



Mediation Factsheet

Why Mediation could be for you

Mediation is a method of resolving disputes before or without going to court or an employment tribunal. It is an informal, personal, impartial and cost-effective solution and in recent years it has become an increasingly popular alternative to the traditional litigation route, which is notorious for being a lengthy, stressful and costly way to resolve disputes. Mediation offers parties in dispute a quicker alternative and a positive method of opening lines of communication.

The role of the mediator & how mediation works

- The mediator's role is to help the parties to negotiate their own settlement whilst remaining totally impartial and providing informal and positive surroundings. This enables the parties to express themselves in a safe, private and confidential environment.
- The mediator will talk separately to the people involved to find out about the dispute, how they feel about it and the effect it is having. It is vital that from the outset, all parties can at least agree on what the dispute is and all the issues in question – this is the mediator's first task.
- The mediator will then try to help each party to understand the other party's view of the dispute so that they can objectively assess the overall position and begin to find options to resolve the dispute.
- The mediator will remain completely neutral throughout, not making judgments or trying to determine an outcome.



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Virtually all types of conflict can be resolved by mediation. The process is most effective at an earlier stage, before the parties become entrenched in their position. However, mediation can be effective regardless of what stage the discussions commence.

It is worth considering that even in the normal litigation process, the attempt to arrange mediation before any trial takes place is becoming more and more frequent and is now a key requirement under the Civil Procedure Rules. The Court frowns upon parties that are not willing to mediate or enter into resolution discussions and regularly issue costs penalties to parties that are unwilling to participate.

Where mediation fails, it is often because considerable legal costs have been incurred by the time mediation goes ahead, and it is this that prevents agreement being reached, rather than an inability to reach a compromise on the original dispute itself. Therefore, consideration of mediation at an early stage is likely to be more beneficial.

Key advantages to mediation as opposed to the traditional litigation route

- Your responsibility for the mediator's fee will be covered by your ARAG policy.
- Mediation is effective in all types of disagreements to resolve disputes quickly thus saving time, money and stress.
- Mediation offers real time dispute resolution - the contact between the mediator and the insured is immediate and constant.
- Disputing parties are not required to meet during the mediation process if they are not comfortable doing so.
- The mediator will take a positive forward thinking direction; the mediator will not ask awkward questions or apportion blame.
- Our preferred mediation service provide in-house property, building and construction expertise which enables our mediators to understand the technical aspects of the dispute.
- Resolutions can be found much quicker than going down the traditional litigation route
- The mediator will remain completely neutral throughout, not making judgements or trying to determine an outcome.
- Mediation can repair and stabilise relationships. The mediator will encourage the parties to maintain a positive attitude throughout discussions, not trying to establish blame. This positive mindset can assist any future relationship between the parties.
- The mediator will ensure that they build trust to work effectively with all parties to find a workable and practical solution that everyone can buy into. This will enable all parties to participate willingly.
- Research carried out by the National Audit Office regularly finds that disputes settled through mediation are less expensive, less acrimonious and much quicker than those which are subject to normal litigation.
- The mediator will provide the parties with a written copy of any agreement that is reached. Any agreement will be legally binding once signed by both parties.

We work with two mediation service providers who are at the forefront of progress in this field. They are named 3PB and St John's Buildings. Further information about these service providers is below:

Click on the logo to access each company's website.



3PB

3PB offer over 15 qualified and accredited mediators across a range of areas including contract, property, construction as well as family, personal injury and probate. Based over 6 locations in the Midlands and south of England, their mediators are all experts in their chosen fields. They are renowned for their down to earth approach, assisting parties to resolve their disputes amicably and effectively. As well as dealing with monetary disputes, they also mediate in disputes with few, or no, financial implications but where facilitation is still required for parties to achieve resolution.



St John's Buildings

St Johns Buildings are based in the north of England and have offices and mediation suites in Manchester, Liverpool, Sheffield and Chester. They have 18 qualified mediators including two QC mediators. They are a member of the Civil Mediation Council and have experience of mediating all manner of disputes including commercial, contract, property, personal injury and clinical negligence, employment law, and family law disputes. They have been on the ARAG panel of approved chambers for many years.

Telephone Mediation Information

Your case may be considered suitable for telephone mediation by the mediator.

A telephone mediation takes place over an allotted time period – usually two hours, however this can be longer if the mediator recommends this. The mediator will call one party and then the next repeating the process until settlement has been reached or time has expired.

A party not speaking to the mediator during the “window” must keep the telephone line free in readiness for the mediator’s next call. All conversations between the mediator and the respective parties are confidential and Without Prejudice.

Where the mediator considers it desirable a conference call between the parties can be arranged.

The objective is to help the parties find a solution they can both accept. No agreement is legally binding until such time as it has been committed to writing and signed on behalf of each party.

The parties and mediator have responsibility for drafting, signing and filing an appropriate agreement as required. You do not have to sign anything that you are not comfortable with.

What happens if mediation is not successful?

If mediation is not successful in achieving resolution of your matter, all is not lost. If your claim continues to hold reasonable prospects of success, we will appoint a specialist pre-approved law firm to progress the matter down the legal route, with the cost of this to be met by your ARAG policy.