

Introduction to
ADR

[ALTERNATE DISPUTE RESOLUTION]

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Objectives

- Explain the need for Alternative Dispute Resolution instead of litigation.
- Explain the four main types of Alternative Dispute Resolution: negotiation, mediation, arbitration and conciliation.
- Discuss the types of cases where each form of ADR may be used.
- Evaluate the advantages and disadvantages of the four different forms of alternative dispute resolution.

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Introduction

- **A**lternative **D**ispute **R**esolution, or **ADR** is the means of resolving a dispute without having to go to court.
- The use of ADR is encouraged by the Civil Procedure Rules, where Part 1 contains an overriding objective that judges have to deal with cases justly and fairly.
- There are four main types of ADR:
 - negotiation
 - mediation
 - conciliation
 - arbitration



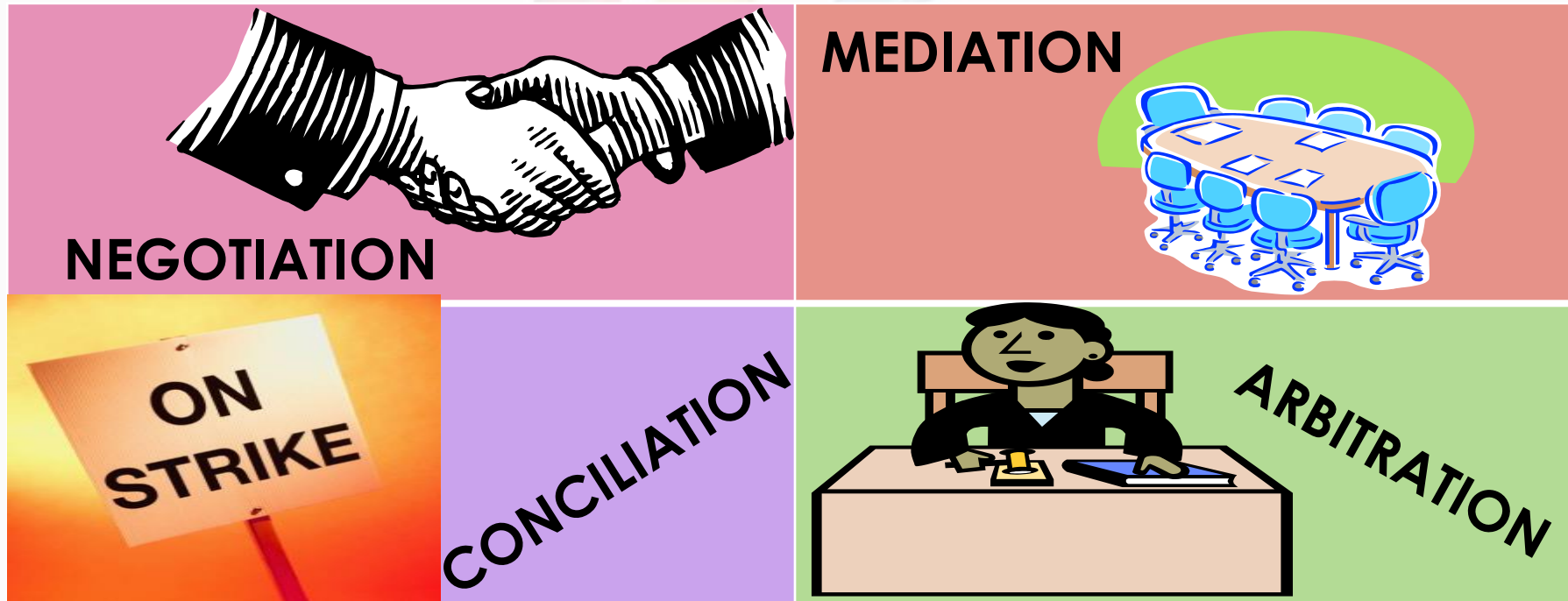
Consider the following scenario:

Family A have lived next door to Family B for over 20 years. The children of the families go to school together and the two families regularly go on holidays together and meet for parties around each other's houses.

However, recently Family B have built a shed that crosses the boundaries into Family A's garden. Family A are annoyed that their light has been taken and they feel that Family B are "trespassing". Family B are adamant that the shed is within the boundaries of the house.

What is the best way to resolve this dispute?

Types of Alternative Dispute Resolution



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Negotiation

- Involves solving the dispute with the parties directly.....

Can you think of any examples?

- Could involve solicitors that result in a settlement before the court date.
- “Modern” methods of negotiation – DIY, on-line
- Biggest method of ADR – completely private, easy, minimum cost

Mediation

- Involves having a third party acting as a “referee”.
- Particularly popular in **family** cases – **Family Law Act 1996.**
- “Modern” methods = Online mediation, Mediation Centres
- Mediator cannot suggest ways to compromise – the parties must be encouraged to come to their own decision.
- Risk it is becoming seen as compulsory – **Dunnett v Railtrack** where an adverse costs order was given to parties who refused to mediate.
- 2011 – Introduction of **MIAMs** which are **Mediation Information Meetings** and this is a compulsory initial meeting for all divorcing couples. The meeting costs around £140 and will assess whether your case is suitable for resolution through mediation or whether court would be more appropriate.
- Justice minister supports government plans for mandatory mediation , *The Guardian 7 January 2014*



Mediation Activity

- Research Mediation services available away from the conventional solicitor's office.
- Examples include:

DMS – Dispute Mediation Services -

<http://disputemediationservices.co.uk/index.html>

CEDR –

<https://www.cedr.com/>

The Mediation Room –

<https://www.themediationroom.com/>

West Kent Mediation –

<http://wkm.org.uk/>



Mediation Evaluation

ADVANTAGES	DISADVANTAGES
<p>1. Good alternative to lengthy and expensive court proceedings and will hopefully reduce the number of divorces dealt with by the courts. Initial assessment only costs £140 which, although a considerable amount, is still cheaper than court. The average cost per client of mediation is £535 compared with £2,823 for going to court.</p>	<p>1. It is not compulsory to commit to the process after the initial assessment so people could end up spending more money by taking it to court anyway.</p>
<p>2. Mediator is independent and the mediator will be agreed by the parties.</p>	<p>2. Successful mediation takes approximately three to five days to resolve whereas court could be over in one day. It can take place as often as the parties like and are willing, so it can therefore be long drawn out.</p>
<p>3. Provides people with a quicker, cheaper and more harmonious way of dealing with disputes. With the scrapping of legal aid in such cases, it is the government's alternative to save money.</p>	<p>3. Although a lot of family mediators tend to be lawyers, this is not a requirement, so there will be no legal expertise if a legal point arises.</p>

References

This is a work by external agency which has been referred after some alterations. The original work can be accessed from the link hereunder and the author of the work has been given due credit by acknowledging his/her creation.

- [resource.download.wjec.co.uk.s3.amazonaws.com › eng](https://resource.download.wjec.co.uk.s3.amazonaws.com/eng)
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