

## Alternative Dispute Resolution

- Ensure all mobiles are switched off.
- Feel free to ask questions – just raise your hand first.
- Have your précis notes (chapter 3 of “OCR Law for AS”) to hand so they can be checked.



## Alternatives to the Courts

Why do we need alternative ways of resolving disputes?

Draw a table showing the strengths and weaknesses of the civil court process.

## Encouraging ADR...

- Woolf report recommended more use of ADR.
- Judges now have a duty to encourage ADR.
- 1999 Civil Procedure Rules allow judges to “stay” court proceedings so ADR can be tried first.

## ADR Methods

- Negotiation
- Mediation
- Conciliation
- Arbitration



- Also, some consider domestic tribunals to be a form of ADR.

## Negotiation

- Dispute resolution at its simplest
- Generally quicker and cheaper than other methods.
- How may the doctrine of Judicial Precedent help parties reach a settlement?

## Mediation

- Neutral mediator helps parties reach a compromise solution.
- Aim is to encourage the parties to find common ground.
- Mediator does not suggest solutions.

## Mediation Questions...

1. Give examples of the types of cases where mediation is often used.
2. What is a "formalised settlement conference"?
3. What is the typical cost of a mediator? How does this compare to the cost of going to court?

## Conciliation

- Neutral third party plays an active role in suggesting a solution.
- Process is now generally regarded as another form of mediation.
- Often used in unfair dismissal cases.

## Arbitration

- Both sides agree to let a third party decide a solution.
- Arbitrator may be a lawyer or, alternatively, an expert in the field of the dispute.
- Either way, the decision is legally binding.

## Arbitration Act 1996

- Private arbitration is now governed by the Arbitration Act 1996.
- Write out s.1 Arbitration Act 1996 in your own words.
- What does it say?

## Scott v Avery Clause

- Included in many commercial contracts (see example on p.35).
- Court will refuse to deal with the dispute.
- Why do you think many companies include these clauses in their contracts?

## Pros and Cons...

In pairs, produce a list showing the advantages and disadvantages of the different methods of ADR.





## ADR in Practice

- **It is important to be able to give examples of when / where / how ADR is used in practice.**
- Produce a chart with column 1 listing the different types of ADR and column 2 giving examples of when they are used in practice.



## Exam Question...

Plan, then write, answers to the examination questions on page 36 of "*OCR Law for AS*".