

clerk**s**room

**Mediation**  
Guidance

the service | the people | the **quality**

# Mediation

Clerksroom is a leading provider of mediation and we also believe we are the most flexible. We are able to offer mediators for any civil dispute, budget or location anywhere in the UK.

## Our Service

It's never been easier to find an independent mediator. We know that when you're looking for a mediator, you want to find someone fully accredited with the right skills and experience, working in the right profession, based in (or able to travel to) the right location, and charging fees that suit your budget, usually as quickly and easily as possible.

The Clerksroom Mediation Database has been designed around your needs, providing a central and standardised point to view professional profiles of civil mediators who meet all current EU, MOJ and UK guidelines.

You can search by name, specialist area of expertise, geographical location, profession, or using free text.

You'll find all the information you need in a clear and transparent format, enabling you to make an informed decision quickly, easily and confidently.

Finally, you'll benefit from efficient administration provided by Clerksroom, helping you to appoint, instruct and organise your mediator, from the first enquiry to the final billing.

If you have any queries, or you would like to instruct an independent mediator, please contact our mediation team on 01823 704 099. Lisa, Felicity or Holly will be happy to help or email [mediation@clerksroom.com](mailto:mediation@clerksroom.com)

**[clerksroom.com/mediation](https://clerksroom.com/mediation):**

“

Just a quick word to thank you for your tenacity and input yesterday.

Without it I am sure we would not have got a deal.

**Feedback received for  
Harry Hodgkin**

## Compliance

- UK Civil Mediation Council CMC Registered
- Ministry of Justice and Court Scheme Compliant
- EU Code of Conduct adopted by every mediator

## Quality Assured

- All mediators' accreditation is checked and recorded for your peace of mind
- Insurance and training certificates held on file
- Transparent, third-party feedback on all profiles provides an independent perspective

## Up-to-date training

- All mediators undertake at least six hours continuing professional development every year
- In-house seminars and training provided on the latest mediation topics

## Transparent, competitive fees

- Reduced rates available to suit your budget
- Variable fees from £500 + VAT per party offer you flexibility
- Fixed rates agreed with key mediators offer you transparency
- No additional travel costs throughout the UK when instructed through our service
- Mediation suites in Leeds, London, Manchester, Birmingham, Cardiff and Taunton help you to cut costs – or we will attend any agreed venue for your convenience
- Efficient administration by market leaders, Clerksroom – fully transparent and accountable
- Experienced staff to manage each case
- Unique reference per party to ensure client confidentiality
- Single point of contact
- Independent feedback collected from each party following every mediation

## Fees Made Simple

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### Clerksroom mediation fees are simple and transparent

We like to keep things simple. Our aim is to ensure our mediation costs are clear and transparent, so there are no hidden extras. All of our mediators are self-employed, so they are independent. You can choose the mediator.

## Fixed Fees

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### Bronze Mediation Package

£500 + VAT per party

### Silver Mediation Package

£1,250 + VAT per party

### Gold Mediation Package

£1,750 + VAT per party

## Bespoke Fees

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### The Alternative

We will provide a quote

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## levels of mediator

### ✓ Observer & Trainee:

Plays no part in the mediation

### ✓ Junior Mediator:

undertaken 0-25 mediations to date

### ✓ Senior Mediator:

undertaken 25-50 mediations to date

### ✓ Elite Mediator:

undertaken over 50 mediations to date with feedback all positive

# places to mediate

## Mediation Suites – England & Wales

We use facilities at the following locations on a regular basis:

### 1 Taunton

Holiday Inn  
The Great Western Hotel

### 2 Totnes

Dartington Hall

### 3 Bristol

Bristol Law Society  
3 Paper Buildings

### 4 London

International Dispute Resolution Centre,  
70 Fleet Street  
Thanet House, 231-232 The Strand  
ADR Centre, 3 Gray's Inn Square

### 5 Cardiff

Holiday Inn

### 6 Birmingham

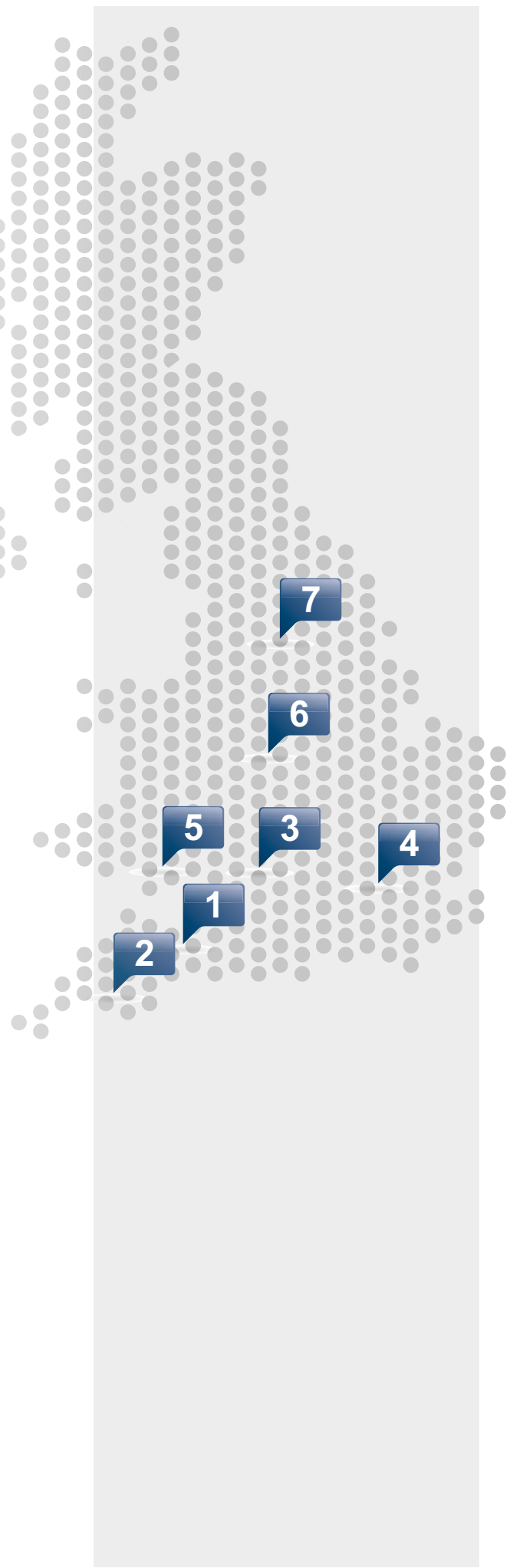
Grosvenor St Paul's

### 7 Leeds

Holiday Inn, Garforth Hotel

We are also happy to attend any venue that has been agreed between the parties. If you are unsure about what would be a suitable venue, please do telephone us to discuss the facilities normally required.

Please see further information on our website.





## what is **mediation?**

### **Mediation as used in law is a form of alternative dispute resolution (ADR).**

This is a way of resolving disputes between two or more parties. A third party, the mediator assists the parties to negotiate their own settlement.

Mediation has a structure, timetable and dynamics that “ordinary” negotiation lacks. The process is without prejudice\*, private and confidential. The presence of a mediator is the key distinguishing feature of the process.

Mediators use various techniques to open, or improve dialogue between disputants, aiming to help the parties reach an agreement (with concrete effects) on the disputed matter. The mediator must be wholly impartial and independent.

*Source: Wikipedia*

*\*Without any loss or waiver of rights or privileges.*

*Source: <http://legal-dictionary.thefreedictionary.com/without+prejudice>*

# advantages of mediating:

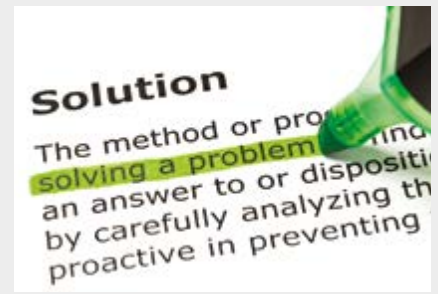
**Parties are in control** – you may be able to devise solutions which include elements a Court could not or would not apply. A Court will only answer the specific questions posed in the litigation. It is frequently a time consuming, stressful and uncertain process. It involves placing your problem in the hands of an unknown outsider.

**Less expensive than going to Court** – A failing party at Court may end up paying the other parties costs in addition to their own and any amount awarded by the judge. This can be on its own a very powerful reason to mediate.

**Courts encourage mediation** – Courts would prefer that parties mediate and look favourably on it being requested.

**Rebuilding or preserving relationships** – Parties may be able to reach a solution that they can both live with.

**Mediation is confidential** – mediation communications are not disclosed nor are they admissible in Court.



## 80-90%

of mediations result in a successful settlement

**Contact Clerksroom  
Mediation on  
01823 704 099**

# what to expect

## on the day

Mediation does not have the formality of a Court. Much depends on the wishes of the parties, the nature of the dispute, the number of parties, the physical constraints of the venue and the style of the mediator. For example, in a dispute about a boundary it may make sense to visit the site. There are, however, certain common themes which frequently emerge.

The best venues will have one room for each party plus a large meeting room where everyone can meet. The most common format, but by no means universal, is for there to be an opening session attended by everyone at which after introductions and a few opening remarks by the mediator, each party sets out their view. After that, sometimes the discussions continue but frequently the parties move to their individual room and the mediator will shuttle between them giving everyone time and space to develop possible solutions. The mediator will work on the basis that anything he/she is told in private session he/she keeps confidential, unless authorised to disclose it.

A common misconception is that mediation is a “fuzzy” way of resolving disputes. It is not. Whilst it lacks the formality of a Court no one needs to give ground if they do not wish to do so. The object of the exercise is to resolve the dispute by negotiating a mutually acceptable solution for all concerned.

Remember that there may not be a perfect solution, or if there is, you may not achieve it in Court – be flexible.

Remember that the mediator is not a judge. Do not try to convince the mediator that you are right. The mediator will not tell you if you have won him/her over even if you have, it would not achieve anything – it is the other party you need to convince.

If a resolution is achieved, you or your legal adviser will normally draft an agreement which is signed by both parties. If Court proceedings are ongoing that can be expressed as an order bringing the proceedings to a close, or staying them pending compliance with the terms of the settlement agreement.

Most mediations settle, but if, unfortunately, no solution is found, then nothing is lost. Neither party will be able to rely on concessions made without prejudice at the mediation. At the very least you should have gained a greater understanding of the position adopted by the other party. Indeed it is not uncommon for disputes which fail to settle on the day to settle shortly afterwards, when those involved have had time to reflect.

## observer

Newly qualified mediators need to observe three mediations in order to lead their first mediation and help others in the future. With your agreement it is likely that an observer will attend your mediation but will play no part in the process.

An observer will also be asked to sign the Agreement to Mediate to ensure confidentiality. This is normally dealt with at the outset of the mediation day.

# preparation

The mediator will need to know what the dispute is about so will need to be supplied some information in advance. They will not need to know every detail. It is normally helpful for the mediator to have sufficient papers to prepare for the dispute. In advance of the mediation, you may wish to ensure the mediator has a short confidential written explanation setting out your views on the way forward.



## the **preparation** to mediate

The Mediation Agreement will be sent to you or your solicitor once the date has been agreed between the parties and the mediator. Our standard agreement covers the following key points:

- ✓ Terms and Conditions
- ✓ The Appointment
- ✓ The Venue and Date
- ✓ Fees
- ✓ Cancellation and Re-scheduling
- ✓ Procedures
- ✓ Confidentiality
- ✓ Human Rights
- ✓ Law and Jurisdiction

## setting up a **mediation**

The letter confirming an agreed date between the parties will confirm the following points:

- ✓ Date
- ✓ Time
- ✓ Mediator's name
- ✓ Mediator's fees
- ✓ Venue and cost
- ✓ Payment is required in advance of the agreed date

## ready to **mediate?**

**Contact Lisa, Felicity or Holly**  
on **01823 704 099**



# frequently asked **questions**

## ***When should I mediate?***

At any time you wish, irrespective of whether or not proceedings have been issued at Court or at what stage the dispute or Court proceedings may have reached.

## ***Is offering to mediate a sign of weakness?***

No – there is nothing to lose by offering to mediate even if you believe you have a strong case. Few lawyers would advise their clients that they are bound to win a Court case

## ***Are mediators insured?***

Yes - all Clerksroom mediators are insured.

## ***Are mediators trained?***

The mediator will be fully trained and accredited with current Civil Mediation Council standards.

## ***Will I have to do anything I do not want to do?***

No – the process of mediation is totally voluntary.

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

Usually all sides of the dispute pay the mediation fee in equal proportions and it is normally paid in advance of the mediation.

## ***Do I pay if the dispute does not settle?***

Yes – the fee is paid for the mediator to facilitate the mediation regardless of the outcome. However, the majority of cases do settle though there can be no guarantee of success.

## ***Who decides the outcome of the mediation?***

The mediator does not decide the outcome – the decision making is left entirely to the parties involved. The mediator's role is to help the parties strike a deal which they are all happy with.

## ***Can I leave a mediation?***

Yes – at any time, although most mediators will ask you to give them a few minutes before you do so.

## ***Does the mediator meet with the parties before the mediation?***

Generally no – the first time the parties usually meet with the mediator will be on the day.

## ***Will the mediator offer legal advice?***

No – if you feel that you may need legal advice you should make your own arrangements beforehand. The mediator is an independent third party and must remain impartial and neutral and whilst you may have candid discussions with the mediator, no advice will be given.

# frequently asked **questions**

## ***Can I have a lawyer present?***

Yes – if you wish. You may feel that your dispute is rather complex and that you would prefer legal advice throughout the mediation bearing in mind that the mediator cannot give any legal advice to the parties.

## ***What happens if there is no agreement at the end of a mediation?***

Mediation is not suitable for every case but it can still help to settle some of the issues in a dispute. All discussions during the mediation process are “without prejudice” – in other words, anything said in the mediation cannot be used later in Court or another legal action.

## ***Can I recover the costs of mediation in a Court case?***

Most judges will award the winning party the costs of litigation and if there has been a mediation it can be argued that the costs may be recoverable. Please note though, the cost rules are complicated and you should seek legal advice if you have any queries or concerns about this issue.

## ***What is the Court’s attitude towards mediation?***

Courts encourage the use of mediation wherever appropriate and in certain cases can order some costs to be paid if a party has unreasonably refused to participate in mediation.

## ***What is the Civil Mediation Council?***

The Civil Mediation Council is an association of academics, professionals and providers in the field of mediation. The organisation encourages mediation as a way to settle your dispute. It also gives advice and guidance to the organisations that offer mediation.

## ***How long does it take to organise a mediation?***

This is normally down to the parties and how quickly they wish to proceed.

## ***Will I need to send anything to the mediator?***

Once a date has been agreed, the confirmation letter will provide more information about this. It is suggested that you bring sufficient copies of documents, photographs and/or any other relevant items along to the mediation should you wish to use them as part of your discussions.

## ***Can I bring someone with me to the mediation?***

This is entirely up to you. Out of Courtesy, please inform the mediator and the other parties who will be attending with you.

## ***What is a stay?***

If Court proceedings have been issued in relation to a dispute that the parties wish to mediate, the Court must be contacted and an application will need to be made to the judge to stay the proceedings. The order of stay basically puts the proceedings on hold for a specified period of time to allow the parties to reach settlement outside the Court process.

# examples of **feedback**

*“An excellent service overall and one I would strongly recommend”*

**Jo Moffat, Managing Director Woodreed**

*“Service provided by Clerksroom both good value and effective”*

**Christopher Dolton, Fulton Robertson**

*“This was the first time we have used you and we were very pleased with the service offered and with David Rawlinson as mediator”*

**Caroline Kean, Wiggin & Co.**

*“A thoroughly professional service”*

**Roger Cheves, Slee Blackwell**

*“The speed and efficiency of your service and the standing of names put forward was exemplary. Thank you”.*

**Peter Kenyon**

*“Very happy with the service provided. Really good administrative staff”*

**Harold Michelmore & Co.**

*“Again, we have had a successful mediation through Clerksroom. Your team does not disappoint. Many thanks to Roger Hollings, our mediator, without whom settlement would not have been reached”.*

**Sara Bryan, Burley Geach**