

MEDIATION AND DISPUTE RESOLUTION SERVICES



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WHAT IS MEDIATION?

Mediation is a process for handling disputes that assists the people involved to reach an agreement, working with an impartial independent mediator. The parties in dispute, rather than the mediator, decide the terms of any settlement.

HOW CAN MEDIATION BENEFIT ME?

- **VOLUNTARY:** It is important that the parties come to the table in good faith, wanting to settle the dispute.
- **CONFIDENTIAL:** Issues and ideas for settlement can be discussed without fear of them being used against you in the future.
- **EASILY ARRANGED:** Usually it only takes a few phone-calls for a session to be set up at a neutral venue.
- **INFORMAL:** The mediator is trained to make it as relaxed as possible for everyone involved.
- **BALANCED:** Everyone gets a fair chance to be heard.

Mediation provides an opportunity for you to say what's important to you and hear the other person's perspectives.

The agenda and outcome are controlled by the parties. The mediation approach is problem-solving rather than adversarial and so this often results in creative options for settlement. In mediation, you speak for yourself and make your own decisions.

WHY USE MEDIATION?

Mediation is a solution seeking procedure and it is about finding a way forward that satisfies everyone. This is often called the win/win approach. It differs from the court process, which is often said to produce a win/lose outcome. Mediation treats all parties equally. This means that the parties must have a desire to resolve the problem in hand.

HOW EFFECTIVE IS MEDIATION?

It is reckoned that mediation is successful in 80% of cases referred.

WHAT IS THE COST?

Dispute Value	Pre-Mediation Meeting (Per Party, Per Hour)	8 Hour Mediation (Per Party)
£1,000 – £10,000	£100	£400
£10,000 – £50,000	£100	£600
£50,000 – £100,000	£100	£1,400
£100,000 – £250,000	£100	£2,000
Over £250,000	£100	By negotiation

WHAT WILL HAPPEN?

Once the parties have agreed to go to mediation, and the mediator has been contacted, both parties will have preliminary phone-calls with the mediator to discuss arrangements. Brief details of the background of the dispute will be given to the mediator. At the mediation the mediator will meet the parties separately to begin with and then there will probably be a joint meeting with the mediator for all parties to put their own viewpoints. The mediator will then meet with the parties privately in turn and will assist them to reach a solution which is acceptable to all.

WHY NOT GO TO COURT?

- **TIME:** It can take weeks or months for a court action to reach a conclusion.
- **CONTROL:** The court can only reach certain results open to it, and when it does, it will issue directions to the parties for that result to be put into effect. There will likely be a 'winner' and a 'loser'. In mediation, both parties can reach a practical solution acceptable to them both.
- **COST:** The longer a court action goes on the more expensive it will be. The fact that mediation is a speedy process will reduce the cost.

CAN I HAVE SOMEONE WITH ME?

You do not need to be on your own. It is possible to bring a friend, provided the mediator knows in advance and all parties agree. It is always possible for you to have your solicitor present if you want.

CAN I GET LEGAL AID?

If you have a solicitor and have a Legal Advice and Assistance Certificate or a full Legal Aid Certificate, your share of the costs of the mediation can be covered. In addition, your solicitor can be paid for attendance at the mediation if the Legal Aid Board agree that their being there is necessary.

David M. Preston

Law Consultant and Mediator

David Preston was a solicitor in Oban for over 30 years. He has represented many people involved in disputes of all kinds including family and commercial matters. He was President of the Law Society of Scotland in the year 2002-2003 and is an Accredited Mediator. During his year of office he was able to study many aspects of different practices and methods of dispute resolution throughout the world.

In particular he was part of a delegation from Scotland which visited Baltimore in Maryland in February 2003 where mediation is used extensively for dispute resolution in the courts as well as in education, the community, family matters and in consumer issues.

Mediation is used widely across the world in England, Canada, Australia and South Africa.

David's extensive experience in the law and through his involvement with the Law Society of Scotland has given him a wide experience and made him knowledgeable in many aspects of life, as well as the law, and a legal background is particularly useful to help others to find solutions to their problems and disputes.

His legal practice has also allowed him to develop negotiating skills that assist greatly in the process of mediation.



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