

Different Forms of Dispute Resolution

	Mediation	Arbitration	Litigation
What do parties do?	Parties who are in dispute come to a joint meeting or series of meetings to discuss their concerns and work through their issues with each other	Parties attend an arbitration meeting and present their case to the Arbitrator	Parties instruct a lawyer or representative to present their case in legal terms to the court
What do neutral 3 rd parties do?	A mediator listens to each person with a view to understanding their interests and needs, and facilitates the conversation between them	An arbitrator has a specific expertise in the content of the dispute. S/he listens to each side of the case and makes a recommendation or an 'award'	A judge hears the case as presented by legal representatives and issues a judgement
How do people enter the process?	By the voluntary choice of both parties	By agreement (often there will be an arbitration clause in a business contract)	One party initiates the process voluntarily (the petitioner) and the other must engage (the respondent)
Who decides the outcome?	The parties themselves decide on the best solution	The arbitrator weighs up the evidence and makes their recommendation	The judge decides the outcome
On what basis are solutions arrived at?	By mutual agreement	By application of expert knowledge and a consideration of the circumstances	By legal precedent
Is the outcome legally binding?	No. Mediation is an informal process that works on the basis that both parties make a shared commitment to the way forward	The outcome of arbitration can be appealed but the strong expectation is that parties abide by the recommendation of the arbitrator	Yes – a judgement is legally binding
Who wins or loses?	Mediation aims for a win / win solution	Arbitrated outcomes are less predictable and the outcomes could be win /lose, win / win or lose / lose	Legal judgements will be in favour of one party or another. Outcomes are therefore win /lose

Informal processes are private, quicker and less costly. Participants address their concerns to one another directly and remain in control of their own solutions



Formal processes offer the protection of the law where this is required. The courts uphold individual rights and maintain social justice.