

An Investigation Into The Nature and Role of Non-settled ADR in the English Civil Justice system

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1. Brief summary of what the research is about.	Drawing on doctrinal and empirical research, this paper advocates the need for a more pragmatic understanding and application of what is meant by a 'successful' ADR. It will argue for the need to re-orientate our understanding of what constitutes a 'successful' ADR to enable those who engage with the civil justice system (the parties, their lawyers and the judiciary) to perceive the ADR process as a success both when it produces an immediate settlement <i>and</i> when it does not but has the potential to provide the parties and the court with potential future benefits. It will be argued that this will then help promote a more integrated approach to Briggs LJ's nuanced approach to dispute resolution. In his <i>Chancery Modernisation Review</i>,¹ Briggs LJ called for a change in culture and understanding towards the role of the courts in managing cases. His Lordship spoke of the need for the courts to manage cases to a resolution, which would now include ADR, rather than simply managing cases through to trial and judgment. This would then have the effect of eschewing the traditional and historic divide between judicial management of disputes to court adjudication on the one hand and ADR on the other, so that we have 'dispute resolution management.'²	
2. What are the research	Do the parties understand the potential of the ADR process as an issues narrowing tool? If they do,	

questions?	to what extent do the parties actually utilise the ADR process to try to narrow issues between them as well as seeking a settlement on the day? To what extent are issues narrowed and does this necessarily lead to future settlement? Can any benefits (such as the narrowing of the issues) be taken from the ADR process and be potentially utilised for more efficient judicial case management? And to what extent does this impact on the orthodox understanding of a 'successful' ADR?
3. What, if any, outputs so far?	Preliminary findings from empirical data presented at the Society of Legal Scholars, University of York, 2015.
4. What outputs are planned?	Journal article
5. What is the anticipated impact?	To improve understanding of parties, practitioners and courts of the potential benefits of non-settled ADRs in assisting future settlements, narrowing the issues in dispute and improving efficiency of judicial case management.
6. Comments / additional information / requests for data or input from the broader administrative justice community	

¹ Briggs, *Chancery Modernisation Review* (n 13).

² *ibid* Chapter 5.