



What is Commercial Mediation?

- Mediation is a process where a neutral party, the mediator, guides conflicting parties to a mutually agreed workable solution.
- The parties must be attending voluntarily and have the desire and authority to seek a solution.
- The process typically begins with a joint opening meeting where both parties put forward their position. This is not necessarily their legal position, though parties often prefer to have their legal representatives present.
- Then through a mixture of private and joint meetings with the mediator the issues are explored looking at wants and needs identifying common ground. The mediator keeps what is said in the private meetings confidential and will only pass to the other party what is agreed.
- This is then developed typically through bargaining and negotiation into a mutually agreed and workable settlement.
- The settlement is only enforced once both parties have signed it.

Mediation Advantages

Quick

- Mediation provides just that with 90% of mediations ending in a settlement with 74% agreed on the day, the remainder a few days later after the parties have considered their positions in light of the mediation day.
- Currently due to Covid19 delays courts are experiencing delays of between 12 -18 months.
- Mediation works well with remote technologies such as Zoom and Teams so sessions can be quickly set up – Jon holds an accreditation in online dispute resolution from the ADR Group.

Cost Effective

- Fees for the day include three hours preparation and a short technical rehearsal prior to the mediation. All fees and expenses are split equally between the parties.
- The potential to resolve issues giving significant savings in time, expenses and emotional energy and stress.
- The use of technology negates the need for the parties to hire, or travel to, expensive neutral premises for the day.

Confidential

- This is the cornerstone of mediation. Everything discussed on the day and in the private meetings is confidential. The mediator will only pass what is agreed to be passed between parties.
- The process is “Without prejudice”. So even if a settlement was not achieved on the day and the case goes to court what was said during the mediation remains in the mediation. This provides an opportunity to think about the issues in a different light freed from the legal positioning and to explore what is really required and acceptable.
- The outcome is confidential between the parties and this can help protect reputations.

Creative

- The mediator creates a space where parties can explore alternative solutions that would not be considered in the legal process.
- Alternatives to the adversarial legal system may enable parties to continue to work past the current obstacle.
- Any agreement is only binding once both parties have signed it.

Mediator’s Role

- The mediator creates a safe, confidential space where the parties can create a workable solution.
- The mediator does not judge or adjudicate. The mediator is completely neutral.
- The mediator guides the parties through the process. The mediator will question and test the parties to help them look at their issues and what they really want. This helps the parties create a solid workable agreement.

Next Steps

Get in contact for a discussion of your issues and to see if we can work together (trust is essential for success in mediation) and that your issues and situation would benefit from mediation.

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