**What is mediation of a dispute**

It often starts with an event of some sort, which is then followed up with phone calls or correspondence and perhaps lawyers letters containing barely veiled threats of one sort or another. A dispute is born. At this point, depending on whether you are the party complaining or responding to a complaint, you can endeavour to negotiate a solution, instigate formal proceedings, arbitration/litigation, or do nothing in the hope that it will go away. Mediation occupies an over arching position in all the above options from the failure of a negotiated settlement onwards.

**The process**

Mediation does not have the formality of court proceedings, but it does have a definite, but adaptable structure. Adaptable to the type and complexity of a dispute and structured to achieve progress and momentum.

After the mediator has gained sufficient understanding of the dispute a mutually convenient time, date and place will be arranged to conduct the mediation or the first session if the mediation is particularly complex. The mediation session maybe face to face or video-linked online. Online mediation works, but it requires not only good internet connection, but also fairly strict disciple in answering video calls as the mediator moves through private sessions with the parties.

As the mediation moves towards a solution to the dispute, the mediator will try and ensure that both parties are satisfied with the proposed outcome as this is essential to successful mediation.

**The advantages**

The disputing parties own the mediation process, so at any point either party can end the mediation for any reason. In practice this rarely happens as they see the mediator is moving the dispute forward out of deadlock in a positive direction. The parties control the outcome, unlike court proceedings where a judge will hand down a decision. The parties ownership of the outcome can also enable additional benefits such as the continuation of a business relationship.

The whole mediation process is confidential, unlike court proceedings where business sensitive information may be required to be made public in open court. All discussions by the parties with the mediator are strictly confidential, the mediator will reveal nothing to the other party without the originator's express consent.

The speed of dispute settlement is almost invariably quicker than court proceedings. The volume of disputes passing through government court structures in nearly all jurisdictions is high and therefore there are often delays, frequently measured in years, before closure of a dispute is achieved.

The nature of a resolution to a dispute in mediation has the ability to be far more creative than that which a court is able to provide. The solutions available to a court essentially consist of money and/or prohibition, whereas in mediation there is an almost limitless range of settlements to which the parties may agree, provided the obligations are not in and of themselves illegal.

Settlement of cross border disputes is another advantage of mediation as it is not dependant on court structures in any jurisdiction nor on lengthy, costly and sometimes frustrating international enforcement action.

The financial cost of a dispute is an ever present shadow. There can be hard costs, in the case that a dispute is about money and recovery costs such as lawye'rs fees and court costs. There are frequently soft costs, such as time engaged in the dispute and opportunity costs like finding an alternative supplier, which may be more difficult to quantify, but non-the-less add something to the overall cost of a dispute.   
The cost of a mediated solution is by contrast more predictable, invariably cheaper and easier for the parties to a dispute to control.

**How to initiate a mediation of your dispute**

Firstly, it is essential to realise that you have a dispute that you want to settle, to accept that you have gone as far as you are able at that point in time to negotiate a resolution.

To start the mediation process, both sides to the dispute have to agree to mediate. How is that going to happen, you may ask, we are at loggerheads. Firstly, you will need to send an email to us stating:

Your name and contact details  
The other party's name and contact details  
A summary of the dispute, at this stage up to about 100 words is usually sufficient, unless the matter is particularly complicated

What stage the dispute is at, for example, solicitors letters have been exchanged, litigation is being considered.

We will then write to the other party, advising them that we are professional independent mediators, asking if they are willing to entering into mediation of the dispute.  
If the other party refuses, we may make a follow up contact to try and engage with them, however, mediation is a process of mutual consent and if they refuse we cannot compel them. If this happens we will provide you with confirmation of they attempt which may be of use in some further court action. The fact that you tried to achieve a mediated solution usually weighs to some extent in your favour.

**Timing**  
The timing of a mediation is dependent on the complexity of the dispute and to willingness of the parties to seek a solution. It also depends on the mediation methodology, whether it is face to face, online or a mixture of both. All our mediations are at least initially online, whereby the claim and response are in a written form by email. If the matter involves a substantial a amount of written material, this is best sent for the mediator to read and clarify any points with the party in advance of either a face to face or video-linked mediation session.

The total time for a mediation can vary between half a day and three plus days which are sometimes spaced over weeks, as consultations with third parties may be needed. However, one of mediations heralded advantages is speed and it is important to keep up momentum in the process.

**Cost**

The cost of the mediation is equally borne by both parties to a dispute.  
The parties to the dispute conclude their own solution, there is no decision handed down the case of litigation or arbitration.Accordingly, there are no cost awards in the process, each party is responsible for paying its own legal expenses, if lawyers have been engaged.  
  
**Biography Martin Newham BAhons DipArch LLM RIBA CKA**  
Martin Newham is a civil and commercial mediator. His specialism is in construction, design, technical and commercial disputes. Martin is a qualified architect, a member of the Royal Institute of British Architects and Czech Chamber of Architects, he holds a masters degree in international law. Decades of private practice with a client base of global multi-nationals and governmental institutions in a variety of jurisdictions has enabled Martin to professionally respond to the challenges of cross-border and cross cultural dispute resolution.

**Biography Martina Sorm LLB**  
Before becoming a partner in Expert Mediations Martina Sorm practiced for nearly a decade as an in-house lawyer and legal consultant in the corporate sector including board level executive positions. Her consultancy practice included conflict management strategies and the implementation of effective mediation for organisations. She is experienced in various types of dispute resolution and client tailored solutions with a niche for business contracts, real estate and start-up/ investments.

Having developed her career spanning Ireland, Spain and the Czech Republic, Martina is proficient in multiple jurisdiction litigations and comfortable within both the commonwealth and continental legal systems. She qualified as a lawyer at the University of Wales, UK, in 2010 and acquired a number of law related diplomas at the School of Law of the Charles University in Prague, Czech Republic.

As a part of her ongoing professional education and development Martina also gives speeches and workshops on mediation and conflict management in and among organisations, helping their stakeholders use mediation and collaborative skills at all levels.