GENERAL PRACTICE
MEDIATION

Mediation: An Introduction

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Mediation is a voluntary process where people can come together to find their own mutually agreeable solution to a conflict or disagreement under the guidance of an impartial mediator.

How mediation works

The process is flexible and tailored to the needs of those involved. Usually the parties and the mediator meet together in one space for a brief meeting before moving into breakout rooms where they work with the mediator to propose suggestions and make offers to each other to resolve the issues.

A mediator who understands the context of a dispute will be able to help the parties to think creatively about ways that the problem can be solved.

Confidentiality and voluntary participation

Mediation is a ‘safe space' where parties can attempt to resolve their issues in good faith. The whole process is confidential, and although most mediations result in a legally-binding agreement that ends the matter on the same day, there is no obligation to reach an agreement.

The voluntary nature of mediation means that a participant can walk away at any time. If an agreement is not reached, the slate is wiped clean, and everything said in the mediation stays confidential and cannot be mentioned in ongoing or new legal proceedings (this is a legal principle known as ‘without prejudice’).

Agreements, time, and cost

Agreements can be tailored to a specific situation, including elements further-reaching than a court of law could order such as creative use of payments, notice periods, leave, profit shares, partner duties, sabbaticals, references, and messaging to staff and patients. With agreements where there will be an ongoing professional relationship, these will be carefully written so that commitments are clear, realistic and measurable.

In addition to having a more pragmatic outcome, the process of mediation is also much faster and cheaper than legal proceedings.

DOCUMENT INFORMATION

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How does it work in practice?

Before the mediation

As mediation is voluntary, ALL of the parties in the dispute must be prepared to participate in the process - it cannot be forced upon anyone. In reality, once the principles of mediation that are mentioned above are understood, there is little reason not to participate.

With a partnership dispute, all partners (including those on long term sickness absence, or those on a mutual assessment period) will need to be involved. If the dispute relates to - or if an agreement is likely to involve changes to - property ownership, then all of the property owners (who may be retired partners or family members) will need to participate. Occasionally, people chose to bring their legal representatives with them to a mediation. Family members, friends or colleagues are not permitted to attend.

Once all have agreed to go ahead, the mediator will arrange 1:1 calls via Microsoft Teams with each party. These meetings are confidential. This is to make an introduction, explain the process, and understand that person's background to the issues and how that person thinks they could be resolved.

A mediation agreement is signed by all parties and the mediator using electronic document signing software, which ensures that everyone understands the confidential and without prejudice nature of the process.

On the mediation day

The parties will then need to set aside a full day (or two half days if that is not possible) where they all can attend the mediation.

The mediation starts with a brief meeting of everyone together where each party has the opportunity to speak uninterrupted about the issues and how they see them being resolved. Everyone then moves into smaller breakout rooms. These rooms are a private space in which the participants can talk confidentially to the mediator, and the mediator will then take any agreed messages, acknowledgements, offers or suggestions backwards and forwards between all of the parties.

Working towards an agreement

The aim of mediation is that the outcome is drafted into a legally-binding settlement agreement which is then signed by everyone, ideally on the same day.

If legal representatives are not present, then the mediator can draft Heads of Terms of the mediation outcome, from which solicitors can create a legally binding agreement.

Further information

Read about online mediation

View current services and fees

Book a free 30-minute consultation