



# Non-Court Dispute Resolution for Family Law – Why You Should Engage

The value of exploring and, where possible, promoting dispute resolution options outside of the courtroom is a long-established theme in family proceedings. Alternatives such as [mediation and arbitration](#) are often encouraged by practitioners in an effort to promote amicable resolutions on matters that affect the very crux of people's lives – their home and familial relationships.

As of 29 April 2024, the Family Procedure Rules which govern family law proceedings have been updated and have in turn created a wider definition of non-court dispute resolution ('[NCDR](#)') to include the following;

- Mediation
- Arbitration
- Collaborative approaches
- Evaluation by a neutral third party (such as Private financial dispute resolutions)

## So what does this mean?

When parties make an application to court in relation to contested financial remedy matters on divorce and private children proceedings (for orders regarding care, contact and education etc), they will now both be required to file a form ([Form FM5](#)) setting out their views regarding NCDR and whether any attempt to settle matters between the parties has been made.

Whilst there are exceptions for engaging in NCDR, for example in cases of domestic abuse, the new update shows a more limited approach. The court has been granted the power to stay proceedings if it feels that some form of NCDR would be a more appropriate way of resolving litigated matters even in cases where the parties do not consent to engage in NCDR.

Importantly – parties are required to consider, at every stage of proceedings, whether NCDR may be appropriate.

The court's investment on this point even extends to the inclusion that in contested financial remedy proceedings, the court will now be able to make a costs order against a party where there has been a failure (without good reason) to engage in NCDR.

## **Why have the changes been made?**

The aim of these changes is to encourage parties to facilitate communication and reach a decision between themselves rather than have decisions and orders imposed on them by the court. This should, in turn, encourage parties' compliance with any decisions reached and ensure the lines of communication remain open.

## **What should I do?**

At the earliest stage of considering family law proceedings and before making an application to court it is advisable to obtain legal advice to help identify whether any form of NCDR may be a more suitable option for resolving a contested family law matter. This can protect parties from incurring excessive legal and court fees unnecessarily.

A first step is often a Mediation Information and Assessment meeting (often referred to as a MIAM). Even in the event that NCDR cannot entirely resolve a disputed matter, these sessions can often be beneficial to narrow the issues in any potential claim, meaning a shorter and hopefully less costly court process.

## **Contact us**

If you are considering family law proceedings and are looking for support, including non-court dispute resolution options like mediation or arbitration, please contact the [Family Team](#) at Lester Aldridge.