

## Factsheet

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# ALTERNATIVE DISPUTE RESOLUTION (ADR)

The complaints process administered by the NSW Architects Registration Board (the 'NSW ARB') is an effective mechanism to investigate architects who may have acted in an unprofessional or incompetent manner. Nevertheless, the NSW ARB regularly receives enquiries about issues that may be better resolved through an alternate means of dispute resolution.

This Factsheet outlines an alternative dispute resolution (ADR) pathway for clients and their architects that is agile and responsive to concerns in relation to the professional conduct of an architect.

### What is the ADR pathway operated by the NSW ARB?

The ADR pathway operated by the NSW ARB allows both parties in a dispute to seek a resolution to the issue in an informal and impartial setting. It consists of a mediation service in which the parties engage with each other and endeavour to reach an agreement. An impartial mediator assists the parties by facilitating and directing the conversation.

### Is my matter suited to ADR?

The NSW ARB applies the following test when assessing the suitability of an application for ADR:

- Are both parties willing and open to achieving a resolution in good faith?
- Is the issue related to a current, pressing, or urgent matter that would benefit from ADR?
- What is the likelihood that the issue will be resolved through ADR?
- Is ADR likely to prejudice any related proceedings?

The NSW ARB may also consider other matters in assessing the suitability of an application for ADR.

### Who selects the mediator?

Parties are encouraged to agree on a mediator from a pool of mediators identified by the NSW ARB as having relevant expertise.

### How do I apply to access ADR?

To apply to access ADR, you should first contact the NSW ARB to request the application form by sending an email to [regulation@architects.nsw.gov.au](mailto:regulation@architects.nsw.gov.au).

### What happens when the ADR application is received by the NSW ARB?

When the ADR application is received by the NSW ARB, the Registrar will consult the Board's Legal Member to confirm whether the application is considered eligible and suitable for ADR. Depending on which party has initiated the ADR (the client or the architect), the Registrar will contact the other party to advise of the receipt of the ADR application and to seek an initial response to the issues of concern.

Both parties will be issued with a list of pre-qualified mediators who are available to conduct the mediation. The parties must agree on the selection of a mediator, and the date and time for the mediation. A mediation will usually comprise the mediator (chair), the client, and the architect. Legal representation through the ADR process is discouraged to optimise the chance of parties resolving issues between themselves.

All communications and negotiations during the ADR process, once commenced, are on a without prejudice basis and confidential to the participants in the process, the mediator, and the NSW ARB. This approach is designed to create a forum that encourages open and honest debate of the issues, with a focus on achieving a satisfactory outcome.

Nothing in the ADR process removes the option available to the client pursuant to [Part 4 of the Architects Act 2003](#) to make a formal complaint about the professional conduct of an architect and for the Board to investigate that complaint. For more information, refer to the [Factsheet on Making a Complaint About an Architect](#).

### **What does ADR cost?**

Each party to the dispute is required to pay a fee that covers all costs including:

- Preliminary briefing of the mediator by the Registrar of up to one hour; and
- One mediation session of up to 3 hours.

The cost per party is \$1,300 (including GST), which is directly payable to the NSW ARB.

### **Where does the ADR take place?**

The mediation session is held face-to-face at the office premises of the NSW ARB at Level 2, 156 Gloucester Street, Sydney.

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