



# Alternative Dispute Resolution (ADR)



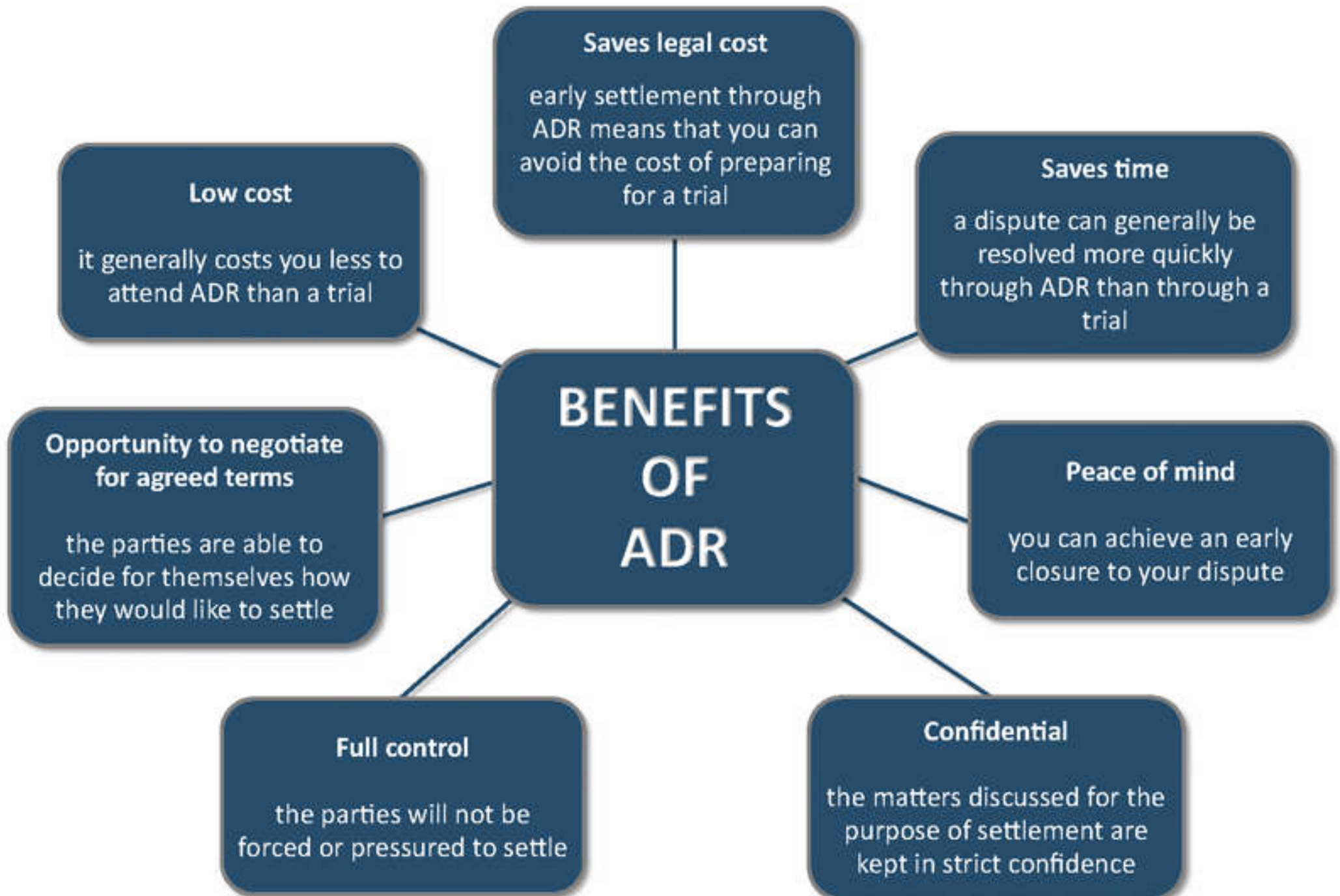
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# ADR



- Alternative Dispute Resolution (ADR)
  - Any method of resolving disputes without litigation (settle disputes outside of the courtroom)
- Why ADR? (替代性爭端解決方式)
  - The cost of litigation is normally high
    - Avoid expensive court costs
  - A dispute resolution process whereby the disagreeing parties can come to an agreement short of litigation (minimize the time and costs)

# Benefits of ADR



# ADR



- Videos & discussions:
  - Alternative Dispute Resolution (2:03)  
<https://youtu.be/TSGcTqmdSZc>
  - Chapter 3 Dispute Resolution (Part 1 of 3) (5:18)  
[http://youtu.be/8JXB\\_uziiFo](http://youtu.be/8JXB_uziiFo)
  - What are the Advantages of Alternative Dispute Resolution? (2:32) <https://youtu.be/6r8d6yy2Qu8>

# ADR



- Terminology
  - Litigation (訴訟) – the conduct of a lawsuit
  - Trial (審判)
  - Arbitration (仲裁)
    - Arbitrator (仲裁人)
  - Mediation (斡旋；調停)
  - Conciliation (調解)
  - Adjudication (裁定)



# ADR



- Arbitration (仲裁)
  - Arbitration agreement: Clause 35 of HK Standard Form of Building Contract
  - Appointment of an Arbitrator
  - Disqualification of an Arbitrator: Interest & Bias
  - Time at which arbitration may be opened
  - Arbitration procedure
  - Preliminary meeting, procedure at the hearing, awards, appeal, costs

# ADR



- Arbitration
  - Advantages and disadvantages
- Alternative Dispute Resolution (ADR)
  - Strengths of ADR
  - Weaknesses of ADR
  - Appropriateness of ADR
  - Misconceptions surrounding the use of ADR
  - Litigation/Arbitration procedures and ADR

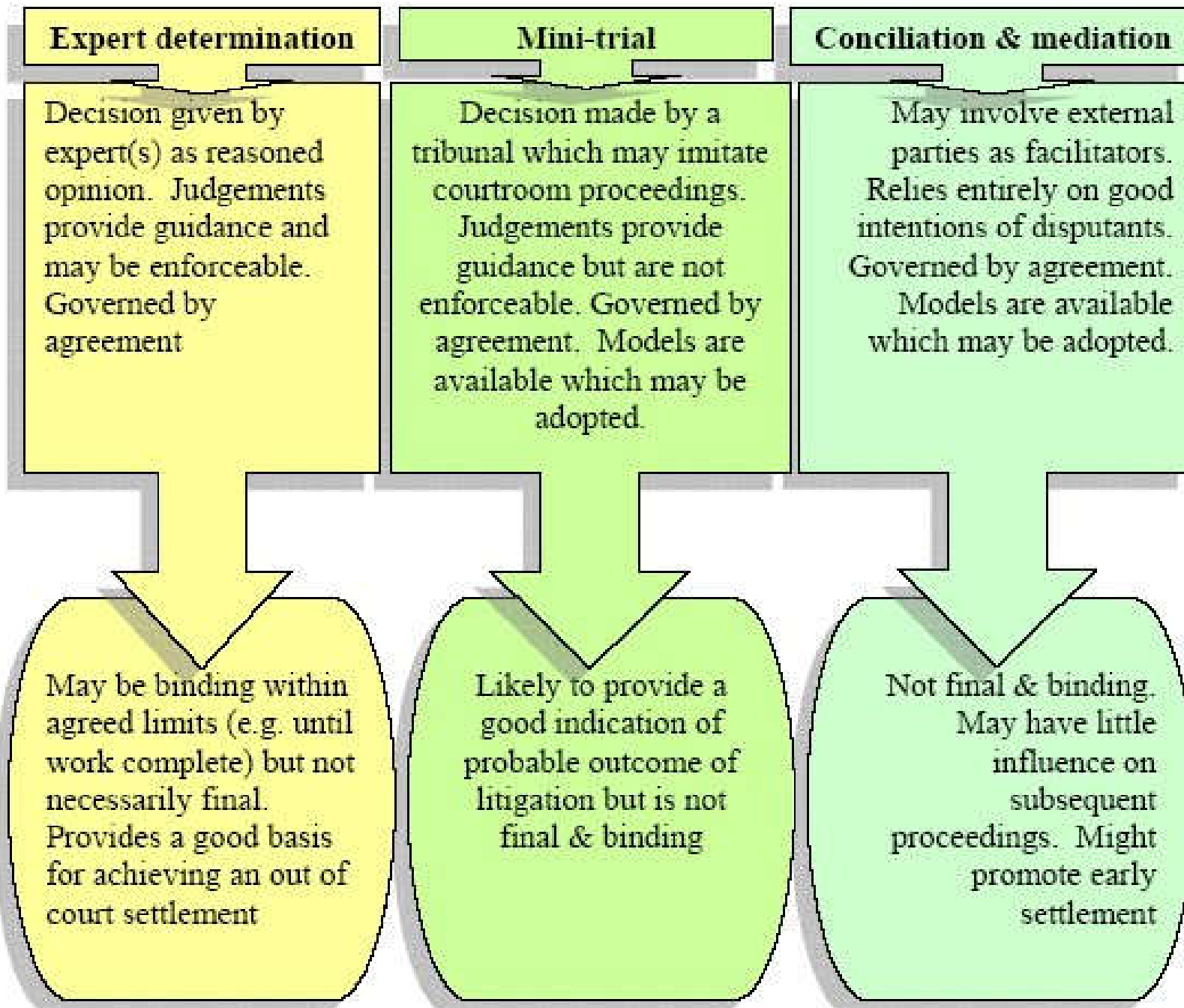
# ADR



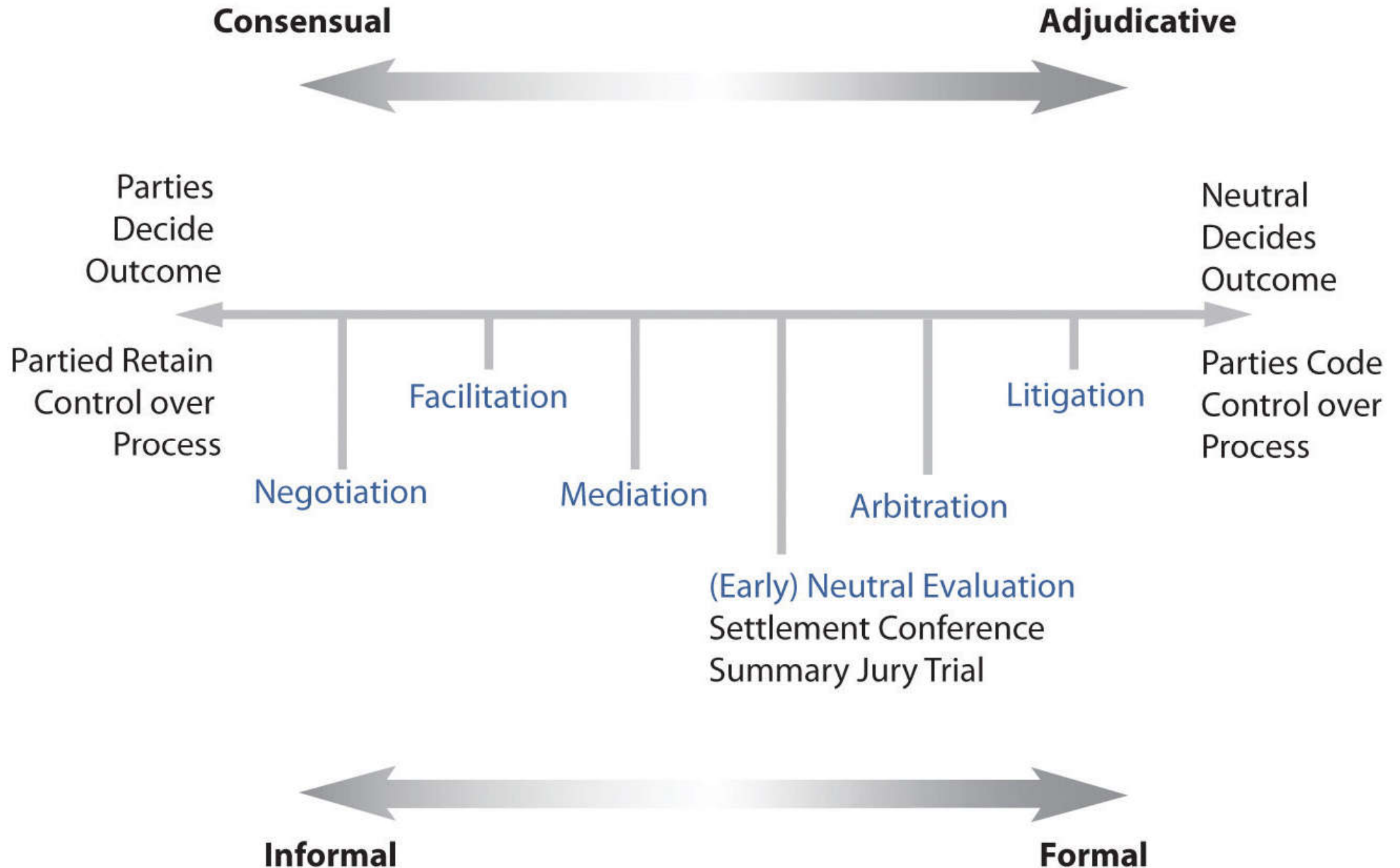
- ADR Techniques Examined and Compared
  - Mediation (斡旋；調停)
  - Conciliation (調解)
  - Adjudication (裁定)
  - Executive tribunal (mini-trial)
  - Expert appraisal
- FIDIC's Amicable Settlement Clause
  - For civil engineering work



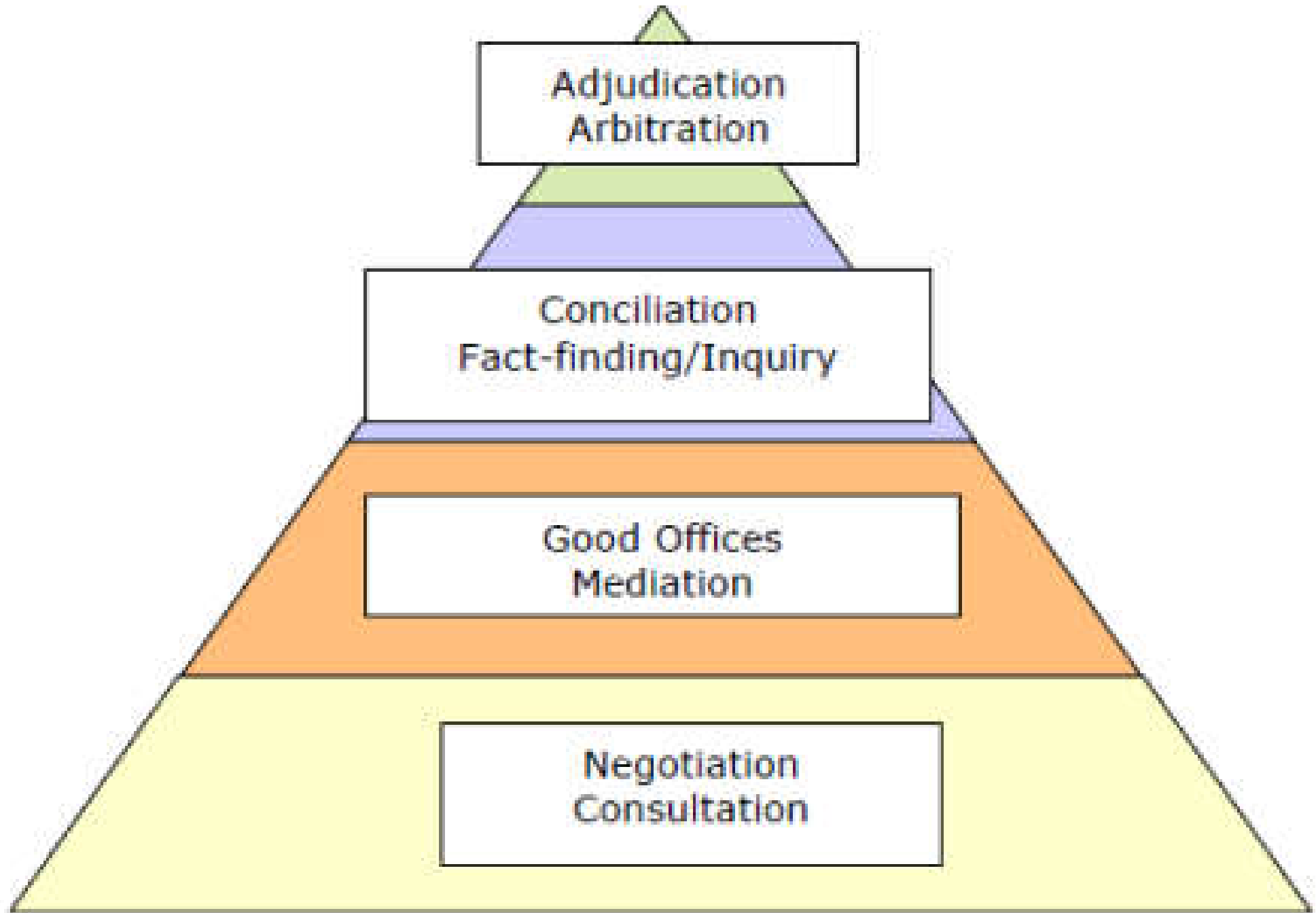
# Comparison of alternative construction dispute resolution procedures

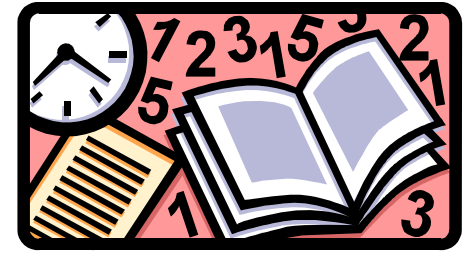


# The ADR Continuum



# Dispute avoidance mechanisms





# Further Reading

- Causes of construction disputes
  - [http://www.designingbuildings.co.uk/wiki/Causes\\_of\\_construction\\_disputes](http://www.designingbuildings.co.uk/wiki/Causes_of_construction_disputes)
- Arbitration
  - <http://www.designingbuildings.co.uk/wiki/Arbitration>
- Alternative dispute resolution
  - [http://www.designingbuildings.co.uk/wiki/Alternative\\_Dispute\\_Resolution](http://www.designingbuildings.co.uk/wiki/Alternative_Dispute_Resolution)
- Adjudication
  - <http://www.designingbuildings.co.uk/wiki/Adjudication>
- Conciliation
  - <http://www.designingbuildings.co.uk/wiki/Conciliation>
- Mediation
  - <http://www.designingbuildings.co.uk/wiki/Mediation>