

Alternative Dispute Resolution Small & Medium Enterprises Pilot

Frequently asked questions

1. What is Alternative Dispute Resolution (ADR)?

Traditionally tax disputes are settled either by litigation or, in the majority of cases, by out of court agreement following discussions between the two parties. The essence of ADR is, in this pilot, that a third party HM Revenue & Customs (HMRC) facilitator is brought in with the agreement of both parties to facilitate a resolution to the dispute to the satisfaction of both parties.

2. What is the purpose of this pilot?

This pilot is testing the effectiveness of a new way of resolving disputes through the introduction of an independent HMRC third party facilitator.

3. What are the potential benefits of taking part?

Participation in the pilot may shorten the time of your Compliance Check and help you resolve your dispute without having to go to the Tribunal, potentially saving you time and money.

4. What is the role of the facilitator?

The facilitator will help all parties to obtain a shared and full understanding of the disputed facts and arguments. The facilitator will ensure that there is proper communication between the parties and may help to explain what one or other side is trying to say to the other.

The facilitator will not impose their views on either party.

5. Who is the facilitator?

The facilitator is an HMRC member of staff who has received training in ADR techniques and who has had no prior involvement in the dispute.

6. How do you decide if my request for ADR will be accepted?

Firstly, we will see if there is facilitator resource available to help. If there is, the facilitator will check to see if an appealable decision or assessment has been made or if the parties have given the Compliance Check process a reasonable amount of time to resolve matters in the usual way. Finally, the facilitator will assess the potential for resolving the dispute, with reference to the case selection criteria in the introductory note on the HMRC web page and in conjunction with the pilot team make a decision on whether or not to begin the ADR process.

7. When will I know if my request for ADR has been successful?

Normally within 30 days.

8. What will happen if you cannot accept my request?

We will write to you and tell you why. The pilot team will then contact the manager of the HMRC officer who is working your case. The manager will be told that you would like to resolve the dispute and the pilot team will ask the manager to plan how this might be achieved. The pilot team will monitor disputes to see what steps have been taken. If your request for ADR was declined because of a lack of availability of facilitator resource and little or no progress has been made after 3 months then you can make another ADR request.

9. If my request is accepted, how will this process work?

We will write to you with the name and contact details of the facilitator. The facilitator will then, after having familiarised themselves with the main issues, contact you to develop a process that meets your needs and wishes. You will also be asked to complete a simple ADR Memorandum of Understanding confirming your participation and commitment to ADR. This is standard practice in all Dispute Resolution wherever it is used. The facilitator's aim is always to work in the way that you prefer, wherever this is practical.

10. Will participation in the pilot result in the agreement of reduced liability?

Not necessarily. The aim of the pilot is to bring all sides together in an atmosphere of constructive evaluation and negotiation, so that the correct liability may be agreed wherever possible without recourse to formal tribunal processes. Many factors will decide if ADR will work in your dispute, so a successful outcome cannot be guaranteed.

11. What if the dispute is not resolved?

If your dispute cannot be resolved it is hoped that both you and HMRC will have obtained a clearer understanding of each other's position. This might make either party re-consider their position and/or help all sides limit the potential costs of any eventual Tribunal preparation.

12. Is participation voluntary?

Yes, participation is entirely voluntary. You may withdraw from ADR at any point.

13. Does taking part in the pilot in any way limit my review or appeal rights?

No. Your review and appeal rights will be unaffected.

14. Can my representative, ie the person who handles my tax affairs, take part in the process?

Yes. It is normal practice for HMRC to contact whoever has previously been dealing with HMRC.

15. I am not represented - should I be?

Our customers are always entitled to appoint a representative and it is entirely a matter for you if you wish to be represented.

16. If I choose not to be represented, what help, if any, would be available to me?

One of the facilitator's key roles is to assist unrepresented customers, by using plain language and ensuring understanding at all times. They will help explain unrepresented customers' points of view to the HMRC officer. The facilitator will not move the process forward until you are entirely clear of the issues in your dispute and how they may be resolved.

17. Will I have the chance to make points of my own?

Yes. This process will provide a further opportunity for any area of the dispute to be revisited and for all arguments and evidence to be reviewed. Any point that either party wishes to be considered will be taken into account, even if it is a point that has not been made before.

18. How long is this process likely to take?

The ADR Memorandum of Understanding includes a timetable. It is flexible and can be re-visited depending on progress. ADR should allow for a full exploration of the issues involved and careful consideration of how best to resolve them. In our experience so far, the dispute usually takes less than two months to either resolve or reach a stage where both parties agree to differ.

19. How will agreement be reached?

If any agreement is reached, it will be between you and the HMRC officer who was originally dealing with the case. As previously indicated, the facilitator's role is to help both parties to reach this point wherever possible.

20. What happens if agreement is reached?

If agreement is reached, the usual means of settlement will be used. This will differ slightly, depending on the type of tax involved. A written summary of the agreement reached can be provided, should you wish it.

21. What happens if agreement is not reached?

If, after further discussions, no agreement has been reached between the parties, the facilitator will advise on the options available to both parties.

22. Will HMRC charge me a fee to take part in the pilot?

No.

23. What happens at the end of the process?

Whether or not your dispute has been resolved, HMRC will ask you, and if you have one, your representative, to complete a brief questionnaire to tell us about your experience and about any improvements you think HMRC could make to the process.

24. Can I apply for ADR wherever I live in the UK?

Yes.

25. How do I apply for ADR?

By using the quick and simple online facility on the HMRC [webpage](#). If there are exceptional circumstances which prevent you from applying online, please contact Carrol O'Neill on Tel 01452 397088, who will process your request.

For general background information about the SME pilot please contact the ADR Trial Manager, David Croad, on Tel 0117 372 2264 or email david.croad@hmrc.gsi.gov.uk. For information on the Individual Customer Segment Pilot please contact Graham Nichols, on Tel 01522 884267 or email graham.nichols@hmrc.gsi.gov.uk.