



/guide

Your questions answered

NON-COURT DISPUTE RESOLUTION

This client guide explains what is meant by the term 'non-court dispute resolution'.

What is non-court dispute resolution?

Non-court dispute resolution (often shortened to NCDR) refers to a range of methods used to resolve conflicts without resorting to formal court proceedings. These alternatives aim to facilitate agreement between parties, promote efficient resolution, and reduce the emotional and financial burden associated with litigation.

Why do I need to know about NCDR?

It is important to understand NCDR processes for several reasons:

- **Less stressful:** NCDR processes are generally less adversarial and emotionally taxing than court battles.

- **More cost-effective:** Litigation can be expensive due to legal fees, court expenses, and prolonged proceedings. NCDR often offers a more cost-effective alternative.
- **Quicker outcomes:** NCDR can lead to faster resolutions, allowing parties to move forward promptly.
- **Child-centric approach:** NCDR focuses on the best interests of children. Minimizing parental disputes benefits children's well-being.
- **Legal requirement:** Family lawyers must explore NCDR options with their clients before initiating court applications. Litigants must explain to the court what their views are about NCDR when they make an application. Judges have the power to delay proceedings to allow NCDR to take place and if a judge thinks that one party has behaved unreasonably in refusing to take part in NCDR they can order that party to pay towards the legal costs of the other party.

However, whilst NCDR can often be valuable, it may not be suitable in cases involving domestic abuse, power imbalances, or hidden assets.

How can your lawyer help you?

Your lawyer will help you to decide what is the best route for you to take as you move through this legal process. Most commonly your lawyer will support you by leading negotiations directly with the other party or their legal representative but if it is felt that the support of a third party such as a mediator will assist, they will advise you about your options.

What is a MIAM?

Before making a court application, you will need to attend a meeting called a Mediation Information and Assessment meeting, known as a MIAM. There are some circumstances where this requirement does not apply (mainly involving domestic abuse). If your former spouse or partner has made an application to court, you will also need attend a MIAM unless the same specific circumstances apply.

The MIAM takes place with a trained family mediator. You attend on your own and it is an opportunity for you to tell the mediator about your situation and what needs to be resolved. The mediator will tell you about the mediation process and explain the other options for reaching agreements. A MIAM is designed to help you understand the options available to help you sort out the dispute and to choose the best option for you.

If you make an application to court after attending the MIAM you will need show evidence to the court that you attended the MIAM which your mediator will provide to you.

What is mediation?

Family mediation is a voluntary, confidential process where a professional independent mediator assists parties in discussing and reaching agreements on practical matters for the future, such as financial arrangements and children's schedules. It focuses on mutual understanding and reaching agreements, with the option to involve lawyers if needed.

Need more information?

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What is collaborative law?

Collaborative law involves clients and lawyers working together in a non-confrontational manner to resolve issues. Parties commit to avoiding court, opting instead for meetings where both parties and their lawyers are present. It aims for fair resolutions and may involve other experts. If unsuccessful, new lawyers are required for court proceedings.

What is arbitration?

Arbitration is a process where parties appoint a neutral arbitrator to resolve disputes outside of court. Both parties agree to be bound by the arbitrator's decision, which can cover all or specific issues related to their separation. The arbitrator, who is an experienced solicitor, barrister, or retired judge, conducts hearings, reviews evidence, and issues a binding decision. The process is flexible and private, allowing for tailored procedures and confidentiality.

What is early neutral evaluation?

Early neutral evaluation is a confidential process whereby the parties invite a neutral third party to give an opinion on the prospects of each party and the possible outcome of a final hearing.

It is different from mediation because a mediator is there to facilitate the parties to reach an agreement without giving a view on the merits of each party's case, whereas in early neutral evaluation, the third party will consider the case, listen to each party's view and then explain to the parties what the likely outcome of the case would be if it were to go to court. Normally the third party would be an experienced solicitor, barrister, or retired judge. The evaluator's opinion is not binding, however, once the parties hear the view of the impartial third party, they often feel in a better position to negotiate a settlement.



guide