

WHAT IS MEDIATION?



STRIVING TO SETTLE

SOME OF THE
LATEST RESEARCH
SHOWS THAT
NEARLY 90% OF
CASES SETTLE AT,
OR VERY SOON
AFTER,
MEDIATION.

Mediation is a process in which an independent third party (the mediator) helps the parties who are in dispute to find a solution to their differences and to settle their dispute.

The mediator is not a Judge, they do not give a verdict on the rights and wrongs of the dispute. They do not present a settlement. Instead, they assist the parties to find a settlement which suits both parties.

And it works.

THE PROCESS



A SAFE SPACE

Whilst there's a structure that each mediation tends to follow, there is no formal process as such which helps adapt it to what the parties need.

It can even be done, beginning to end, without the parties even seeing each other.

Staying in their respective rooms whilst the mediator goes backwards and forwards between the parties, unlocking their real interests, prizing out common ground, finding a settlement that satisfies both parties. That is mediation.

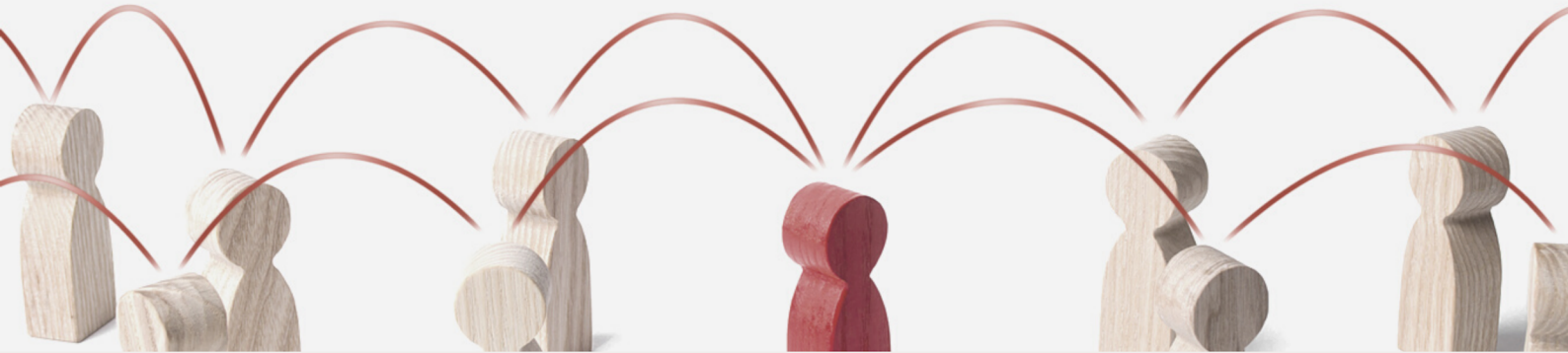
An added advantage is that within the mediation process everything is confidential.

- Nothing discussed in the mediation can be discussed outside of it.
- The discussion between the mediator and each party to the mediation is confidential between the two of them.
- And all of the discussions are 'without prejudice' meaning that they cannot be referred to in court proceedings

This gives the parties a 'safe space' in which to explore settlement and ultimately come up with a resolution to the dispute.



HOW MEDIATION HELPS



MEDIATION CAN HELP PARTIES IN MANY WAYS:

- **They avoid litigation where there is a winner and a loser**, where the 'loser' is likely to pick up most or all of the litigation costs. Great if it's not you but there is no guarantee which one of you will end up paying.
- **It gives the parties freedom of choice to find a settlement that is not available to a Judge.** The parties might decide a 60/40 split, they might involve control of an asset that is not involved within the dispute. There is no limit to the inventiveness of the settlement.
- **The parties have freedom to move on** from the disputes, emotionally, with their home lives, with their business, with their lives.
- **The process gives the parties the ability to use their resources they way they want**, rather than having to spend further money on solicitors, barristers, experts, trial. The list goes on.
- **The parties can retain privacy.** No threat of the dispute and the terms of the settlement becoming common knowledge, either in the press or in the industry.
- **It frees up time and emotional energy** that would otherwise be used in fighting the dispute. Litigation takes a lot of time. And whilst the parties are thinking, worrying about it, they reduce their bandwidth for everything else in their lives, be that business or family life.
- **It frees up management time** - litigation and disputes can strip even large organisations of time that would be spent managing its business.

IT CAN EVEN ALLOW A BUSINESS
RELATIONSHIP TO LIVE ON
AFTER A DISPUTE HAS BEEN
RESOLVED, SOMETHING THAT
RARELY HAPPENS AFTER A
COURT CASE



Many years ago, I was involved in a mediation with a 'big box' retailer who had fallen out with one of its suppliers. The ultimate settlement led to increased orders against the background of a newfound understanding of each other's business model, quality control and cash flow.

Has that ever happened at the end of a Court case?

That hope of finding an on-going relationship can be really important if the other party is your neighbour.

If any of this sounds like it might help then contact me.

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