

# OVERVIEW OF ALTERNATIVE DISPUTE RESOLUTION

## Why NOT a trial?

If you are involved in a legal dispute, you may be considering taking the matter to trial to protect your interests. However, you may also be concerned about the potential downside of a trial, for example, the need to spend time and money to prepare for the trial and the pressures and risks associated with it.

Trials are not the only way to resolve your dispute. The State Courts encourage you to explore alternative processes which may be more suitable for you.

## What are the alternatives to trial?

You can consider the following Alternative Dispute Resolution (ADR) options:

- Mediation
- Neutral Evaluation
- Conciliation
- Arbitration

**Mediation** is a process in which a neutral third party, i.e. a mediator, facilitates and guides the parties in negotiating a mutually acceptable settlement to their dispute. The mediator does not determine who is at fault in the dispute. Instead, he helps the parties to focus on finding solutions that meet their concerns, without forcing a decision on either party. Mediation is a service provided by the State Courts Centre for Dispute Resolution (SCCDR) and the Singapore Mediation Centre.

**Neutral Evaluation** is conducted by a neutral third party, i.e. an evaluator, who will review the case and provide an early assessment of the merits of the case. During Neutral Evaluation, the parties, with their respective lawyers, will present their case and the key evidence to the evaluator. The evaluator will then provide his best estimate of the parties' likelihood of success at trial. Neutral Evaluation is a service provided by the SCCDR where a judge will be your evaluator.

**Conciliation** is a process by which a Judge-conciliator facilitates an agreement between the parties on an optimal solution for their dispute. The Judge-conciliator will guide, assist and encourage the parties to reach an optimal solution by actively suggesting measures or proposals that may resolve the issues in dispute. Ultimately, the decision as to whether to agree to a settlement of the dispute rests with the parties.

**Arbitration** is a process where parties agree to resolve the dispute by bringing the matter before a neutral third party, i.e. an arbitrator, for decision. During an arbitration hearing, both parties, with their respective lawyers, will present their case to the arbitrator. The arbitrator will make a binding decision based on the merits of the case, i.e. the parties must obey the arbitrator's decision. The Law Society of Singapore provides lowcost arbitration services through the Law Society Arbitration Scheme (LSAS).

If you wish to find out more about these ADR options, you may refer to the relevant sections on our website.

### **Which ADR option should I choose?**

You should choose the option that best addresses your needs. Most litigants are concerned about issues such as legal costs, the duration of the litigation process, confidentiality, and the extent of their control over the outcome of the case. Other concerns may include the merits of your case, the desire to preserve your relationship with the other party, and the preference to avoid the formalities of a trial. You should consider carefully what is important to you, and then choose the option which best addresses your needs.

Consider which of the following factors are important to you:

- Quick resolution
- Costs
- Privacy
- Public decision
- Neutral opinion
- Maintain or improve the relationship with the other party
- Maintain control over the outcome

### **Choosing the right ADR option**

Mediation is generally regarded as the default ADR option as it addresses most of the concerns commonly faced by litigants. However, if you have special considerations, you may consider other options which are better able to meet your needs. For example, if an assessment of the merits of your case is important to you, neutral evaluation, arbitration or even trial may be more suitable for you.

The diagram below provides the most prominent features of each ADR process. It is also designed to help you decide on the option that is most suitable for your needs.

**Which option should I use to resolve my dispute?**

I want to control how the dispute should be resolved

I want someone else to decide on the outcome of the dispute

**Mediation**

Low cost  
Fast  
Confidential and without prejudice  
Can achieve win-win solutions  
Preserves relationships  
**But ...**  
User-friendly  
No guaranteed outcome

**Conciliation**

Low cost  
Fast  
Confidential and without prejudice  
Can achieve win-win solutions  
Preserves relationships  
Judge possesses expert knowledge on the subject matter, proposes solutions and guides proceedings  
**But ...**  
No guaranteed outcome

**Neutral Evaluation**

Low cost (but may involve more costs compared to mediation)  
Fast (but may involve more time compared to mediation)  
Confidential  
Benefit of an opinion by a Judge on your likely chances of success  
**But ...**  
No guaranteed outcome

**Arbitration**

Allows for privacy and confidentiality  
A binding decision by an arbitrator  
Simplified procedure  
**But ...**  
More expensive than mediation  
*(Arbitration can be suitable for tenancy / construction disputes but not economical for complicated matters involving modest claims)*  
More time consuming than mediation  
Limited avenues of appeal

**Trial**

Public vindication  
Adjudication of the case by a Judge  
Avenues of appeal  
**But ...**  
Costly  
Time-consuming  
Win-lose outcomes  
Likely destructive impact on relationships  
Highly stressful

Settled?

Yes

No

Proceed for trial / arbitration

Dispute resolved

## Do all claims in the State Courts go for ADR?

The State Courts encourage parties in all claims to consider ADR as the "first stop", before proceeding for trial. ADR services are provided by the State Courts Centre for Dispute Resolution.

If you have a personal injury or a "non-injury motor accident claim" (NIMA for short), your case will be automatically referred for ADR. You will receive a notice from the Court about the details of the ADR session. The ADR process used will be a very brief form of Neutral Evaluation. Lawyers normally represent the relevant insurers and clients at the brief neutral evaluation session. In general, you need not attend the first session. Where necessary, you may be directed to be present in subsequent sessions.

If you have any other civil case in the State Courts, you and the other party may request for ADR at any time in the proceedings. This request has to be filed in the online eLitigation system. You and the other party may choose to use the process of mediation or neutral evaluation.

A judge in the State Courts may also refer your case for ADR at any stage of proceeding. For instance, if the plaintiff (the person making a claim) has filed a summons for directions, all parties and their lawyers have to complete and file the ADR Form before the hearing. At the summons for directions, the judge may refer your case for mediation after looking at each party's ADR Form and discussing with the lawyers. For more information, please refer to Part VI of the State Courts Practice Directions (</Lawyer/Pages/StateCourtsPracticeDirections.aspx>).

