

# Alternative Dispute Resolution



*'Put us at ease and thoroughly explained all legal points. Highly recommended.'*

Dispute Resolution Client

Our experienced solicitors can assist with a wide range of disputes and ensure you are aware of all the options available for resolution.

Legal support for business, for you, **for life.**

 **Hegarty Solicitors**



*'Hegarty's were brilliant. Constant communication and dealt with everything very efficiently.'*

Dispute Resolution Client

**Disputes are often inevitable in day to day life and business affairs. Parties may disagree as to their individual rights no matter how carefully a contract is drafted. The result is a dispute, but need not always be costly nor acrimonious.**

**Alternative means of dispute resolution can save money and time and can help put the dispute behind the parties whilst preserving valuable business relationships.**

### **Mediation**

This is a meeting amongst those in dispute, their representatives and a mediator to discuss settlement.

The mediator's role is to help the parties explore settlement options.

A mediation requires a relatively small amount of preparation time and can be scheduled quickly. Statistics show that 85% of commercial matters and 95% of personal injury matters end in written settlement agreements.

Mediation has become perhaps even more popular since the commencement of the COVID-19 pandemic, as it can easily be held remotely with the reported statistics demonstrating very little or in reality no difference to the success rates compared to mediations in person.

The cost of remote mediation is also less in that the Mediator's fee tends to be reduced and the time taken in travelling to a mediation held in person, is avoided.

**Excellent**  

## Arbitration

Arbitration is the referral of a dispute to one or more impartial persons for a final determination. This is a private and confidential exercise which is designed for quick, practical and economic settlement.

Specific provisions can be added to the arbitration agreement to reflect the needs of the parties.

## How does mediation differ from arbitration?

Arbitration is ordinarily a less formal litigation, mediation is even less formal than arbitration. A mediator (like an arbitrator) does not have the power to render a binding decision. A mediator does not hold a hearing as to evidence as does an arbitrator, but instead conducts informal, separate and joint meetings with the parties to understand the facts, issues and positions of the parties.

Arbitrators hear and receive evidence in a joint hearing on which they then provide a final and binding decision. This is known as an award.

In joint sessions with each side, a mediator will try to obtain further details of the priorities and issues for each party. Gaining knowledge from these meetings, a mediator can use the information from each side to:

- Prevent raising surprise issues.
- Explore alternatives and search for solutions.

- Identify what is important and what is expendable.
- Narrow the issues of each party's positions and reduce extreme demands.
- Communicate positions in understandable and clear terms.
- Uncover additional facts and the real interest of the parties.
- Reduce hostility.
- Open discussions in an area not previously considered.
- Help each party understand the other party's point of view.
- Create a perception list for a proposal or offer.

Consider the consequences of losing in litigation and the cost, risk and time involved.

## Benefits of Mediation

- A business relationship may be able to continue that may be terminated via litigation.
- Generally, saving of money through reduced legal costs unless down time.
- Accommodation and special needs of the parties can be included.
- Settlement can be reached much more quickly than in litigation.
- Parties are directly engaged in the negotiation settlement.
- The mediator can view the dispute objectively and can assist the parties in considering alternatives they may not have considered.

For more information visit [hegarty.co.uk/business-disputes](http://hegarty.co.uk/business-disputes)

## Occurrence of mediation

Mediation can occur in a dispute at the very outset before litigation is commenced or during litigation.

How to prepare for mediation:

- Outline the strengths and weaknesses of your own case.
- Prepare facts and documents to support your case.
- Focus on the interests of each party.
- Identify your needs and interests in settling the dispute.
- Prioritise the issues in light of your needs.
- Determine a course of action and support a variety of possible solutions.
- Develop your strategies and tactics through discussion of issues, presentation of proposals and testing of the other party's position.
- Finalise the issues involved within the dispute.
- Anticipate the other party's needs, demands, strengths and weaknesses, positions and version of the facts.

## Cost of mediation

This is based upon the mediator's published hourly rate plus the costs of any legal representatives who attend. All expenses are generally borne equally by the parties, which may be adjusted by agreement.

## Why use Hegarty Solicitors?

Since 1974 Hegarty Solicitors has provided high quality legal services to a wide range of businesses and individuals. The firm has a strong regional presence as well as a growing national reputation in key areas of law.

Solicitors who work in our Litigation team are experts in their field and pride themselves in providing a friendly, professional and efficient service.

Andrew Hornsby, Litigation Partner, is a qualified CEDR trained Mediator, experienced in conducting mediations, both as the Mediator and acting for one of the parties.

**Contact us today for advice on mediation or any other form of ADR or litigious matters.**



*'Mr Hornsby dealt with my matter extremely professionally, was always available for any queries/explanations and was kind, considerate and approachable.'*

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