

Topic: Mediation & ADR

How can mediation or other forms of ADR best assist in the resolution of will and trust disputes?

Cases

- **Seals & Anor v Williams [2015] EWHC 1829 (Ch)**

URL: <http://www.bailii.org/ew/cases/EWHC/Ch/2015/1829.html>

“In this context, it is highly commendable that the legal representatives for the parties have proposed as a way forward, and the court has been invited to undertake, an Early Neutral Evaluation of the case. The advantage of such a process over mediation itself is that a judge will evaluate the respective parties' cases in a direct way and may well provide an authoritative (albeit provisional) view of the legal issues at the heart of the case and an experienced evaluation of the strength of the evidence available to deploy in addressing those legal issues. The process is particularly useful where the parties have very differing views of the prospect of success and perhaps an inadequate understanding of the risks of litigation itself”.

- **CPR 3.1(2)(m) - Lomax v Lomax [2019] EWCA Civ 1467**

URL: <http://www.bailii.org/ew/cases/EWCA/Civ/2019/1467.html>

“the court may "take any other step or make any other order for the purpose of managing the case and furthering the overriding objective, including hearing an Early Neutral Evaluation with the aim of helping the parties settle the case”.”

- **Haley v Haley [2020] EWCA Civ 1369**

URL: <http://www.bailii.org/ew/cases/EWCA/Civ/2020/1369.html>

- **CM v CM [2019] EWFC 16**

URL: <http://www.bailii.org/ew/cases/EWFC/HCJ/2019/16.html>

“High Court Judges are exceptionally busy. They do not have time to draft letters of instruction or even to determine disputes as to the wording of such letters. On this occasion, there was no legitimate dispute as I had already made an order that set out the issues Mr Bezant had to consider. If, however, in a future case, there is a genuine issue as to drafting, I consider it would be exactly the sort of matter that should be referred to an arbitrator who is accredited by the Institute of Family Law Arbitrators.”

- **Refusal to mediate**

Laporte v Commissioner of Police of the Metropolis [2015] EWHC 371 (QB); [2015] 3 Costs L.R. 471

URL: <http://www.bailii.org/ew/cases/EWHC/QB/2015/371.html>

Articles

- **Whatever the Family Division is now doing is not arbitration** - Steven Barrett
URL: <https://www.familyarbitrator.com/whatever-the-family-division-is-now-doing-is-not-arbitration>

- **Letting the cat out of the bag? What are the implications of Haley v Haley for the arbitration of TOLATA disputes, 1975 Act claims and Schedule 1 matters?** - Charlotte John
URL: <https://gatehouselaw.co.uk/letting-the-cat-out-of-the-bag-what-are-the-implications-of-haley-v-haley-for-the-arbitration-of-tolata-disputes-1975-act-claims-and-schedule-1-matters/>

Acts & Guides

- **Chancery Guide 2022**
URL: <https://www.judiciary.uk/wp-content/uploads/2022/08/Chancery-Guide-2022-28-7-22.pdf>

- **IFLA Scheme**
URL: <https://ifla.org.uk/divi/wp-content/uploads/Arbitrators.pdf>

- **Arbitration Act 1996**
URL: <https://www.legislation.gov.uk/ukpga/1996/23/contents>

- **Matrimonial Causes Act 1973**
URL: <https://www.legislation.gov.uk/ukpga/1973/18>