

DISPUTE RESOLUTION MATRIX

Process	Party Autonomy Appointment / process	Formality	Effectiveness Enforceability
Self Help	YES	INFORMAL	SOMETIMES
Negotiation	YES	INFORMAL	SOMETIMES
Pre-trial Negotiation	YES but lawyers take the lead	INFORMAL	SOMETIMES
Conciliation Binding	NO – usually a pre-set format	DEPENDS ON CONCILIATOR	YES : No control over outcome : Review ?????
Conciliation Non-Binding	YES – perhaps but format usually pre-set	INFORMAL	MAYBE Not enforceable
Mediation	YES – Format in contract	INFORMAL	SOMETIMES
Courts	NO	FORMAL	YES No control over outcome
Tribunals	NO	SEMI FORMAL	YES
Ombudsmen	NO	Not Applicable	POSSIBLY
Adjudication Statutory	YES for one party to appointment Joint autonomy only for process subject to minimum statutory requirements	INFORMAL Hearings rare	YES but only temporarily binding Results in immediate payment but subsequent challenge possible. Judicial Review No control over outcome
Adjudication Voluntary	YES for appointment – agreed by parties in the contract. Joint autonomy only, for process	INFORMAL Hearings rare	YES but only temporarily binding Results in immediate payment but subsequent challenge possible : Judicial Review No control over outcome
Expert Determination	YES for appointment NO for process	No hearings Not applicable	YES : Judicial Review – appeal or challenge possible
Arbitration	YES for appointment Joint autonomy only, for process	MAYBE Joint party autonomy over the process Parties can choose – but invariably less formal than the courts.	YES Binding award, but subject to both judicial review and to appeal or resistance during enforcement proceedings. Internationally enforceable. No control over outcome
Judicial Review	NO	FORMAL	YES – but a review of process not merits

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Flexibility	Privacy	Speed	Cost of process and representation	Legal / Self Representation
VERY	MAYBE	YES	LOW	Not applicable
VERY	YES	CAN BE	LOW	EITHER
VERY	YES	CAN BE	STANDARD RATES	LEGAL
VERY	MAYBE	CAN BE	VARIABLE	EITHER
VERY	YES	CAN BE	VARIABLE	EITHER
VERY	YES	QUICK	VARIABLE – not always cheap	EITHER
NO	NO	SLOW	HIGH	LEGAL
NO	NO	REASONABLE	VARIABLE	EITHER
NO	NO	VARIABLE	NONE	NONE
VERY Adjudicator chooses process and acts inquisitorially	YES Subject to later court action	28 DAYS Statutory Process with 7 day submission time and right to 14 day extension	LOW – normally restricted to scope of reference so there may be many adjudications related to a project	EITHER Professional non legal representation common – mostly paperwork only
VERY Adjudicator chooses process and acts inquisitorially	YES Subject to later court action	As above – subject to terms of contract – likely to be quick	LOW – normally restricted to scope of reference so there may be many adjudications related to a project	EITHER Professional non legal representation common – mostly paperwork only
YES for expert	YES	YES – time scale set in contract	LOW – Professional rates	NONE – paper only
YES, may be agreed in contract : subsequently joint autonomy only, over the process	YES But privacy may be jeopardised by enforcement proceedings or by appeal	REASONABLY QUICK Fast tract arbitration is normally pre-set to very short time schedules	VARIABLE Considerable party autonomy as to choice of procedure Can be dearer than the courts if the parties require long hearings etc.	EITHER Professional non legal representation common
NO	NO	YES	REASONABLE	LEGAL

