



Bar Council response to the Alternative Dispute Resolution Consultation

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Civil Procedure Rules Committee's consultation paper entitled *Alternative Dispute Resolution Consultation in light of Churchill v Merthyr Tydfil: Proposed Rule Changes*.¹
2. The Bar Council represents nearly 18,000 barristers in England and Wales. It promotes the Bar's high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board.

Overview

4. The Bar Council approves all the proposed amendments below.

Question 1. Amendments to 1.1: Inclusion of part (f) *using and promoting alternative dispute resolution*.

5. The Bar Council approves this amendment.

¹ Civil Procedure Committee, 2024, *Alternative Dispute Resolution Consultation in light of Churchill v Merthyr Tydfil: Proposed Rule Changes*. [adr-consultation-document.pdf](#) ([publishing.service.gov.uk](#)). Rule amendments: [adr-rule-amendments.pdf](#) ([publishing.service.gov.uk](#))

Question 2. Amendments to 1.4: Amendment to part (e) *encouraging or ordering the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure.*

6. The Bar Council approves this amendment.

Question 3. Amendments to 3.1: Inclusion of part (o) *order the parties to participate in alternative dispute resolution.*

7. The Bar Council approves this amendment.

Question 4. Amendments to 28.7: Inclusion of part (d) *whether to order or encourage the parties to participate in alternative dispute resolution*

8. The Bar Council approves this amendment.

Question 5. Amendments to 28.14: Inclusion of part (f) *whether to order or encourage parties to participate in alternative dispute resolution.*

9. The Bar Council approves this amendment.

Question 6. Amendments to 29.2: Inclusion of (1A) *When giving directions, the court must consider whether to order or encourage parties to participate in alternative dispute resolution.*

10. The Bar Council approves this amendment.

Question 7. Amendments to 44.2: Inclusion of the part (e) *Whether a party failed to comply with an order for alternative dispute resolution, or unreasonably failed to participate in alternative dispute resolution proposed by another party.*

11. The Bar Council approves this amendment.

Bar Council²
07/05/2024

² Prepared for the Bar Council by the Alternative Dispute Resolution Panel.

*For further information please contact
Rowan O'Neill, Policy Analyst: Legal Practice and Remuneration
The General Council of the Bar of England and Wales
289-293 High Holborn, London WC1V 7HZ
Email: ROneill@BarCouncil.org.uk*