

Guidance

A guide to civil mediation

Information about the benefits of civil mediation and how to find a mediator.

From: **Ministry of Justice** (</government/organisations/ministry-of-justice>)

Published 20 July 2021

Applies to England and Wales

Contents

- What is mediation?
- What kind of disputes are suitable for mediation?
- What are the benefits of mediation?
- When is the best time to mediate?
- Is offering to mediate a sign of weakness?
- How much does mediation cost?
- Who pays for mediation?
- How long does mediation take?
- What happens during mediation?
- Do I have to be in the same room as the person I am in mediation with?
- Can the mediator provide advice?
- Is mediation appropriate for everyone?
- Does the mediator decide what happens?

- Do I have to attend mediation on my own?
- Is mediation confidential?
- How does a mediation end?
- Is the agreement legally enforceable?
- What happens if there isn't an agreement?
- Are mediators accredited and regulated?
- What can I do if I have a complaint about my mediator?
- Where can I find a mediator?
- Where can I find out more about civil mediation?

What is mediation?

Mediation is a flexible and confidential process used to settle a dispute between two or more people, businesses or other organisations.

Mediations can involve appointing a mediator who is an independent and impartial third person, to help the parties talk through the issues, negotiate, and come to a mutually agreeable solution.

You can mediate before taking legal action or while legal action is ongoing.

What kind of disputes are suitable for mediation?

Mediation can be used to resolve almost all types of civil dispute, including:

- professional negligence
- [personal injury \(https://www.gov.uk/compensation-after-accident-or-injury\)](https://www.gov.uk/compensation-after-accident-or-injury)
- breach of contract
- [money disputes \(https://www.gov.uk/options-if-youre-owed-money\)](https://www.gov.uk/options-if-youre-owed-money)
- [bankruptcy \(https://www.gov.uk/apply-to-bankrupt-someone\)](https://www.gov.uk/apply-to-bankrupt-someone)
- wills and probate disputes
- trust disputes
- [charities disputes \(https://www.gov.uk/guidance/disagreements-and-disputes-in-charities\)](https://www.gov.uk/guidance/disagreements-and-disputes-in-charities)
- [guardianship disputes \(https://www.gov.uk/make-decisions-for-someone\)](https://www.gov.uk/make-decisions-for-someone)

- [land or property disputes \(https://www.gov.uk/appeal-upper-tribunal-lands\)](https://www.gov.uk/appeal-upper-tribunal-lands)
- [landlord and tenant disputes \(https://www.gov.uk/leasehold-property/leasehold-disputes\)](https://www.gov.uk/leasehold-property/leasehold-disputes)
- [neighbour disputes \(https://www.gov.uk/how-to-resolve-neighbour-disputes\)](https://www.gov.uk/how-to-resolve-neighbour-disputes)
- [intellectual property disputes \(https://www.gov.uk/defend-your-intellectual-property\)](https://www.gov.uk/defend-your-intellectual-property)
- defamation

What are the benefits of mediation?

Mediation allows you stay in control. Unlike in court, where a judge makes the decisions, in mediation you are able to decide how you want to resolve the dispute and don't have to accept an outcome you are not happy with.

Mediation is usually much quicker and much less expensive than going to court, so it can be a more efficient way of resolving disagreements that allows everyone to move on from the problem sooner.

Mediation provides a safe and supportive environment. The mediator will listen to all views, talking to you privately, and sometimes together with the other party, to help guide you through the process.

Mediation is confidential. Where disputes are resolved through the court, it is potentially a very public process. However, when disputes are settled out of court through mediation, it is private between you and the other party.

Mediation can help preserve your relationships. Settling a dispute through an adversarial court battle can put added pressure on the relationship between both parties. However, mediation helps you focus on communicating effectively with each other to find solutions that work for all.

When is the best time to mediate?

Mediation can take place at any time before your case reaches a hearing or trial at court, and the best time will often depend on your individual case.

In general, it is best to try mediation as soon as you can. This will help reduce the amount of time and money spent on the dispute and open a dialogue with the other party before they become too fixed in their position.

If you have already started a court claim and wish to mediate, the court can pause your case to enable you to do so. The judge will not be told what is discussed or offered at mediation.

Is offering to mediate a sign of weakness?

No. It can be empowering to make the first move and you are always in control at mediation. You choose what information can be discussed with the other side, and you choose whether to settle and on what terms.

How much does mediation cost?

It will depend on the type of mediation and the complexity of the dispute. You should ask your mediation provider what their costs are in advance of the mediation.

If your dispute is regarding a money claim under £10,000, you may be able to use the Government's free [Small Claims Mediation Service](https://www.gov.uk/guidance/small-claims-mediation-service) (<https://www.gov.uk/guidance/small-claims-mediation-service>).

If you are a landlord or tenant involved in a housing possession case, you may be able to use the Government's free [Rental Mediation Service](https://www.gov.uk/guidance/rental-mediation-service) (<https://www.gov.uk/guidance/rental-mediation-service>).

If your dispute is under £50,000 in value, the [Civil Mediation Council](https://civilmediation.org/) (<https://civilmediation.org/>) hosts a [Fixed Fee Mediation Scheme](https://civilmediation.org/fixed-fee-scheme/) (<https://civilmediation.org/fixed-fee-scheme/>) which allows parties to employ a mediator at reasonable rates.

Who pays for mediation?

It will depend upon the type of dispute, but typically both sides pay an equal share of the fee.

How long does mediation take?

Both sides may come to an agreement in just a couple of hours or it might take more than one session over a longer period. However, the majority of civil mediations are concluded in a day.

What happens during mediation?

This can vary depending on the type of mediation but in general the mediator will talk to both sides separately to hear their version of events, and, if agreed, may then

bring all the participants together to talk.

They are there to assist with the negotiation so both sides can hopefully reach a settlement they agree on.

Mediators are experts in communication and understand the strong emotions that can be generated when we are in dispute.

Do I have to be in the same room as the person I am in mediation with?

In mediation, you can still work to find an agreement without being in the same room or space with the other person - you don't have to spend time with the person you are in mediation with if you choose not to.

Your mediator can help you find a way to resolve your disagreements without being in direct contact.

Mediation online is also possible, giving participants greater space and the option of mediating from your own home or other private space.

Can the mediator provide advice?

No. The mediator will help you consider different options to resolve the dispute, but they don't give advice. Their role is to facilitate a conversation between you and the other side.

However, they can assist you with communication and managing emotions, helping you to make your points calmly and clearly, and to listen to the other side without interrupting or getting angry.

The mediator will support you if you are finding the process stressful.

Is mediation appropriate for everyone?

For some users who are vulnerable or are in a Domestic Abuse situation with the other person, mediation would not be appropriate.

Does the mediator decide what happens?

The mediator helps to keep things moving forward so both sides feel progress is

being made, but the mediator doesn't decide on the outcome.

Mediators are skilled at helping parties to see a way through the dispute, but do not impose solutions.

It is for you and the other side to agree on how you are going to settle the dispute.

Do I have to attend mediation on my own?

If you want to you can attend mediation on your own or you can bring a partner, family members or friends with you for support.

Depending on the type of dispute you may also want to have a legal representative, known as a mediation advocate, with you.

The mediator will assist in getting everyone's agreement as to who will be attending.

Is mediation confidential?

Yes. What you say during mediation and the outcome at the end can only be shared if everyone agrees to it.

In mediation all conversations are 'without prejudice' - which means that nothing that's been said at mediation can be used in court, should the dispute go that far.

In civil disputes, you can also decide what information is shared with the other party.

How does a mediation end?

In most types of mediation, if you agree on a resolution you will sign a written agreement, known as a 'settlement agreement', which will set out the agreement you have reached.

Is the agreement legally enforceable?

Yes. For civil disputes the signed agreement serves as a legally binding contract.

If court proceedings have already commenced, an order of the court which sets out what was agreed in mediation can be made by agreement of those involved (this is known as a 'consent order' or a 'Tomlin order').

What happens if there isn't an agreement?

You might have made good progress but not be quite at the position of settlement yet. It can often be helpful to take a break to think things through then resume mediation.

Mediation has a high success rate, with the majority of civil disputes settling on the day or shortly after.

If, at any stage, you decide you want to proceed with taking your case to court then you can do that.

Are mediators accredited and regulated?

Although the majority of mediators will be practitioners who are regulated by their professional bodies, there is no formal regulation of mediators as a defined group.

However, the Civil Mediation Council has its own system of [voluntary regulation](https://civilmediation.org/for-the-public/how-to-choose-a-mediator/) (<https://civilmediation.org/for-the-public/how-to-choose-a-mediator/>) where registered mediators have been trained specifically in mediation to industry accepted standards, are fully insured, abide by a Code of Conduct, and provide access to a complaints process if necessary.

What can I do if I have a complaint about my mediator?

In the first instance you should contact the mediator to explain why you are unhappy and give them the opportunity to put things right.

If the mediator belongs to a professional body, it should look into your complaint for you. The Civil Mediation Council has its own [complaints procedures](https://civilmediation.org/for-the-public/complaints/) (<https://civilmediation.org/for-the-public/complaints/>). You might also want to check your consumer rights to ensure you've received a fair service.

Where can I find a mediator?

The Civil Mediation Council has a searchable [list of registered mediators](https://civilmediation.org/mediator-search/) (<https://civilmediation.org/mediator-search/>) and mediation providers.

Where can I find out more about civil mediation?

[More information about mediation \(https://www.advicenow.org.uk/guides/survival-guide-civil-mediation\)](https://www.advicenow.org.uk/guides/survival-guide-civil-mediation) can be found on the Advicenow website.

Published 20 July 2021



OGL

All content is available under the [Open Government Licence v3.0](#), except where otherwise stated

[© Crown copyright](#)