

Judicial Alternative Dispute Resolution Hearings 2021

1. The First-tier Tribunal Special Educational Needs and Disability will list certain types of appeals for judicial alternative dispute resolution (JADR) hearings. These will be cases which only involve Section I of an EHC plan.
2. The JADR hearing will be listed after the final evidence date and approximately 5 days before the date of the final hearing. It will have an estimated length of up to 1 hour.
3. The **purpose of the JADR hearing** is to support parties to resolve their disputes by agreement. At the hearing the judge, who has been trained in judicial mediation, will consider how to assist the parties to reach an agreement.
4. It may be possible for the judge at the JADR hearing to provide a view as to whether either party is being unrealistic, either in respect of the evidence provided to support the placement they propose or the grounds of appeal or response. In some cases, it may be possible for the judge to express an opinion as to the strength or weakness of the appeal or response (or parts of them).
5. It is important to stress that JADR hearings are **private, confidential hearings** and that the **judge who conducts the JADR hearing will not conduct the final hearing** in the case, if the parties cannot reach an agreement. If the judge expresses a view about the strength or weakness of the appeal or response, or about the strength of the evidence, that is not binding on the parties, but it is hoped that it will help them to reach their own agreement. **Anything said at the JADR meeting should be kept confidential, will not be recorded in the Order following the JADR and should not be referred to after that hearing.**
6. The judge may issue a consent order if an agreement is reached. If the parties are not able to reach agreement at the JADR hearing a short report will be prepared identifying the issues to be decided by the Tribunal and relevant legislative provisions to be taken into consideration.

7. It is important to stress that the purpose of the JADR hearing is to carry out the Tribunal's duty under rule 3 of the Tribunal Procedure Rules 2008 (as amended) to encourage the use by the parties of an alternative procedure for the resolution of the dispute and facilitate the use of the procedure if the parties so wish and to further the overriding objective set out in rule 2.

8. The overriding objective enables the Tribunal to deal with cases fairly and justly, which includes:

- ensuring that the parties are on an equal footing;
- dealing with cases in ways which are proportionate to the complexity and importance of the issues;
- avoiding unnecessary formality and seeking flexibility in the proceedings;
- avoiding delay, so far as compatible with proper consideration of the issues; and
- using any special expertise of the Tribunal effectively.

These principles will be applied in JADR hearings.

Although in exceptional circumstances, some necessary case management directions may be given by the judge at the JADR hearing, the purpose of the hearing will be to focus on ways of encouraging the parties to resolve their dispute by agreement. It would not be appropriate to consider directing further evidence or considering detailed disputes over a hearing bundle, at a JADR hearing.

5 January 2022