

Mediation Services, Throughout the UK



Guide to Mediation





## let's start there

Why Mediate?

Pg 3

The Mediation Day

Pg 4

Preparing for the Mediation

Pg 5

Quality Assured

Pg 6

Flexible Fee Policy

Pg 7

Fixed Fee Mediation

Pg 8

Mediation Venues

Pg 9

Frequently Asked Questions

Pg 10 & 11



### Our core values

Honesty  
Integrity  
Quality  
Transparency

# why mediate?

## Mediation is an effective way of resolving disputes without the need to go to court

A court is not the only mechanism for resolving disputes. Mediation is an alternative. It allows the parties to the dispute, assisted by a trained mediator, to seek an outcome for themselves. The obvious advantages are speed, economy, certainty, and informality, but there are other possible advantages. You may be able to explore issues that go beyond those a court could consider. You may be able to devise solutions which include elements a court could not or would not apply. You may be able to rescue valued relationships for the future. At the very least, you may be able to reach a solution that you can live with even if it is not your ideal solution.

A court is simply a mechanism for resolving disputes. It is a highly structured system where the judge will hear the evidence, apply the law, and reach a decision based on the application of strict legal principles to that evidence.

A court will only answer the specific questions posed in the litigation. It is frequently an expensive, time consuming, stressful and uncertain process. It involves placing your problem in the hands of an unknown outsider. You lose control of the outcome. You are likely to become focussed on the process, on providing evidence to try to influence the judge in your favour instead of applying your energies to the resolution of the dispute itself.

Court proceedings may have other unwanted or unforeseen consequences. Any personal, trade, or professional relationships that are under strain as a result of the dispute, are likely to be made worse or destroyed entirely by the time a decision is achieved. Ultimately, the decision may go against you, or worse still, the judge may reach a decision that suits neither party.



*With a choice from over 500 qualified mediators and national coverage, Clerksroom can help.*

*The details of mediation are completely confidential, even if a court case should follow.*

*Clerksroom offer a wide range of mediation services.*

## The Mediation Day

Unlike a court, mediation does not have a formal structure. 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 of the parties plus a large meeting room where everyone can meet. The most common, but by no means universal format, 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 views. After that, sometimes the discussion continues but frequently the parties move to their individual rooms and the mediator will shuttle between them giving everyone the time and space to develop possible solutions. The mediator will usually 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 him you are right. The mediator will not tell you if you have won him 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 out 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.

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 of a mediation to settle shortly afterwards, when those involved have had time to reflect.

## Observer

Trainee mediators need to observe actual mediations in order to properly train and help others in the future. As part of our training for new mediators, we require them to observe at least two mediations, before they are accredited. It is therefore likely an observer will attend your mediation but play no part in the process.

An observer will also sign the Mediation Agreement to ensure confidentiality.



*Skill, experience and listening ability will build a durable resolution.*

*Mediation works in some 90% of commercial cases.*

*The Mediator Agreement ensures confidentiality.*

## Preparing for the Mediation

The mediator himself will need to know what the dispute is about, so will need to be supplied some information in advance. He will not need to know every detail. It is normally helpful for the mediator to have sufficient papers to familiarise himself with 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 best way to prepare is to think about the dispute, the possible outcomes, potential solutions and the pitfalls. Go to the mediation with an open mind. You are not committed to anything until you agree to a resolution, so you have nothing to lose.

Each party in the mediation process should believe and hope that a resolution can be reached.

## The Mediation Agreement

The Mediation Agreement will be sent to you 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 & Re-scheduling
- Procedures
- Confidentiality
- Human Rights
- Law & Jurisdiction

## The Agreed Date

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
- Administration fee
- Where to send your mediation papers

## setting up a mediation

Contact Clerksroom

Advise if date agreed

Advise nature of dispute and monetary value if applicable

Confirm venue required

Advise of any potential budget

## getting to the date

A date is agreed

Case file created for each party

Three independent mediators proposed

Fees proposed

Venue proposed

Other requirements considered

## agreed date

Everything is confirmed in writing to all parties

# quality assured

## The Civil Mediation Council

Clerksroom is an accredited member of the Civil Mediation Council.

Clerksroom prides itself on good practice with all its mediators trained to the required Civil Mediation Council standards and undergoing continual professional development.

Accreditation assessment includes:

- Checking our training arrangements and criteria
- Checking our CPD records
- Checking our members adhere to the EU Code of Conduct
- Checking our members have undertaken 2 observations
- Mentoring and development procedures
- Feedback and complaints systems
- Insurance arrangements and records
- Administration systems
- Appointment process

## European Code of Conduct for Mediators

All Clerksroom mediators adopt the European Code of Conduct for mediators. A full copy is available on our website.

The EU Code of Conduct ensures:

- Competence of mediators
- Independence and impartiality
- The Mediation Agreement, Process, Settlement & Fees
- Confidentiality



*Clerksroom mediators adopt the European Code of Conduct*

*All mediators are trained to CMC standards and have continual development.*



INVESTOR IN PEOPLE

## Flexible Fee Policy

One of Clerksroom's major plus points is its excellent fee structure.

Clerksroom will provide a solution based on any budget or parameter that you require.

Clerksroom also has a policy of working to a fixed budget so that there are no nasty surprises at the end of a mediation case.

The only additional costs you may incur, should the mediation proceed past the standard day, would be the overtime costs of the mediator and the venue.

## Administration

Clerksroom will deal with everything and provide a central point of contact for the parties.

We can arrange the venue, the mediator and the budget.

No matter what your needs, Clerksroom can help.

## Our Core Values

- Honesty
- Integrity
- Quality
- Transparency

## Feedback

We welcome feedback on all aspects of our service.

## Our Website & Database

Our website has extensive information about our services, and mediators. Each mediator has his/her own page, with a detailed profile. You can search by name, profession, speciality or geographical location.



*Open session, or separate rooms...  
Clerksroom have the space.*



*Equity House  
Clerksroom Head Office*

## A mediator to suit all situations

Over 500 mediators, including elite mediators with 50 plus mediations each and having positive feedback, through from juniors to seniors, the range of skills available is outstanding.

All situations demand different skills and Clerksroom can match the skills, the budget and requirements to each case as required.

## Tailored Mediation Schemes

Clerksroom offers a wide range of tailored mediation schemes which can be used as a tried and tested formula for resolving disputes that do not need to go to court.

## Fixed Fee Mediation for Fast Track Claims up to £25,000

Fixed Fee Mediation Scheme at:

- 218 Strand (London)
- 64 Bridge Street (Manchester)
- 35 St Paul's Square (Birmingham)
- Crown House (Leeds)
- Equity House (Taunton)
- or a venue of your choice

The scheme is designed to offer parties a high quality service which includes the mediator's fees, the venue and administration support.

The scheme is primarily designed for commercial, property, personal injury, employment, construction, government, business and finance but the fees and rules equally apply to any area of law. At Clerksroom, we take the view we are here to help you and welcome any opportunity to put forward a solution.

Key points are:

- The parties agree a date (10am to 5pm) and contact Clerksroom
- Clerksroom confirms availability of rooms or you advise us of the venue of your choice
- Clerksroom appoints a qualified mediator. Mediation Agreements and fixture notices are issued
- Invoices are raised for £500 + VAT per party
- Parties return signed Mediation Agreement and payment
- Parties submit papers to the mediator
- Telephone 0845 083 3000 at any time to book a mediation date

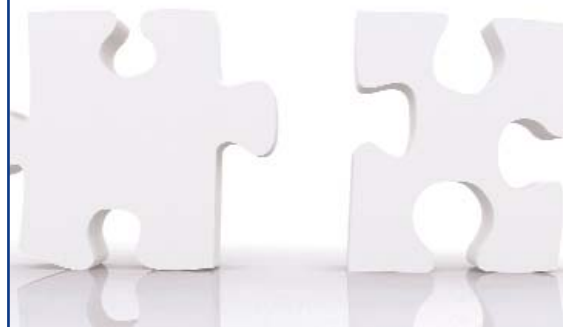
We do not believe it is possible to make our service any easier, but we remain committed to trying! If you require a mediator and need to work towards a budget, please do give us a call and we will do our very best to offer a solution.



CIVIL MEDIATION COUNCIL REGISTERED WORKPLACE  
MEDIATION ORGANISATION PILOT SCHEME 2009



*Clerksroom can come to you or can  
arrange the venue... and no travel costs!*



## tailored schemes

Fixed Fees  
Personal Injury  
Commercial  
Property  
Family Finance  
Negligence  
Boundaries  
Employment

## Mediation Venues

Whether you want us to come to your venue or you would like us to arrange the venue, the choice is yours. As we cover the country, we have no preference and there are no travel costs involved.

### London Conference & Mediation Centre

Ring **Tim Dingle** on **0207 353 3936** or  
email [tim.dingle@218strand.com](mailto:tim.dingle@218strand.com)

### Manchester Conference & Mediation Centre

Ring **Bob Moss** on **0161 839 1002** or  
email [bob.moss@64bridgestreet.com](mailto:bob.moss@64bridgestreet.com)

### Birmingham Conference & Mediation Centre

Ring **Amanda Godwin** on **0121 232 4664** or  
email [godwin@clerksroom.com](mailto:godwin@clerksroom.com)

### Leeds Conference & Mediation Centre

Ring **Susan Alexander** on **0845 083 3000** or  
email [alexander@clerksroom.com](mailto:alexander@clerksroom.com)

### Taunton Conference & Mediation Centre (Head Office)

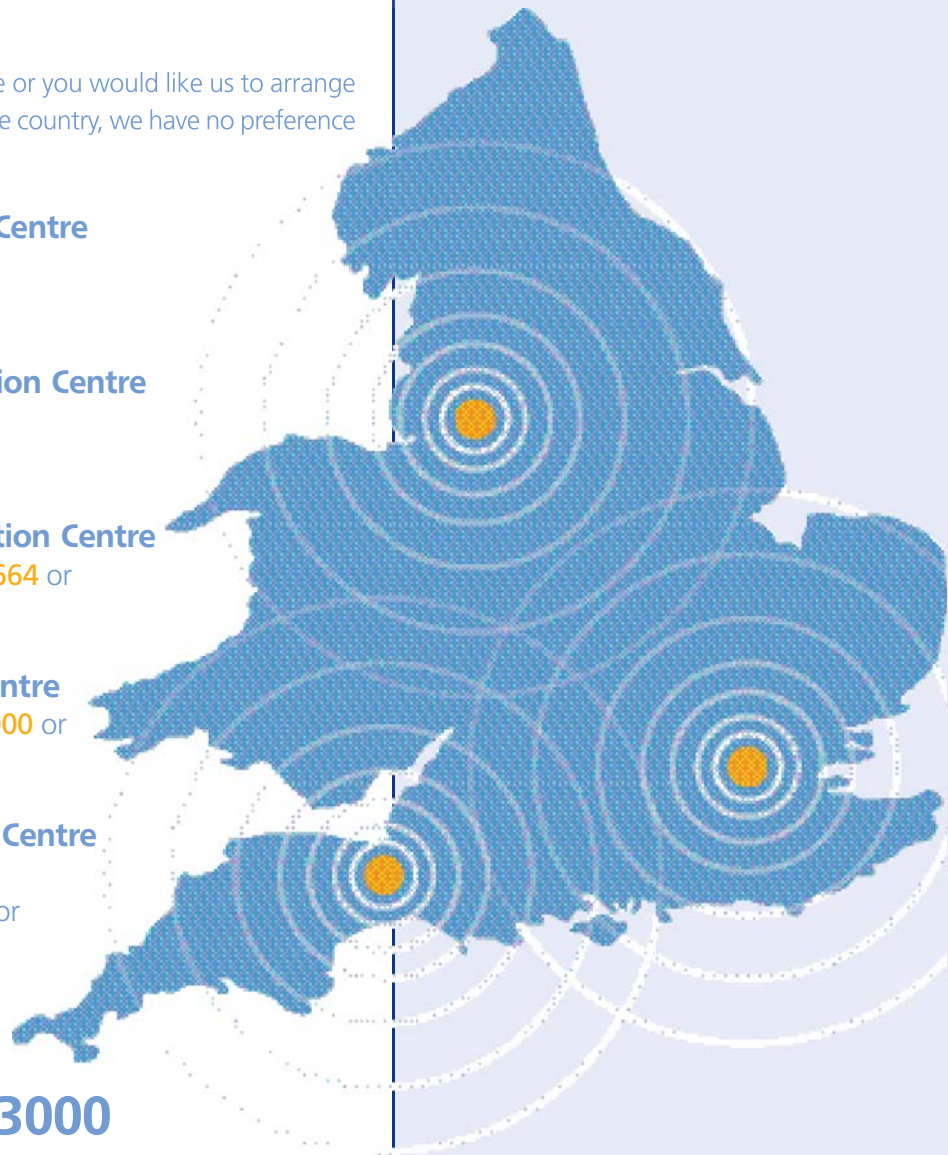
Ring **Lisa Kingscott** on **01823 442671** or  
email [kingscott@clerksroom.com](mailto:kingscott@clerksroom.com)

Telephone **0845 083 3000**

Fax **0845 083 3001**

[www.clerksroom.com](http://www.clerksroom.com)

[mail@clerksroom.com](mailto:mail@clerksroom.com)



## 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 – Clerksroom mediators are all 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?***

No. The first time parties meet the mediator will be on the day of the mediation.

### ***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.

### ***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.



*Common ground is in there somewhere... trust a Clerksroom mediator to find it!*

*Tailored Schemes are a fast track to success.*

### ***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 then the costs will usually 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 to 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 civil 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 the 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.

### ***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.

If approved, the order to stay basically puts the proceedings on hold for a specified period of time to allow the parties to reach a settlement outside the court process.

***If you have any more questions, please do not hesitate to contact us. We shall endeavour to help you in every way possible.***

**telephone 0845 083 3000**



***All situations demand different skills,  
Clerksroom can match your brief.***

***Whenever the date, whatever the  
situation, wherever the location,  
Clerksroom will not let you down.***

***“Following an extensive search  
for mediation services, I chose  
Clerksroom. I was very pleased  
with their helpful advice  
and attention to detail.”***



**Telephone 0845 083 3000**  
lines open 24 hours a day, 7 days a week

