

## **Commercial Mediation Guide: A guide to mediation for individuals & businesses**

### **What is mediation?**

Mediation is an effective way of resolving disputes without going to court. Mediation involves a neutral third party, the mediator, who facilitates discussions between different parties and assists them in negotiating their own resolution of the dispute.

Mediation is a quicker, cheaper and more effective alternative to court proceedings. The process is confidential, meaning that anything said at mediation cannot be used in any subsequent court proceedings. Mediation is also voluntary, meaning that you are in control and can have the final say on the matters at stake.

Mediation typically offers better outcomes sooner, and with less stress involved. Three out of four mediation cases settle on the day, with many other cases settling shortly thereafter. Because of the benefits and cost savings of mediation both the UK Government and the Courts are promoting Mediation as a prime form of dispute resolution.

Wandsworth Mediation Service has a panel of experienced, accredited mediators who are here to help resolve your disputes. Our panel will guide you through the mediation process with a view to helping you reach the best outcome without the cost, time and hassle of going to court. A list of our mediators, and links to their CVs can be found on our website:

<https://www.wandsworthmediation.co.uk/commercial/who-are-our-commercial-mediators>

### **What will happen on the day?**

The mediation meeting will start with both parties in separate rooms. Parties can attend alone or with a lawyer or a friend. You will meet with the mediator, who will outline the process and then invite you to meet together with the other party. At this point both parties will outline their views and what they are hoping to achieve. Parties will then go to their own private room and the mediator will visit each party for a private discussion. This is a confidential meeting so each party can speak freely and openly to the mediator, who will not pass on any information without permission. The mediator will shuttle between rooms to help the parties find solutions, but will not give legal advice or any opinions.

If there is a resolution, the parties can regroup to discuss a formal agreement and to agree the terms of an agreement. Parties can then sign an agreement setting out terms and, where relevant, bringing any court case to an end. If there is no resolution on the day, parties can resume negotiations later.



## How much will it all cost?

We charge fees in line with a national tariff depending on the total value of the case (the claim and counterclaim).

<b>Value of case (claim and any counterclaim ) £</b>	<b>Fees per party (no VAT) £</b>	<b>Time limitation unless mutually agreed otherwise including by mediator and those of venue provider</b>	<b>Additional fee for extension hours, per party and pro rata, should extension be agreed by all concerned £</b>
Up to £5,000	£50	1 hour	£100
Up to £5,000	£100	2 hours	£100
£5,000 to £14,999	£300	3 hours	£100
£15,000 to £49,999	£425	4 hours	£100
£50,000 to £99,999	£650	6 hours	£100
£100,000 to £249,999	£750	6 hours	£100
£250,000 to £499,999	£1,000	8 hours	£100
£500,000 to £999,999	£1,300	8 hours	£100

This does not include venue, costs but we do our best to keep these costs as low as possible.

We are a registered charity and channel all commercial mediation fees into our community mediation work. Our commercial mediators give their time pro-bono, enabling us to fund our community mediation work. This means that any money we charge you is going back into the local community. It also means we do not charge VAT.



## Frequently Asked Questions

### *What is mediation?*

Mediation is a voluntary way of resolving a dispute out of court at any time with or without lawyers, with the help of a neutral, trained mediator, who helps parties reach agreement to resolve the dispute.

### *Do I have to mediate?*

No, but the courts encourage the use of mediation, especially in smaller value cases and can penalise parties for an unreasonable refusal to try it. You should seek legal advice about this.

### *Can I litigate and mediate at the same time?*

Yes. You can usually ask the court to put the case on hold to give you an opportunity to mediate and to resolve the dispute. If there is no resolution, the case can be re-activated.

### *How long is a mediation?*

A mediation usually lasts a minimum of two hours and a maximum of one day.

### *Who pays for the cost of mediation?*

Usually, the parties agree to share the cost of mediation and to pay their own legal costs, but at trial, the judge can sometimes order the losing party to pay all the mediation costs. You should seek legal advice about this.

### *Is mediation confidential?*

Yes. Mediation is confidential and takes place on a 'without prejudice' basis.

### *Who is the mediator?*

The mediator is independent and neutral and manages the mediation process. The mediator is not a judge, so does not decide the outcome, but facilitates discussions between the parties and assists them in negotiating their own resolution of the dispute. Wandsworth Mediation Service has a panel of qualified and highly skilled mediators with a wide range of experience in commercial, employment and family law.

### *What does the mediator do?*

The mediator offers the parties a neutral and balanced opportunity to settle. They do not give any opinions or legal advice or a judgment. They will help the parties find solutions and guide the parties to make a settlement agreement.

### *What are the benefits of mediation?*

Mediation is quick, relatively inexpensive, effective, and confidential. It is a voluntary process meaning that parties are in control. Mediation is more flexible and less stressful than court proceedings, with less negative impacts on people involved and less damage to business. In over three out of four cases a settlement is reached on the day of mediation.

### *Is offering mediation a sign of weakness?*

No. Offering mediation can be a sign of strength by showing that you are prepared to settle in a principled way and that you value the business relationship. Sometimes not offering mediation can be a sign of weakness that you do not have a strong case or you would prefer to delay payment.



*Is the mediator insured?*

Yes, all of our mediators are insured and registered with the Civil Mediation Council.

*What kind of cases does WMS mediate?*

WMS mediates in a wide range of disputes including commercial, employment and family law.

*What happens if there is no settlement at mediation?*

Negotiations can still continue and many cases settle shortly afterwards. Mediation often provides a valuable opportunity to reflect and evaluate the situation. If there is an ongoing court case, this will be re-activated if there is no settlement.

*When is the best time to mediate?*

Usually the sooner, the better, but mediation can take place at any time you like.

*Is the fee for mediation payable even if it does not settle?*

Yes. The fee is payable regardless of the outcome.

*Do I have to do anything I don't like at mediation?*

No. The process is voluntary.

*Can I leave at any time?*

Yes, but most mediators will ask to speak to you for a few minutes before you go.

*Does the mediator decide the mediation?*

No. The parties do. The mediator is there to help them reach a settlement.

*Does the mediator offer legal advice?*

No, you need to make your own arrangements if you require legal advice. Sometimes it helps to be able to take telephone advice if needed.

*Can a lawyer represent me?*

Yes. You can decide whether it is appropriate given the size and complexity of the dispute. It is essential that the parties either attend themselves, or ensure that any representative or lawyer who attends the mediation on their behalf has authority to settle or to agree terms of settlement.

*What happens if the mediation does not resolve the dispute?*

The parties will need to consider other dispute resolution options.

*Why should I try mediation?*

Mediation is a tried and tested method of resolving disputes. The value of commercial cases mediated each year in the UK is now about £5bn. Because mediation is confidential and 'without prejudice', there is nothing to lose by trying it, other than the mediator's fees and time spent in preparing for and attending the day's mediation. If you are unable to reach a settlement on the day, mediation will usually provide an insight into the other parties' point of view and may even encourage further negotiation at a later date. If you want to settle your dispute, but are finding it difficult to negotiate directly with the other side, then try mediation.

