

CHURCHILL V. MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

In a landmark decision, the Court of Appeal in ***Churchill v. Merthyr Tydfil County Borough Council*** [2023] made a significant stride in the evolution of dispute resolution within the legal system of England and Wales. The case, stemming from Merthyr Tydfil's approach to managing Japanese Knotweed on its land, has revisited the contentious issue of court-mandated dispute resolution processes.

Previously, in ***Halsey v. Milton Keynes General NHS Trust*** [2004] EWCA Civ 576, [2004] 1 WLR 3002 (***Halsey***), Lord Justice Dyson's remarks had been perceived as a barrier to mediation, suggesting that forcing unwilling parties into mediation infringed their right to court access.

However, this view was critically reassessed by a specially convened Court of Appeal panel including Baroness Carr, Lady Chief Justice, Sir Geoffrey Vos, Master of the Rolls, and Lord Justice Birss. They unanimously concluded that Dyson LJ's observations were merely *obiter dicta*, and not part of the *ratio decidendi*. In modern language: "they were not a necessary part of the reasoning that led to the decision", adopting the words of Lord Justice Leggatt in ***R (Youngsam) v. The Parole Board*** [2019] EWCA Civ 229.

Deputy District Judge Kempton Rees initially ruled against compelling the parties to engage in non-court based dispute resolution processes, citing ***Halsey***. However, the appellate court clarified that while ***Halsey's*** principles remain influential, they are not a straitjacket that binds judicial discretion. Consequently, the court has the authority to stay proceedings for non-court-based dispute resolution if it is proportionate and preserves the essence of the parties' right to a judicial hearing.

This ruling underscores the court's commitment to dispute resolution that is fair, expedient, and cost-effective, without strictly prescribing when such measures should be applied. It reaffirms that the Court of Appeal will not lay down absolute rules but will consider the specifics of each case. For practitioners, this decision reiterates the need for a strategic approach to dispute resolution, considering both litigation and alternative methods as viable pathways to resolving complex disputes.

Barristers Michel Kallipetis KC and Maya Chilaeva (Quadrant Chambers) and Iain Wightwick (Unity Street Chambers) represented the successful appellant Council.