

Barrister Mediation Services

Frequently Asked Questions

Why does mediation succeed in place of negotiation?

Mediation allows the parties and, if appropriate, their advisers, to come together and work towards solving the issue(s) in which they all have a vested interest. The Mediator affords the parties the opportunity to have their concerns considered by maximising the opportunity for communication. The Mediator encourages the parties to use the confidential and non binding process to find the solution. The process affords the parties greater potential for exploring perceptions, identifying concerns, developing options and ultimately devising solutions which are often more creative than might otherwise be contemplated.

Does the suggestion of mediation to another party display weakness for the purpose of negotiations ?

The suggestion of mediation does not display weakness . Instead, it displays a willingness to communicate about the issues and set aside a time and a place to explore the options for resolution which avoids delay, expense and aggravation associated with more adversarial or traditional methods.

How can parties be persuaded to participate in mediation?

Mediation is an entirely voluntary process. Not everyone will immediately agree to participate in mediation. Some people will require more information about the process, how it works and whether it is appropriate for their needs. There will often be suspicion and highly charged emotions. If asked to do so, BMS will contact the other party in the dispute, suggest mediation and provide any information sought about the mediation process.

How much does mediation cost?

A schedule of anticipated costs is provided on this web site and fees for mediation are clear, specific and will be agreed in advance of any commitment to the mediation taking place. Most mediations are completed in one day.

Where will the mediation be held?

The mediation will be held in an agreed and neutral venue (such as a hotel or business centre) unless the parties agree otherwise.

How soon can mediation be arranged?

The mediation can be arranged as quickly as the parties' preparedness and availability allows.

Who will attend the mediation?

Normally the parties and/or key decision makers will attend. Often participants involve legal and/or other advisors but this is not always necessary and is a matter for each party. The mediation process allows the advisors with the parties to have a frank exchange of information in a confidential and non binding way which facilitates progress to resolution. Sometimes, a party will find it important to have a family member, employee, official, expert, finance or HR manager present at the mediation.

Is Mediation binding?

Mediation is only binding if and when the parties achieve a resolution in respect of which they record an agreement that they wish to be binding. Until then, everything done and said in the mediation process is confidential and does not bind anyone. If the parties achieve a resolution agreement by which they agree to be bound, that agreement is an enforceable contract as with any other agreement.

What is the success rate for mediation?

There are reports of an overall success rate of more than 80% in disputes which range from workplace difficulties to multi million pound claims. In mediations where the conflicts are not completely resolved, generally issues are at least narrowed and clarified which can assist in managing risk and reducing future cost.

What about inserting a mediation clause into a contract?

Often such clauses are inserted into contracts as an indication of a commitment to trying to agree a resolution in the event of a dispute arising.