

TIPS FOR PARTIES

WHO/WHERE/WHEN?

You and/or your advisors will select a mediator. We suggest that it is helpful that a mediator is someone who can quickly build trust and confidence with the parties and who is not afraid to reality test the parties positions.

Fees vary between mediators. For details of our fees please download this from our mediation page on the website. It is common for the parties to equally share the costs of mediation.

If you are represented, it is not unusual for one of the firms of solicitors to agree to accommodate the mediation. This can save on fees for accommodation. If you need help with accommodation for the mediation day, please contact us.

It is our view that provided sufficient information is available to assist the parties in understanding one another's position in a dispute it is ready for mediation. The benefit of earlier mediation is that it has the potential to save very substantial amounts of legal costs that might be incurred in litigation.

PREPARING

Remember that if you reach a settlement at the mediation day it gives certainty and brings the matter to an end.

Try to ensure that you are familiar with your case. Bring with you any documents that you think are relevant and that you might like to refer to.

Have in mind what you would like to achieve from the mediation day. What are the risks and financial and other costs if you do not reach settlement? What outcome would be acceptable to you? What do you think the other party wants?

If there is an aspect of your dispute that requires technical input, expert evidence and perhaps understanding of legal concepts, it would be helpful to have that expertise available to you at the mediation. If you do not have necessary expertise available to you then it could make it difficult for you to make an informed decision and reach settlement.

Although the mediation process is far less formal than litigation it is equally as powerful in terms of bringing a matter to an end so do plan for the mediation day and make the most of the opportunity.

Remember, the mediator will not judge you or your case, he will try to help you and the other party reach settlement.

THE MEDIATION DAY

You can bring a family member or a friend to support you during the mediation. There can be periods of waiting and you might be grateful for their company during the day.

You will have your own room and privacy. There will be refreshments. When you arrive, settle in and try to relax a little but remain focussed. Remember that you have greater control in the mediation than you would have at court.

The mediator will introduce himself to you and he will explain that the mediation is a voluntary process, confidential and without prejudice and will explain what he means by this. He will outline a loose structure for the day. You will be asked to sign the agreement to mediate document.

The mediator might invite you to agree to a joint meeting with the party but he will never try to force you into such a meeting.

If there is a joint opening session, this is an opportunity for you and/or your representative to make a statement if you wish. A joint session (if it occurs) might last a long time or a short time. When it ends the parties will return to the private rooms and the mediator will move between those rooms.

In the private rooms the mediator will seek to obtain a better understanding of the parties and their positions in the dispute. He is likely to reality test the positions adopted by the parties.

You can express your views and feelings openly in the confidence of your own room. During the day you and those with you will have an opportunity to convey your message to the other parties present. Remember also that you are there of your own free will.

The length of time that the mediator spends in private session with your party or the other party can vary. When the mediator leaves you he is likely to leave something for think about and discuss while his with the other party.

The mediation day is an opportunity to influence the other party's thinking and also to influence the mediator's thinking.

SETTLEMENT

If an agreement is reached it will be recorded in writing. This is often drafted by the parties' representatives and you will not sign anything that you have not agreed to. You will not be forced to settle.

A signed mediation agreement binds the parties.

ANY QUESTIONS?

If this short note does not answer all your questions please contact us. 01756 700200 and kh@walkerfoster.com

