

ADR access to justice literature review published

Dec 19, 2014

A new report into the various methods for resolving conflicts outside of the court has been published as part of a review of the arrangements for the use of alternative dispute resolution (ADR) methods in Scotland.

The Scottish Civil Justice Council (SCJC) Access to Justice Committee has published a literature review on ADR, which provides an outline of the different ADR methods and the current state of ADR in Scotland.

The paper also considers the different approaches to ADR in other jurisdictions, and the approach of the EU.

In 2009, the Scottish Civil Courts Review (SCCR) reported that the civil justice system should encourage early resolution of disputes, that cases should be dealt with proportionately and that efficient use should be made of resources.

The SCCR considered it right that the courts should ensure that litigants and potential litigants are fully informed about the various ADR options which are available to them, but concluded that ADR should not be compulsory.

It was recommended that ADR should be encouraged in any type of case, and at any stage of a case, but only where that would be appropriate.

The SCJC Access to Justice Committee's paper states that consideration should be given to the information available to parties, whether ADR should be compulsory or voluntary, and the timing of ADR.

The review states: *"If freedom of choice is to be considered key, then perhaps it would be fitting to ensure that litigants, and potential litigants, have all of the information necessary to enable them to: be aware of what ADR methods are available to them; understand the advantages and disadvantages of ADR; and understand how ADR differs to judicial determination"*.

The Committee will make recommendations to the SCJC as to any ADR policy which it considers should be adopted and where appropriate will provide draft rules for the Council's consideration.

A copy of the report is available to download [here](#).