

What is Alternative Dispute Resolution?



Alternative Dispute Resolution (ADR) is often used in Wills and Estate disputes, it refers to any method of resolving disputes without litigation. Some of the most common forms are set out below.

Mediation

During mediation, an independent and impartial mediator will facilitate discussions between the parties and assist them in reaching a settlement. Mediation is more flexible than court proceedings and the resolutions which the parties can reach are much wider than those enforceable by a court. For example, mediation allows parties to discuss individual assets of a deceased's estate, some of which may not have a high financial value, but which hold great sentimental value to a party.

Mediation is confidential and non-binding, this means that if the parties are unable to reach a settlement they are not prevented from bringing the matter to court.

However, mediation is not necessarily suitable in all circumstances, for example, where there is a particular matter of law in dispute. Additionally, there is no certainty that a settlement will be reached.

Early Neutral Evaluation

This involves an impartial evaluator assessing and providing their view on the merits of a case. This can be useful in helping the parties identify weaknesses in their case and gaps in their evidence. It is particularly useful when the parties have reached an impasse, or there is a large disparity between their positions. If the evaluator's view is particularly strong this may prompt settlement discussions between the parties.



However, the evaluator's view is not a judgment and is non-binding, Early Neutral Evaluation does not itself resolve a dispute.

Arbitration

This is the most formal form of ADR. Each party will present their argument and evidence to the arbitrator who will then reach a decision on the outcome of the dispute. Typically the process will be governed by an arbitration agreement, unlike court proceedings, parties can therefore tailor this to their dispute by choosing their arbitrator, the tribunal is also private.

The decision can be binding or non-binding. A binding decision has the benefit of providing finality to a dispute. However, Unlike other forms of ADR, this means that the parties will be unable to bring their dispute to court.

ADR is a useful and often less expensive alternative to litigation. Different types of ADR will be suitable for different cases and parties may even use multiple forms before reaching a settlement.

How we can help

If you have any questions on the content of this article please don't hesitate to contact one of the [inheritance disputes team](#).