



TRIBUNALS  
JUDICIARY

**PRACTICE STATEMENT  
FIRST-TIER TRIBUNAL (TAX CHAMBER)**

**ALTERNATIVE DISPUTE RESOLUTION IN TAX DISPUTES**

This Statement has been made by the Chamber President, with the approval of the Senior President of Tribunals, and sets out the Tribunal's practice in appeals against HMRC decisions where the parties wish to engage in Alternative Dispute Resolution (ADR) after an appeal has been made to the Tribunal.

ADR can also be used before an appeal has been made to the Tribunal. This should be discussed with HMRC directly.

**Your statutory appeal rights are not affected by ADR and you must still appeal to the Tribunal in time.**

**WHAT IS ADR?**

ADR is a different way of dealing with a tax dispute with HMRC. It is a confidential process between you and HMRC that aims to:

- help you resolve disputes in a cost-efficient way, or
- reach agreement on which issues need to be decided by the Tribunal.

ADR gives you the option of using an impartial HMRC officer who is specially trained in dispute resolution and has not been involved in your dispute. The person leading the ADR acts as a neutral, third party "mediator" or "facilitator". They will work together with you and the HMRC caseworker to help you both explore ways of resolving the dispute through meetings and telephone conversations. They do not take over responsibility for the dispute.

An external single mediator may be appointed in certain circumstances with the agreement of HMRC, or you can appoint your own mediator or facilitator to work alongside HMRC's mediator and, by agreement with HMRC, as a co- mediator or co- facilitator.

**HOW TO APPLY FOR ADR**

ADR is not automatic. You need to apply to HMRC to use ADR. HMRC will consider your application and decide whether ADR is appropriate in your case.

HMRC currently only use ADR in cases categorised by the Tribunal following the making of an appeal as "standard" or "complex" under rule 23(2) of the Tribunal Procedure (First-tier) (Tax Chamber) Rules 2009 ('FTT Rules').

**HOW IS THE TRIBUNAL INVOLVED?**

Rule 3(1) of the FTT Rules provides:

"The Tribunal should seek, where appropriate-

- (a) to bring to the attention of the parties the availability of any appropriate alternative procedure for the resolution of the dispute; and
- (b) if the parties wish and provided that it is compatible with the overriding objective, to facilitate the use of the procedure."

The purpose of this Practice Statement is to further the Tribunal's obligation under rule 3(1)(a). All parties should consider whether ADR may be appropriate and to keep the possibility of ADR in mind as the appeal progresses.

The overriding objective in rule 2 of the FTT Rules includes avoiding unnecessary formality and providing flexibility in the proceedings while also avoiding delay.

For the Tribunal to facilitate the use of ADR and meet the overriding objective, it is important that you keep the Tribunal informed of any developments.

#### **HOW AND WHEN WILL THE TRIBUNAL FACILITATE THE USE OF ADR?**

If HMRC accepts your application for ADR, you should inform the Tribunal as soon as possible. The Tribunal will usually be willing to stay proceedings in order to facilitate the use of ADR at any stage of the proceedings, including after HMRC have served their Statement of Case or the parties have exchanged lists of documents or witness statements. A stay means that the proceedings are temporarily put on hold. The Tribunal will normally allow a stay of 150 days where an appeal has been accepted for ADR. If you need more time to complete the ADR process, you must ask the Tribunal to grant the parties further time.

Where parties wish to use ADR after a hearing date has been set, the Tribunal will only be willing to stay proceedings if satisfied that the hearing will be able to go ahead on the date set if ADR does not resolve the dispute.

At the end of the ADR process, you should let the Tribunal know as soon as possible whether the dispute has been resolved. If the dispute is not resolved, the Tribunal will still hear your appeal as normal. You may also wish to ask the Tribunal for further case management directions, for example, permission to amend your grounds of appeal or to submit further evidence.

Further guidance from HMRC on the ADR procedure and when a case is appropriate for ADR can be found at <https://www.gov.uk/guidance/tax-disputes-alternative-dispute-resolution-adr> which is being updated to reflect this Statement and HMRC's fact sheet FS21 and/or from your professional adviser.

Judge Greg Sinfield  
Chamber President

15 June 2020