

# What is mediation?



## OVERVIEW

This document provides a general overview of the answers to frequently asked questions about mediation. As mediation is a flexible process, this overview may not cover every possible scenario or option available to the parties. If you require any further information about mediation generally, please contact the London Chamber of Arbitration and Mediation (LCAM) or seek legal advice.

## WHAT DOES 'MEDIATION' MEAN?

Mediation is a flexible and confidential process used to settle a dispute between two or more parties. It involves appointing an independent and impartial third person as a 'mediator', to help the parties talk through the issues, negotiate, and seek to come to a mutually agreeable solution.

## WHEN CAN YOU MEDIATE?

Mediation can take place before taking legal action, or while legal action is ongoing. LCAM mediations of Central London County Court cases can take place at any stage in the proceedings.

## WHO PAYS FOR THE MEDIATION?

This is for the parties to determine, but typically each party pays an equal share of the mediation fee. The LCAM Mediation Agreement for the Central London County Court cases requires the parties to share the fees.

## HOW MUCH DOES MEDIATION COST?

The cost of mediation typically varies in relation to claim value, complexity of the dispute, the mediator, venue, and length of the mediation. The cost is also impacted by whether it takes place under a particular scheme. LCAM aims to keep the costs of its scheme for Central London County Court cases competitive and the current fees are set out in the LCAM Terms for the Central London County Court Mediation Scheme.

## HOW LONG DOES A MEDIATION TAKE?

This depends on a range of factors, including the complexity of the dispute, the parties and willingness to negotiate towards achieving settlement. A mediation might therefore take a few hours, a whole day or longer. The Mediation Scheme for the Central London County Court offers parties the option of a fixed-fee mediation for either a half day or a full day. If parties want to mediate for longer, they can ask the mediator to do so, incurring additional fees.

## WHO APPOINTS THE MEDIATOR?

Mediator appointment arrangements will vary depending on what the parties have agreed. In the LCAM Mediation Scheme for the Central London County Court for Fast Track cases, LCAM will appoint a mediator and for Multi-Track cases, parties can choose their mediator from a shortlist provided by LCAM.

## WHAT HAPPENS BEFORE THE MEDIATION?

Once a mediator has been appointed and the mediation date has been agreed, each party will send relevant information to the mediator and have a call with the mediator as part of the pre-mediation preparation.

## WHAT HAPPENS DURING THE MEDIATION?

The parties come together either online or in person for confidential discussions, speaking in turn separately to the mediator and, where the mediator and the parties consider it appropriate, also discussing with each other, guided by the mediator. All the information shared with the mediator during the private sessions is confidential and will only be disclosed to the other party by prior agreement. During the mediation, the mediator will help the parties talk through the issues, negotiate, and will try to help them come to a mutually agreeable solution.

## DO I HAVE TO BE IN THE SAME ROOM AS THE OTHER PARTY I AM IN A MEDIATION WITH?

You don't have to be in the same room if you choose not to, even if you mediate in person. The mediator will work to help the parties reach an agreement. While a session where both parties come together in the same room may be proposed by the mediator; this remains optional. You can also consider mediating online and in online mediation speaking directly to the other party is also optional.

## CAN THE MEDIATOR PROVIDE ADVICE?

Mediators do not give advice. Their role is only to facilitate dialogue between the parties and the mediator remains neutral throughout.

## DOES THE MEDIATOR DECIDE WHAT HAPPENS?

Mediators do not decide what happens. The mediator only seeks to help the parties come to a mutual solution.

## WHO CAN ATTEND THE MEDIATION?

Parties can attend the mediation either with or without their legal representatives or other advisors. The parties must ensure that someone attending on their behalf has full and unconditional authority to settle the dispute. During the pre-mediation preparation, the mediator will assist in getting everyone's agreement as to who will be attending and agree an attendee list.

## CAN I LEAVE THE MEDIATION AT ANY TIME?

Yes, as mediation is an entirely voluntary process.

## HOW DOES A MEDIATION END?

If an agreeable solution has been reached, a settlement agreement will usually be drawn up by the parties immediately and its implementation planned. If no agreement has been reached, the parties may either conclude the mediation, or may agree to continue dialogue beyond the mediation day and resume the mediation at a future date.

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