

Alternative dispute resolution

JAMES & WELLS

**CHAMPIONS
OF INNOVATION.**

Traditionally the most prevalent form of formal dispute resolution has been litigation. However litigation can be very expensive and time consuming. In addition, because the process can be quite formal (and somewhat adversarial) there are limited opportunities for the parties to get together to see whether they can reach a resolution without going to a hearing.

For these reasons a number of alternatives/supplements to litigation have developed. Because they offered alternatives (or enhancements) to the standard litigation process they became known as alternative means for dispute resolution (or 'ADR').

Forms of ADR can include:

Arbitration: Arbitration is an alternative to litigation in which the Judge is replaced by an expert arbitrator selected by the parties.

Mediation: Mediation is a consensual process whereby the parties to a dispute get together in order to discuss their grievances and attempt to settle them with the assistance of a third party (the mediator).

Negotiated Settlements: A negotiated settlement is very similar to mediation except that a mediator is not used.

Judicial Settlement Conference: Judicial settlement conferences are an initiative by the Department for Courts to facilitate discussion between litigants in an attempt to reduce the

number of cases which ultimately go to trial and increase parties' perceptions of access to justice.

Members of the James & Wells Litigation team have extensive experience in all forms of alternative dispute resolution and, as a general rule, favour exploring all options for settlement before proceeding to a hearing.