



# Advice from Alan

## Disputes resolution options

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What are some of the options available and what are the benefits of each?

*Arbitration* works well in the construction industry where parties cannot afford to hold up projects due to disputes. Commercial disputes are also suited to arbitration because the parties often have an ongoing commercial relationship. Parties generally get a determination much faster via arbitration than going through the courts. Arbitrations are closed and private, whereas court proceedings are usually open to the public.

*Mediation* is where an independent third party helps the parties involved in a dispute to achieve a mutually acceptable resolution. Parties have control over the outcomes in a mediation. No one can be forced to agree and the mediator does not make a decision on the outcome. The types of outcomes that can be agreed to in a mediation are more varied and flexible compared to what is available via court proceedings. Mediation can often be arranged very quickly and can result in resolution much faster than going through the formal process of a hearing in the court.

*Negotiation* is where parties, either themselves or represented by their lawyers,

formally discuss matters of mutual concern and attempt to resolve the dispute that has arisen between them. This method of resolving disputes is usually quicker and cheaper than going to court and provides another potential way to resolve the dispute in private.

*Judicial Settlement conferences.* This is where the dispute has been taken to court. A judge will meet with both parties and their lawyers in an attempt to get a resolution without the need for a full hearing. If the dispute is not settled, the full hearing will take place before a different Judge.

*Tribunal Claims.* There are various tribunals that aim to resolve disputes between parties in a cost-effective and timely manner. Specialist tribunals, including the Tenancy Tribunal and Motor Vehicle Disputes Tribunal, can hear claims of larger amounts than the non-specialist Disputes Tribunal, which can only hear claims of up to \$30,000. These dispute resolution tribunals are usually quicker and require a smaller investment than litigation in court. The disputes resolution method that is best for your situation will depend on the nature of the dispute, the amount involved, the remedies you seek, and the complexity of the facts.