



Negotiate • Compromise • Resolve

TESTIMONIALS:

"Thank you for dealing with our supplier issue. We honestly never thought we would settle this, let alone have the return of our bespoke goods" Commercial Director.

"A good listener. Thank you so much for helping us resolve a staff issue that had been escalating for some time. The employee involved has now returned to work and we have benchmarks to ensure we maintain the status quo." Head Teacher.

"Staying 'team savvy' especially during Covid with most of our teams working from home has been a steep learning curve. You kept us on track and I value your help greatly." Sales & Marketing Director.

FACTSHEET: Mediation in Business

Mediation is a process in which a neutral third party leads a structured negotiation with the aim of assisting parties in a dispute to achieve a negotiated settlement.

The role of the mediator is to listen to the parties and try to identify common ground that may form the basis of a settlement. Rather than being judgmental the approach of the mediator will be to endeavour to facilitate constructive and productive negotiations. The mediator will not make a decision on any issue.

Traditional mediators take a purely facilitative approach and will not offer an opinion on any issue. However, some mediators prefer a more evaluative approach and they may express their personal opinions on issues. This can sometimes be helpful as it can be useful to have a third party's view on the merits of an issue.

The two most common forms of mediation are commercial mediation and workplace mediation.

Commercial Mediation

Many commercial contracts contain a dispute escalation procedure imposing an obligation on the parties to mediate or at least consider mediation. Often failure to engage in this process can result in a costs Order being awarded against a party if the dispute ultimately ends up in Court.

The neutral third party is called the mediator.

Mediation is conducted on a 'without prejudice' basis. This means that the matters discussed in the mediation, or documents produced, cannot be shown to the court or otherwise employed in any litigation between the parties.

Unlike in litigation the parties and their advisers remain in complete control and ultimately decide whether and how a case will be settled. Any party to mediation can bring the mediation to a halt at any point, should they choose to do so.

Because disputes are costly, time consuming and energy sapping, a common reaction at first is to try to ignore the problem. When this does not work there may be an attempt at negotiation but all too often the parties become entrenched, relationships deteriorate and conduct of the dispute is given over to the lawyers. At this point the parties have lost control of the situation and are waiting with some trepidation for the next steps, driven by the courts and the untimely legal process.

Mediation gives the parties a second chance! The parties can take back control of the situation and sit down and address the real underlying issues. The mediator's skill is key here in enabling the parties to move away from their previous entrenched positions into more common ground and ultimately to settlement.

Workplace Mediation

In the workplace, mediation is a tool to resolve conflict or disputes. It is less formal than grievance or disciplinary procedures and seeks to provide a quick solution to individual workplace conflict and can be used at any stage. The process aims to create a safe and confidential space for those involved to find solutions that are acceptable to them. The solution is morally not legally binding and 30-90 day markers can be set for progress reviews to ensure the parties stick to their side of the agreement.

During the process parties are encouraged to hold open conversations that would normally be too difficult to have constructively and to understand and empathise with each other's emotions and position.

It is future focussed and less concerned with who is right or wrong and concentrates on solving problems so that they don't occur again.

Mediation is a voluntary process in the sense that it takes place as a result of the parties agreeing to enter the mediation process. It cannot happen if one or more of the parties refuse to participate.

Having an external mediator can provide the organisation with a fresh view of possible cultural or organisational issues and may also be more likely to gain the trust of the parties due to their impartiality.

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Workplace	Commercial
<p>The headline statistics are startling – in total, the cost of conflict to UK organisations was £28.5 billion – the equivalent of more than £1,000 for each employee. Close to 10 million people experienced conflict at work. Of these, over half suffer stress, anxiety or depression as a result; just under 900,000 took time off work; nearly half a million resigned, and more than 300,000 employees were dismissed.</p> <p><i>Source: CIPD survey data 2021.</i></p>	<p>In the last 12 months, 12,000 commercial mediations (excluding small claims mediations) were performed, being an increase of 20% on 2016. The estimated value of commercial claims mediated was £11.5 billion. The overall success rate of mediation remains high with an aggregate settlement rate of 89% (86% in 2016) – 74% achieving settlement on the day of mediation and 15% shortly after mediation.</p> <p><i>Source: CEDR Audit 2018.</i></p>

Why @nineteenmediate?

- Experienced commercial lawyers skilled in the art of contractual negotiation.
- Able to advise on the key legal principles and remain impartial throughout the process.
- Detailed Settlement Agreement drafted and issued on the day.

SERVICES AVAILABLE

Commercial Contracts
Corporate Services
Employment
Intellectual Property
Credit Control & Debt
Management

CLEAR ADVICE

We ensure both parties are completely at ease with the process and aim to make our time as stress free as possible.

CONFIDENTIAL

Without Prejudice Guarantee. We do not disclose any matters discussed in our sessions to anyone other than the parties. Even then it is only with your permission.

CONTROL

You remain in control and can decide to leave the process at any time. Only you can decide the terms upon which any settlement may be made.

For more information on our approach to mediation or any of our legal services to business please visit us on the Web at: www.nineteenlegal.co.uk

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LEGAL

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