

# HERE ARE SOME ALTERNATIVES TO COURT

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If you ask our Brisbane family law firm what alternatives to court exist... We can say that the ideal scenario in every situation is that an amicable agreement can be reached. However, it cannot always be achieved. It is well documented that it is a lengthy wait for a final hearing in court. There are, however, a number of potential other options available to parties seeking to resolve their dispute without proceeding to a final trial. So, what are they?

Your solicitor will be able to guide you to which option or options are best suited to your case, however a short summary of some of the options available are set out below.

## 1. Mediation/Family Dispute Resolution

A mediation is a voluntary process and is conducted on a 'without prejudice' basis. This means that except in very limited circumstances neither party can later give evidence about what was discussed at the mediation.

A mediator will not force a decision upon a party. But if an agreement is reached, they will provide you with a record of your agreement, which can be drawn up into a binding agreement later, by your lawyer.

It is the mediator's job at the mediation to control the process. Mediators will often make decisions on the process of the mediation as the mediation unfolds, taking into account what they think will best help parties to reach resolution.

## 2. Round Table Conference

A 'round table' conference is an informal mediation, conducted without a mediator with your lawyer. An expert who may assist with settlement negotiations, like an accountant, may also attend the conference.

Like a mediation, a round table is a voluntary process and is conducted on a 'without prejudice' basis.

## 3. Conciliation Conference

A conciliation conference is a compulsory court ordered mediation that provides an opportunity for the parties to attempt to settle their dispute. The conciliation conference is conducted by a Registrar of the court.

Attendance of the parties and their lawyers is usually compulsory. The conference like a mediation is conducted on a 'without prejudice' basis.

## 4. Collaborative Law

The collaborative law process has parties each engaging a lawyer, who has undertaken collaborative training to assist them in negotiating a settlement. At Michael Lynch Family Lawyers, directors [Tarah](#) and [Amy](#) and senior associate [Debra](#) are all collaboratively trained lawyers. Settlement negotiations will usually be conducted with the assistance of other jointly engaged experts like accountants, counsellors and psychologists.

The parties and their lawyers enter into a written agreement that during the process the parties will not litigate or threaten litigation in relation to their dispute. If the collaborative process is not followed or the process does not resolve the dispute, the agreement is terminated and the lawyers for both cannot represent the separating couple in any subsequent litigation and the parties are referred to new lawyers.

## 5. Arbitration

Family law arbitration is a process where the matters in dispute are referred to an arbitrator who determines an outcome and makes any awards necessary to finalise the dispute between the parties. Both parties must agree to 'opt in' to arbitration.

Parties can refer a matter to arbitration even if court proceedings have been commenced. At this time, arbitration is only available for property and financial matters – parenting matters cannot be resolved via arbitration.

The "award" (decision) made by the arbitrator determines the issues between the parties on a final basis and is legally binding.