



# Alternative Dispute Resolution

This factsheet tells you about Alternative Dispute Resolution (ADR). It explains what ADR is, how it works and how to apply.

This factsheet is one of a series. For the full list of the factsheets in our compliance checks series, go to [www.gov.uk](http://www.gov.uk) and search 'factsheets'.

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## If you need help

If you have any health or personal circumstances that may make it difficult for you to deal with this check, please tell the officer that's contacted you. We'll help you in whatever way we can.

You can also ask someone else to deal with us on your behalf, for example, a professional adviser, friend or relative. We may however still need to talk or write to you directly about some things. If we need to write to you, we'll send a copy to the person you've asked us to deal with. If we need to talk to you, they can be with you when we do, if you prefer.

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## What we mean by 'dispute'

If you disagree with the officer dealing with the compliance check about:

- the reason why they've asked you to do something
- their point of view

or if you're not sure about either of these, please tell the officer straightaway.

In most cases you and the officer will be able to quickly resolve the matter, but if you cannot, we call this a dispute.

There are several ways that a dispute can be resolved and the most suitable method will often depend on what is being disputed.

Ways to resolve disputes can include:

- deciding what you agree and disagree with – this will help to avoid any misunderstandings and allow you to focus on what is being disputed
- asking the officer to discuss your point of view with their manager
- asking for a review by an HMRC officer not previously involved in the matter, or appealing to an independent tribunal

Alternative Dispute Resolution (ADR) is another way of dealing with compliance disputes which ultimately result in a decision that could be appealed.

As soon as you know that there's a dispute, you should consider whether to apply for ADR.

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## About Alternative Dispute Resolution (ADR)

ADR involves an HMRC officer trained in mediation skills and techniques who acts as neutral third party without forming a view on who is right or wrong. As the mediator they'll help you and the HMRC officer resolve a dispute together.

You can apply for ADR at any stage of an enquiry, and at any stage of the tribunal proceedings, either when we cannot reach an agreement with you or once HM Revenue and Customs (HMRC) have issued their appealable decision.

### Direct tax disputes after HMRC has made a decision

Direct taxes include:

- Income Tax
- Corporation Tax
- Inheritance Tax

You can apply for ADR when HMRC has made a decision about a direct tax issue you've appealed against and you've taken one of the following actions:

- accepted the appeal, but have not offered you a statutory review
- offered you a statutory review that you've accepted – you must wait for the review to end, appeal to the tribunal and have the appeal accepted before applying
- offered you a statutory review that you've not accepted – you must appeal to the tribunal first, and have the appeal accepted before applying

### **Indirect Tax disputes after HMRC has made a decision**

Indirect taxes include:

- VAT
- Excise Duty
- Customs Duty

You can apply for ADR when HMRC has made a decision about an indirect tax issue and you've either:

- accepted our offer of a review – you must wait for the review to end, appeal to the tribunal and have the appeal accepted before applying
- not accepted our offer of a review – you must appeal to the tribunal first, and have the appeal accepted before applying

If ADR is used this does not affect your right to appeal or to ask for a review.

There's more information about appeals and reviews in factsheet HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'. Details of how you can get a copy of this are shown above.

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## **The benefits of ADR**

ADR is a way of working together to resolve disputes. Where there's a dispute, ADR aims to:

- reduce the time it takes to complete the compliance check
- reduce the costs for you and HMRC
- improve your experience when dealing with us
- reduce the need for independent tribunal hearings

Using ADR in more complex cases may avoid the need for you to make a long formal written submission to the tribunal to support your side of the dispute.

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## **What types of disputes are suitable for ADR**

ADR is suitable in the majority of compliance disputes, examples include the following:

### **Where communications have broken down**

This could include situations where we need information from you but you do not agree that:

- you can get the information
- the information is needed to resolve the matter

In this type of situation, a mediator may be able to help restore communications to allow the dispute to be resolved. For example, by making sure that the importance of the information has been clearly explained to you and that you understand:

- why it's needed
- how it'll help resolve the dispute

If you cannot get the information, the mediator will help you to explore alternative ways of resolving the matter, which will allow the compliance check to continue.

### **Where there are disputes about the facts**

The mediator will make sure that you have the opportunity to ask for clarification of any matters that are not clear and reach agreement about what the relevant facts are and how they'll be used. They'll also check with you that you understand the answers that you're given. If any facts are in dispute, the mediator will make sure that both you and the officer dealing with the check fully consider all points of view and that agreement is reached where possible.

### **Where a dispute is a result of a misunderstanding**

This could include situations where a compliance check has been continuing for some time and you cannot understand why the officer keeps asking you for different information. A mediator will take into account your point of view and establish whether the officer dealing with the compliance check needs the information that they're asking for.

### **Where the dispute concerns a technical point or a point of law**

Mediation can be considered in these cases. A mediator could help:

- you gain clarity and understanding of the officer's view
- give you an opportunity to have your view heard
- you be reassured that you have been listened to

It may be that a resolution cannot be found in these circumstances, but the mediation process will have helped everyone prepare for tribunal.

In all cases we'll consider your application and if we decide it's not suitable, we'll tell you.

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## **What types of disputes are not suitable for ADR**

ADR is not available to customers who have a disagreement with HMRC in the following circumstances:

- complaints and disputes about HMRC delays in using information or giving you misleading advice
- debt recovery or payment issues
- disputes about tax credits
- disputes over default surcharges
- PAYE Coding Notices
- Extra Statutory Concessions
- cases that HMRC's criminal investigators are dealing with
- pensions liberation schemes
- high income child benefit charges
- disputes about the National Minimum Wage
- accelerated payments and follower notices
- cases the First-tier Tax Tribunal have categorised as 'paper' or 'basic'

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## **What happens if you apply for ADR**

If you want to consider using ADR to resolve a dispute, you'll need to apply. Details of how to apply are shown below.

Once we receive your application, we'll contact you and the HMRC officer to discuss your application in more detail. We'll carefully consider the case and then decide whether ADR is an effective way of resolving the dispute.

Each application is considered on a case by case basis. ADR is not a statutory process and we reserve the right to reject applications that we do not consider appropriate for ADR.

We'll normally tell you whether the case has been accepted or not within 30 days of receiving your application.

### **If your case is accepted**

Both you and the officer dealing with your check must participate in ADR. This is not optional. You should only apply for ADR if you're prepared to fully commit to it.

When completing the application you'll be asked to agree to some principle committing you to full participation in the ADR process. During the process you may be asked to give us more information. We'd expect your response within 15 working days of the request, unless otherwise stated. You may also be required to attend a meeting and we would expect you to be available for this within a 90 day period following acceptance of your application.

If at any time during the process you do not participate fully, we'll withdraw the offer of ADR.

The ADR mediator will contact you to let you know what will happen next. They may invite you to a mediation meeting. Conducting this via teleconference, video conference or face to face. Alternatively, the mediator may phone you to explore other ways of resolving the dispute.

### **If your application is rejected**

We'll explain why we cannot accept your application.

### **Preparing for any mediation meeting**

In preparation for a mediated meeting the mediator will ask you to write a statement of the matters in dispute, including your view of each matter. Your statement should:

- be brief – no more than 2 sides of A4 paper
- set out the main facts and, where relevant, how you believe the law applies to these facts

Your statement should not be a history of the compliance check.

The officer dealing with your compliance check will be required to do the same.

These statements form the basis of discussion on the mediation day and they'll be exchanged between you and the officer prior to the mediation meeting.

Before the meeting your mediator will take time to talk you through the day and will do the same for the officer.

### **About the mediation meeting**

The mediator opens the meeting and invites discussion on the statements. There'll be opportunities throughout the meeting for questions and any counter arguments through joint discussion and/or private discussion with the mediator.

Discussions in mediation are confidential whether in joint or private session. But any new information or evidence disclosed by you that has an effect on the tax position will be on record.

Notes can be taken during the mediation for your own use during the day, however, both parties will be asked to destroy these at the end of the process, with the exception of notes about material tax facts mentioned above. The mediator may also take some brief notes during the discussions, and although some of these may relate to the facts of the case, the purpose will be to help the mediator understand the broad basis of the disagreement. They will not be a contemporaneous record of the meeting and will not be exchanged between the parties after. These notes will also be destroyed after the end of the process.

The role of the mediator is to help you and the officer dealing with your check to consider all options and assist you in reaching agreement in order to resolve the dispute. The mediator will not take any part in the decisions taken. That responsibility rests with you and the officer.

You can choose to ask someone to take part in the meeting with you, for example, your tax adviser, a friend, or a family member. You'll be asked to confirm that you're happy for your tax affairs to be discussed in detail in front of them.

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## **What happens after ADR**

At the conclusion of the ADR process, the mediator will require you and the officer to prepare and sign a document detailing the outcome, and this will be the formal record of the position reached. If an agreement has been reached, the officer will take the necessary steps to conclude their checks.

If you cannot reach agreement, your next steps will be made clear dependent on whether your dispute was a pre or post appealable decision when ADR commenced.

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## **How to apply for ADR**

To apply for ADR, you need to complete the application form. Go to [www.gov.uk/guidance/tax-disputes-alternative-dispute-resolution-adr](http://www.gov.uk/guidance/tax-disputes-alternative-dispute-resolution-adr)

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## **More help**

For more information about Statutory Reviews and your appeal rights go to [www.gov.uk/tax-appeals](http://www.gov.uk/tax-appeals)

Factsheet HMRC1 – HM Revenue and Customs (HMRC) decisions – what you can do if you disagree' is available from the website Go to [www.gov.uk](http://www.gov.uk) and search for HMRC1.