# Dispute Resolution in England and Wales

# Call for Evidence

## A. Drivers of engagement and settlement

An understanding of the drivers of engagement and settlement will enable the development of policies and procedures that ensure access to justice in a way that best meets people’s needs. Existing evidence points to reasonable settlement rates for pre-hearing dispute resolution schemes.

1. Do you have evidence of how the characteristics of parties and the type of dispute affect motivation and engagement to participate in dispute resolution processes?
2. Do you have any experience or evidence of the types of incentives that help motivate parties to participate in dispute resolution processes? Do you have evidence of what does not work?
3. Some evidence suggests that mandatory dispute resolution gateways, such as the Mediation Information & Assessment Meeting (MIAM), work well when they are part of the court process. Do you agree? Please provide evidence to support your response.
4. Anecdotal evidence suggests that some mediators or those providing related services feel unable to refer parties to sources of support/information – such as the separated parents’ information programme in the family jurisdiction – and this is a barrier to effective dispute resolution process. Do you agree? If so, should mediators be able to refer parties onto other sources of support or interventions? Please provide evidence to support your response.
5. Do you have evidence regarding the types of cases where uptake of dispute resolution is low, and the courts have turned out to be the most appropriate avenue for resolution in these cases?
6. In your experience, at what points in the development of a dispute could extra support and information be targeted to incentivise a resolution outside of court? What type of dispute does your experience relate to?
7. Do you have any evidence about common misconceptions by parties involved in dispute resolution processes? Are there examples of how these can be mitigated?

## B. Quality and outcomes

We want to ensure that parties are supported to use the best processes. As well as measures such as engagement/settlement rates and the perceptions of parties, it is important that parties achieve quality outcomes i.e. problems can be resolved effectively, fairly, and with minimal cost and delay for parties.

1. Do you have evidence about whether dispute resolution processes can achieve better outcomes or not in comparison to those achieved through the courts?
2. Do you have evidence of where settlements reached in dispute resolution processes were more or less likely to fully resolve the problem and help avoid further problems in future?
3. How can we assess the quality of case outcomes across different jurisdictions using dispute resolution mechanisms, by case types for example, and for the individuals and organisations involved?
4. What would increase the take up of dispute resolution processes? What impact would a greater degree of compulsion to resolve disputes outside court have? Please provide evidence to support your view.
5. Do you have evidence of how unrepresented parties are affected in dispute resolution processes such as mediation and conciliation?
6. Do you have evidence of negative impacts or unintended consequences associated with dispute resolution schemes? Do you have evidence of how they were mitigated and how?
7. Do you have evidence of how frequently dispute resolution settlements are complied with, or not? In situations where the agreement was not complied with, how was that resolved?
8. Do you have any summary of management information or other (anonymised) data you would be willing to share about your dispute resolution processes and outcomes? This could cover volumes of appointments and settlements, client groups, types of dispute, and outcomes. If yes, please provide details of what you have available and we may follow up with you.

## C. Dispute resolution service providers

We are keen to gain a greater understanding of the Dispute Resolution workforce and how they are currently trained, how standards of work are monitored and how quality is assured to users of their services.

1. Do you have evidence which demonstrates whether the standards needed to provide effective dispute resolution services are well understood?
2. Do you have evidence of the impact of the standard of qualifications and training of dispute resolution service providers on settlement rates/outcomes?
3. Do you have evidence of how complaints procedure frameworks for mediators and other dispute resolution service providers are applied? Do you have evidence of the effectiveness of the complaints’ procedure frameworks?
4. Do you think there are the necessary safeguards in place for parties (e.g. where there has been professional misconduct) in their engagement with dispute resolution services?
5. What role is there for continuing professional development for mediators or those providing related services and should this be standardised?
6. Do you have evidence to demonstrate whether the current system is transparent enough to enable parties to make informed choices about the type of service and provider that is right for them?

## D. Financial and economic costs/benefits of dispute resolution systems

We are keen to get more evidence around the possible savings of dispute resolution processes. We seek evidence to help us understand the economic differences between dispute resolution processes.

1. What are the usual charges for parties seeking private dispute resolution approaches? How does this differ by case types?
2. Do you have evidence on the type of fee exemptions that different dispute resolution professionals apply?
3. Do you have evidence on the impact of the level of fees charged for the resolution process?
4. Do you have any data on evaluation of the cost-effectiveness or otherwise of dispute resolution processes demonstrating savings for parties versus litigation?

## E. Technology infrastructure

We are interested to learn what evidence informs the potential for technology to play a larger role in accessing dispute resolution. Although we are aware of many domestic and international platforms, we must continue learning from new and novel approaches to digital technology that can remove barriers to uptake, improve the user experience, reduce bureaucracy and costs, and ultimately improve outcomes for parties.

1. Do you have evidence of how and to what extent technology has played an effective role in dispute resolution processes for citizens or businesses?
2. Do you have evidence on the relative effectiveness of different technologies to facilitate dispute resolution? What works well for different types of disputes?
3. Do you have evidence of how technology has caused barriers in resolving disputes?
4. Do you have evidence of how an online dispute resolution platform has been developed to continue to keep pace with technological advancement?
5. Do you have evidence of how automated dispute resolution interventions such as artificial intelligence-led have been successfully implemented? How have these been reviewed and evaluated?

## F. Public Sector Equality Duty

We are required by the Public Sector Equality Duty to consider the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people in shaping policy, delivering services and in relation to our own employees.

1. Do you have any evidence on how protected characteristics and socio-demographic differences impact upon interactions with dispute resolution processes?
2. Do you have any evidence on issues associated with population-level differences, experiences and inequalities that should be taken into consideration?

## G. Additional evidence

Please share additional evidence in relation to dispute resolution, not covered by the

questions above, that you would like to be considered as part of this Call for Evidence.