

TW Mediate | Mediation Guide

What is Mediation?

Mediation is a form of alternative dispute resolution (ADR). It involves a neutral mediator working facilitatively with the parties towards a negotiated agreement.

Mediation is flexible and held confidentially. It is held on a without prejudice basis meaning the contents of what are discussed in the mediation are off-record and cannot be referred to in open correspondence or Court proceedings.

It is much quicker and cheaper for parties to conduct mediation than litigation. Mediations are generally held over either a half or a full day (depending on the complexity, value and parties in the claim). Occasionally a project mediation may be required where this is conducted over several weeks. In comparison, litigated cases take approximately 1-2 years to reach trial, although in some cases, this can take longer.

The Courts have always been encouraging of ADR even going as far as ordering parties who do not engage in ADR to pay costs. A step towards compulsory ADR was taken on 1 October 2024 when the Civil Procedure Rules were amended to allow the Court to order compulsory ADR before the case can proceed further in the Court system. These amendments were made following the case of *Churchill v Merthyr Tydfil CBC* [2023] EWCA Civ 1416 where it was decided that the Courts can compel a party to undertake ADR.

The parties can undertake mediation at any stage of a dispute, be that before or during litigation. In the first case since 1 October 2024, the Court ordered the parties in *DKH Retail Limited & Others -v- City Football Group Limited* [2024] EWHC 3231 (Ch) to undertake mediation at the pre-trial review. The claim settled in the mediation.

Undertaking mediation does not compel the parties to settle. If a settlement is not reached in the mediation, the parties are not prevented from either pursuing litigation or continuing to have settlement discussions. There may even be another mediation. What the parties are likely to take away from a mediation that doesn't settle is that the gap between them may have narrowed.

If the parties do settle in a mediation, they will enter into a settlement agreement which is binding and will bring the dispute to an end.



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The Mediation Process

The mediation process is flexible and can be designed by the parties in conjunction with the mediator but typically it will involve:

1. Prior to the mediation, the parties will prepare a bundle of papers for the mediator to review. They may also prepare case summaries. These documents will remain entirely confidential to the mediator. The mediator will have confidential discussions with both parties either in person or by telephone. A date and venue will be agreed with the parties and the mediator. The parties will sign a mediation agreement which provides the legal basis for the mediation.
2. On the day of the mediation, the parties will be in their own rooms and the mediator will have preliminary private meetings with each of the parties. By agreement, a face-to-face meeting may be held with the parties and the mediator.
3. The mediator will move on to have private confidential meetings with each of the parties. Information will be shared with the mediator in those meetings and nothing will be shared with the other party by the mediator without authority.
4. The mediator will continue to have these private meetings. That may involve testing the strength of a case and/or asking how a proposal may be received by the other party. The mediator will encourage the parties to make offers and counteroffers although they will always remain neutral and impartial.
5. The final stage is to finalise settlement by the parties signing a binding settlement agreement.

How are we different?

Katarina Morgan is accredited by CEDR, the Centre of Effective Dispute Resolution, one of the leading providers of mediation and ADR. CEDR is an international organisation.

Katarina is a qualified solicitor practising contentious matters so she understands the pressures a dispute can bring. She also has experience of conducting mediations in her capacity as a lawyer so she has firsthand experience of what the parties are going through.



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Our Fees

We are competitive in our fees. We understand that disputes are expensive. We offer fixed fees for our mediations up to 6pm. Our fees are subject to the value and complexity of the dispute and whether a half or a full day is required.

A mediation day is 8 hours with 4 hours of preparation. A half day mediation is 4 hours with 4 hours of preparation. The below pricing structure is an indication of our fees and is VAT exclusive.

Value	Half-Day Mediation (Price per Party)	Full-Day Mediation (Price per Party)	Additional Hourly Rate (Price per Party)
Up to £25k	£325	N/A	£150
£25-50K	£675	£1,000	£150
£50k+	£850	£1,250	£150
£100k+	£1,000	£1,500	£150
£250k+	£1,350	£2,000	£150

Venue Costs

We have the facility to hold mediations at our offices in Luton with car parking. We have two large conference rooms seating up to 12 people per room. Our mediator, Katarina Morgan, will have her own smaller private room.

Our fees for the two larger conference rooms and the smaller room for a day's mediation is £400 plus VAT per party. Additional fees apply for catering if required.

