

COURT USERS GUIDE

mediator in proposing settlement options. If, using a lawyer, brief your lawyer properly so (s)he can prepare this statement of facts and issues.

- Where can mediation take place?
  - Families
  - Communities (palace of community/opinion leaders)
  - Religious Centres
  - Mediation Centres
  - Multidoor Court Houses
  - Lawyers' chambers
  - NGOs
- What types of disputes can be resolved using mediation?

Mediation is one of the best forms of ADR available for any of the following disputes:

  - Breach of contract
  - Negligence
  - Insurance claims
  - Marital or family disputes
  - Post divorce settlements
  - Oil and Gas spillage
  - Landlord and tenant
  - Debt recovery
  - Land dispute
  - Chieftaincy matters
  - Tort claims (e.g. any claims that arise from damage to property, reputation, negligence, etc)
  - Inheritance
  - Trade and Labour disputes such as Wrongful and unlawful termination of appointments
  - Post-divorce settlements
  - Nuisance

NEGOTIATION

**What is Negotiation?**  
Negotiation means “to bargain; to confer for the purpose of mutual agreement”. As part of ADR, Negotiation refers to the process where you sit down with the other party in a dispute to

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discuss and agree on outcomes. So, usually it is a tool that is adopted in both arbitration and mediation.

- When do you negotiate?

Negotiation is a key tool of ADR. It is particularly important when you are:

  - Structuring commercial agreements, such as contracts,
  - settling trade and labour disputes,
  - working towards post divorce settlements.
- What are the strategies used in negotiation?

There are two strategies:

  - competitive, or
  - collaborative strategy.
- What is a competitive strategy?

The competitive strategy is also known as win-lose strategy. You take a position and attempt to get your opponent to agree to your position. Your opponent will view your gain as a loss to him/herself or vice versa.

When can you adopt the competitive strategy in negotiation?  
Best if you are not likely to have future dealings with the other party.
- What is a collaborative strategy?

The collaborative strategy is also known as a problem-solving strategy. You and your opponent focus on achieving a solution that is satisfactory to both parties.
- When can you adopt the collaborative strategy in negotiation?

When both of you are willing to make it work and willing to work with each other in future.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

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ALTERNATIVE DISPUTE RESOLUTION (ADR)

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- What is ADR?

Alternative Dispute Resolution refers to any of various methods of settling disputes without going to court.
- Why ADR?

Many disputes do not have to end in court. Most issues with your landlord, your neighbour, your employer, you can resolve without going to court. Instead of going to court, you can use alternative dispute resolution centres available in various states of Nigeria.
- Who can use ADR?

Anybody can use ADR whether individual citizen, corporate body, community or organisation who feels offended.
- When can you use ADR?

When you want to formally address any injustice done to you; but do not want to go to court
- Why should you adopt ADR?

Individual - if you adopt ADR:

  - You save cost
  - You save time
  - You are likely to be happier with the outcome, because you will be part of the process
  - You can influence the proceedings to your favour
  - It maintains relationships (amicable), thus promotes forgiveness
  - You can decide those who would be part of the process
  - You may not need a lawyer
  - ADR does not require a formal setting
  - It is voluntary and private
  - It is less stressful
- Community – The community also enjoys what the individual enjoys, and in addition, adoption of ADR helps communities:
  - reduce communal conflict;\
  - prevent violence that could lead to loss of lives an livelihoods;
  - maintain peace and good relations within and between communities.
- Organisation – The organisation also enjoys what the individual and community enjoy, and in addition, adoption of

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ADR helps organisations:

- reduce/avert negative publicity
- reduce organisational conflict

An agreement reached through ACR can have the same weight as a court judgement if registered with the court.

- Where can you access ADR?

ADR is available in various states of Nigeria. Your disputes can be resolved by:

  - Family heads
  - Traditional rulers
  - Village council
  - Opinion leaders
  - Religious leaders
  - Multidoor court houses
  - Mediators offices
  - Lawyers' chambers
  - NGOs
  - Justices of Peace
- What are the types of ADR?

The most common types of ADR are:

  - Arbitration
  - Mediation
  - Negotiation

The type of ADR you should use depends on the nature of the dispute you need to resolve.

ARBITRATION

- What is arbitration?

Arbitration is the settlement of a dispute by one or more neutral persons called arbitrator(s).
- What kinds of disputes are settled using arbitration?

Arbitration is most useful in the resolution of commercial disputes such as:

  - employee/employer

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- business partners
- breach of contract

**Why use arbitration for dispute resolution?**

- Proceedings are simpler than court processes
- Issues are resolved more quickly
- It removes the acrimony of litigation
- It is usually a private and confidential process for the resolution of private civil disputes
- You can choose your arbitrator, the procedure and venue of arbitration
- The decision of the arbitrator(s) is binding on both parties.

- When can you use arbitration for dispute resolution?

It can only be resorted to if it is stated in the contract; OR the parties to a dispute agree to it.

MEDIATION

- What is mediation?

Mediation is the process of resolving disputes with out going to court using a neutral person called the “mediator” as a guide.

As opposed to arbitration, mediator does not assign blame nor imposes any solutions. All that (s)he does is to assist the parties to reach an amicable settlement.
- Who can be a mediator?
  - Family heads
  - Justice of Peace
  - Community/Opinion leaders
  - Village Councils
  - Community Development Association leaders
  - Religious Leaders (Imams and Pastors, etc.)

**How does mediation Work?**  
Success in mediation depends on proper preparation by the parties to the dispute. You can do it by yourself or with the help of a lawyer. If you are handling your case yourself, prepare a honest and comprehensive statement of facts and issues. It should contain all current information that will assist the

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