. The Mediator guides the process and assists couples in working out arrangements for children, property and finances or any other issues that may arise. Meetings can be used to discuss interim as well as longer-term arrangements.

It is a comparatively cheap and informal process – although usually, the parties must have advice from a Solicitor to shape the discussions and understand what position they can reasonably take. However, the lawyers do not usually attend the meetings themselves.

Any agreement reached in mediation and outlined in mediation documentation is not legally binding. Therefore, it is often necessary for the parties to take the documentation to their Solicitor to seek advice and formalise the agreement, e.g. draw up a consent order.

### ARBITRATION

Arbitration is when the parties agree to submit to the binding decision of an independent third party, a private Judge. The parties choose their arbitrator, who are experienced family law practitioners registered with the Institute of Family Law Arbitrators (IFLA), a professional body with strict rules.

Arbitration is increasingly popular as an alternative to court action. Once parties agree to arbitrate, they both sign an agreement that the arbitrators' decision will be binding upon them. After the process has concluded, they will then apply to the court for an order reflecting the outcome of the arbitrator's decision to be made into a legally binding and enforceable court order.

Agreeing to arbitration also means parties agree there are minimal bases for appeal. They cannot then go to court to ask for a re-determination of the decision. As a result, the arbitration will often be far quicker than the court process.

### COLLABORATIVE

The collaborative or "four-way" process requires you and your partner to instruct collaboratively trained lawyers. Both parties agree not to use those lawyers if the collaborative process breaks down and court proceedings begin. Therefore, if things cannot be worked out using collaborative law, both parties will have to get new lawyers to take the dispute to court. This provides an incentive to commit to the process.

There is no formal timetable, and parties can be flexible in agreeing on procedural steps. However, all parties meet regularly for four-way meetings with their lawyers and seek to reach an agreement through these negotiations. A court order can then be sought in terms of any agreement reached.

### SOLICITOR-LED NEGOTIATION

Negotiations can take place in advance of, or at the same time as, the court process. Whilst negotiation directly between the parties can be a helpful way to narrow issues; it does pose several hazards. For example, one party might agree to something unfavourable or not in accordance with their legal entitlement.

Solicitor-led negotiation is likely to lessen hostility and provide you with support for your case's day to day running coupled with strategic advice. It can provide a more formal framework for discussions, for example, through the exchange of open or 'without prejudice' offer letters, or round-table meetings, and ensures that the parties are aware of their legal entitlements.

### ROUND-TABLE MEETINGS

An informal negotiation meeting is attended by parties and their solicitors. The aim of the meeting is specifically for settlement discussions or an attempt to narrow the issues. These meetings can vary in their formality, but each party and their Solicitor often have discussions in separate rooms and then meet in a separate room to discuss, negotiate and consider proposals.

*This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different. We would suggest you contact us to obtain complete and proper legal advice.*