

Report on the Practice of Judicial Dispute Resolution in Brunei Darussalam

1. Introduction

Mediation and alternative dispute resolution (“ADR”) in Brunei Darussalam (“Brunei”) form part of a wider judicial philosophy aimed at accessible, efficient, and amicable justice. This report focuses primarily on court-annexed mediation, which is directed or facilitated by the Judiciary as part of Judicial Dispute Resolution (“JDR”), and highlights other judicially managed mechanisms that share the same objectives.

Alongside formal court-annexed mediation, Brunei’s judicial system incorporates the Small Claims Tribunal (“SCT”) under the Small Claims Tribunals Act (Chapter 288 of the Laws of Brunei) and its subsidiary rules (the Small Claims Tribunals Rules) as a specialised forum for simplified dispute resolution.

Together with collaborations involving the Brunei Darussalam Arbitration Centre (“BDAC”), these mechanisms reflect a coherent national approach to fostering early settlement, procedural efficiency, and public access to justice.

2. Court-Annexed Mediation: Judicially Integrated ADR

The Judiciary has implemented a structured system of court-annexed mediation, combining proactive case management with alternative dispute resolution (“ADR”) principles. The practice is governed by two key documents: –

1. Practice Direction No. 1 of 2019: Case Management Conference (Intermediate Court)
2. Practice Direction No. 1 of 2021: Use of Alternative Dispute Resolution for Family Law Disputes

Together, these reflect Brunei’s judicial policy of embedding mediation within case management and family-law frameworks.

3. Court-Annexed Mediation in Civil and Intermediate Court Cases

3.1. Early Encouragement of Mediation

Under Practice Direction No. 1 of 2019, parties are required to consider mediation at the earliest opportunity. Before the first Case Management Conference (“CMC”), counsel must obtain client instructions on willingness to mediate or to pursue another ADR method. When invited by the court, parties must respond in writing within two weeks, indicating whether they consent to mediation.

3.2. Judicial Oversight

Judges and judicial officers play an active managerial role, empowered to encourage or direct mediation where appropriate. This approach exemplifies the JDR principle of early judicial intervention to facilitate settlement, aiming to reduce trial burdens and promote cooperation between parties.

4. Court-Annexed Mediation in Family Law Proceedings

4.1. Mandatory Mediation for Child-Related Matters

Practice Direction No. 1 of 2021 establishes mandatory, court-annexed mediation for divorce cases involving children under 18. The Court must order mediation unless such attendance is contrary to the welfare of the parties or the child (for example, where there is family violence). Both parties and their counsel must attend, ensuring informed participation and accountability.

4.2. The Family Dispute Resolution (“FDR”) Conference

Before mediation, parties attend an FDR Conference, where key issues are identified, documents exchanged, and dates fixed for mediation sessions. This procedural step crystallises disputes and ensures effective use of mediation time.

4.3. Conduct and Confidentiality

All mediations are held on a without-prejudice basis, and communications are confidential and inadmissible in subsequent proceedings. Agreements reached may be recorded as consent orders by the Judge in Chambers, ensuring enforceability.

4.4. Professional Responsibilities

Advocates and solicitors are under a professional duty to advise clients about mediation at the earliest possible stage, thereby reinforcing the culture of amicable resolution promoted by the Judiciary.

5. Institutional Commitment and International Recognition

The Judiciary has demonstrated a sustained commitment to integrating mediation into its judicial framework as part of its broader modernisation and access-to-justice agenda.

Through the issuance of Practice Directions, continuous judicial training, and partnerships with established regional ADR bodies, Brunei has aligned itself with global best practices in JDR.

Key initiatives include: –

1. the implementation of mandatory mediation in family proceedings under Practice Direction No. 1 of 2021;
2. the empowerment of judges to refer civil cases to mediation and actively manage settlement processes under Practice Direction No. 1 of 2019; and
3. ongoing training and accreditation of judges and judicial officers in mediation through collaborations with the Singapore Mediation Centre (“SMC”) and BDAC.

These efforts reflect the Judiciary’s dedication to developing a robust, court-led mediation culture that is compatible with international standards of judicial dispute resolution while maintaining sensitivity to Brunei’s own legal and cultural context.

6. Mediation Beyond the Judiciary

While this report centres on court-led mediation, it is important to note that Brunei also provides independent mediation services through such providers as BDAC. BDAC offers private, voluntary mediation for commercial and civil disputes, conducted by accredited mediators independent of the Judiciary. This framework complements court-annexed JDR, offering flexibility and choice for parties to resolve disputes before, during, or after litigation.

7. Small Claims Tribunal: Accessible Judicial Dispute Resolution

The Small Claims Tribunal (“SCT”), established under the Small Claims Tribunals Act and governed by the Small Claims Tribunals Rules, represents another form of judicially supervised dispute resolution in Brunei Darussalam. Though distinct from formal mediation, the SCT reflects the same underlying policy objective – promoting early settlement, efficiency, and access to justice through simplified, informal, and conciliatory procedures

7.1. Jurisdiction and Purpose

The SCT handles monetary disputes of up to BND 10,000, primarily involving contracts for the sale of goods, provision of services, or property damage not arising from motor vehicle accidents. It is designed to provide a low-cost, expedient, and accessible forum for individuals and small businesses.

7.2. Conciliatory and Non-Adversarial Procedure

Proceedings before the SCT are intended to be informal and participatory, with registrars and adjudicators adopting a conciliatory approach to help parties resolve disputes amicably before proceeding to determination.

Under rule 12 of the Small Claims Tribunals Rules, the Registrar must first fix a consultation for the parties – a process closely resembling mediation – to explore settlement opportunities before the matter proceeds to hearing

7.3. Procedural Flexibility and Efficiency

The Rules provide a clear, structured, and flexible process for filing claims, counterclaims, and representative actions (rules 8 to 10), with simplified forms and low fees to encourage participation. Hearings are conducted with minimal formality, and legal representation is typically restricted, ensuring a focus on direct communication between parties.

7.4. Judicial Oversight and Appeal

Decisions of the SCT may be appealed to the High Court under Part IX of the Rules, ensuring judicial oversight while preserving efficiency and accessibility.

7.5. Role within the Judicial Dispute Resolution Framework

The SCT complements Brunei’s broader court-led mediation and ADR initiatives. It demonstrates the Judiciary’s stewardship in embedding dispute resolution principles across the justice system – from family and civil mediation to small-scale commercial disputes – reinforcing a culture of constructive resolution and public confidence in accessible justice.

8. Summary of Policy Objectives

Objective	Mechanism	Applicable Forum
Promote early settlement	Pre-CMC mediation requirement	Court (PD No. 1 of 2019)
Mandatory family mediation	Court-ordered mediation for divorce with minors	Court (PD No. 1 of 2021)
Professional duty of lawyers	Early advice on mediation	Court
Judicial efficiency	Active case management integrating ADR	Court
Confidentiality	Without-prejudice sessions	Court
Broader ADR availability	Private mediation through BDAC	Non-court
Training and capacity-building	Collaboration with SMC and BDAC	Cross-institutional

9. Conclusion

The framework for dispute resolution in Brunei Darussalam demonstrates a coherent policy commitment to efficiency, accessibility, and amicable settlement. Through a combination of judicial and institutional measures, the system provides

multiple, complementary avenues for resolving disputes without unnecessary litigation.

1. Court-annexed mediation: A form of Judicial Dispute Resolution embedded within civil and family proceedings through Practice Directions No. 1 of 2019 and No. 1 of 2021, ensuring that amicable settlement is not incidental but a deliberate part of case management.
2. Small Claims Tribunal: A statutory forum providing simplified, conciliatory adjudication for lower-value disputes, enhancing public access to justice through streamlined and affordable processes.
3. Independent mediation (BDAC and others): A complementary, voluntary avenue for commercial and civil parties seeking private, out-of-court resolution of disputes.

Collectively, these mechanisms establish an integrated model of judicially anchored but multi-layered dispute resolution. The Judiciary's stewardship ensures that mediation and conciliation are recognised not as peripheral alternatives, but as central components of Brunei's modern justice policy, promoting fairness, efficiency, and public confidence in the rule of law.

10. Appendix – Form 1: Summary for Mediation

Form 1 prescribed under Practice Direction No. 1 of 2021 is appended to this report. This form serves as a structured framework for parties and counsel to set out key issues relating to children, matrimonial assets, and maintenance prior to mediation. It enables the court to understand the scope of the dispute and to identify potential areas for settlement.

APPENDIX A

FORM 1

SUMMARY FOR MEDIATION

_____ (Petitioner) vs _____ (Respondent)
(Title as in action)

Party Filing this Summary: Petitioner / Respondent*

A. CHILDREN ISSUES:

No. of Children: _____

Age of Children: _____

(1) Custody

State what this party wants regarding custody: Sole / Joint*

(2) Care and Control

State which party to be awarded care and control: Petitioner / Respondent*

(3) Access

(a) State what this party wants regarding access if:

(i) he / she* is the parent with care and control

(ii) he / she* is not the parent with care and control

(b) Proposed handover venue and person to hand over the children:

B. DIVISION OF MATRIMONIAL ASSETS:

(1) Matrimonial home

Address of matrimonial home: _____

Current value: _____

(Estimated Value / Valuation Report Value)

Outstanding loan amount:

(2) Direct financial contributions towards purchase, mortgage, renovations, property tax, conservancy, maintenance, repairs:

(3) Indirect contributions:

State other payments made (e.g., towards household bills, groceries, children's expenses):

(4) Length of marriage: _____ years _____ months

(5) Proposal for division: _____

(6) Other assets

State other assets and nature of claim:

State what percentage or monetary amount of claim this party wants as regards above assets: _____

C. MAINTENANCE:

State occupation: _____

State income (net): _____

(1) Maintenance of children

State expenses and amount claimed/proposed:

(2) **Maintenance of wife**

State expenses and amount claimed/proposed:

(3) **Maintenance of incapacitated husband**

State expenses and amount claimed/proposed:

D. **OTHER ISSUES (IF ANY):**
