



# Online Mediation

A guide to negotiating disputes  
digitally

April 2020



# Introduction

RICS adopts a robust, evaluative approach to mediation which is well suited to our area of specialisation: construction, property and land disputes. We appoint professionals with years of experience to help the parties analyse the situation in depth and reach a quick, pragmatic and commercially viable settlement. This is far better than letting it drag on or taking the matter to court.

In these unprecedented times, people are working remotely, and video conferencing is becoming the new normal. As we adjust to a digital approach, RICS online mediation could be the solution for you to manage your dispute and help you get to a pragmatic, cost effective and commercial settlement.

To meet this growing need, the RICS Dispute Resolution Service (DRS) is offering a new flexible, online mediation service.

It allows you to resolve your dispute online quickly, and with fixed fees, so you know the costs from the outset.

RICS provide highly qualified mediators, who are also sector specialist, experienced in negotiating settlements for all types of disputes across the built environment.

**In this guide we will cover the following topics:**

1. Advantages of online mediation
2. Tools needed
3. Setting up
4. Preparation
5. Guidelines
6. Support
7. Costs

The RICS service gives you the flexibility you need to control your dispute by designing an online mediation package that suits your needs.



# Advantages of online mediation

With the current changes to the business world and the need to transform to a digital approach, online mediation has become increasingly popular. The entire process is conducted remotely using a digital platform. Unlike traditional mediation, the parties and the mediator will not meet face-to-face.

**Why would you want to mediate with RICS online?**

**Quality of the mediators** – we use only specifically qualified and experienced mediators who comply with RICS's stringent service standards and who are all accredited mediators.

**Transparency of the service** – we make sure you know how much you are paying from the outset with a fixed fee service. This is substantially cheaper than going to court. Your mediation will be entirely private and confidential and will enable you to play an active role in shaping the outcome that will affect you.

**Time saving** – a mediation can be organised within a matter of days and usually concludes within one day. The whole matter can be resolved in under two weeks from when you submit your application.

- Quality of the mediators
- Transparency of the service
- Maintain customer confidence
- Time saving
- Adaptable process
- Technical requirements

**Adaptable process** – online mediation can be simple or as complex as you need. You can discuss the options with your mediator.

**Technical requirements** – as a bare minimum you will need a telephone and email.



# Tools needed

## Essential tools:

- Bare minimum – telephone and email
- Ideally - smartphone, tablet, laptop or desktop computer with secure internet connection

Mediations can work effectively using smartphones, but generally you get the most out of an online mediation if you use a tablet, laptop or desk computer. A headset or earphones with microphone are helpful because they cutdown any background noise.

Ideally though, you would benefit from access to a video-conferencing platform such as Skype for business, Microsoft Teams or Zoom. Most of these platforms will need you to download software. If your hardware is issued by your employer and does not host a video conferencing platform you will need to check with your system administrator if your system supports the download.

If you do not have access to any videoconferencing, DRS can help you. You can apply for our online mediation package.

# Setting up

If you have not used video conferencing previously, below are some helpful hints to help you participate in a professional mediation:

## Lighting

It is important to ensure the surrounding area is well lit, this can be with natural or artificial light. Try to make certain that the light source is not shining directly behind you as this will make it difficult to see your face on screen.

## Making eye contact

This creates a connection with everyone on the call. Try to resist the temptation to watch yourself in the corner of the screen.

## Professional background

Ensure the area behind you looks professional, it is useful to remove any personal objects e.g. photographs from camera view.

## Framing

Frame yourself in the camera, you can view what the participants will see in the corner of the screen. Try not to sit too close or too far from your laptop's camera.

## Microphone mute

When taking part in the call try to get into the habit of muting your microphone when not speaking. This will help reduce any interruptions and background noise.

### Setting up requirements:

- Lighting
- Making eye contact
- Professional background
- Framing
- Microphone mute

# Preparation

Every mediation is different, and many require different approaches or adjustments. It is important to prepare prior to the mediation. Think about your individual circumstances, is there anything the mediator should know about such as disabilities or illnesses?

**You may want to discuss the following with your mediator:**

## Structure

You need to set breaks, you will need time away from your screen to move around.

## Timing of the mediation

Breaking it over two days may help to maintain concentration and energy levels.

## Costs

Discuss the potential costs with the mediator based on the table of fees.

## Advanced calls

A significant amount of work may be completed in advance of the mediation

## Settlement

Agree in advance how a settlement agreement will be executed. Talking through the agreement to mediate with the mediator can be a helpful way of dealing with queries.

### Key guideline rules will help to ensure the mediation is successful:

- How and when the mediation should take place
- Structure
- Timing of the mediation
- Costs
- Advanced calls
- Settlement



# Guidelines

Transparency is essential to create a successful mediation. Therefore, all parties must sign up to the rules of the mediation. Transparency creates clarity and confidence in the mediation. You should always discuss the set of procedures you intend to follow with the participants. Some of the key principles are:

## Confidentiality

Mediations are confidential. It is important to consider the confidentiality provision and the effect of without prejudice privilege.

## Privacy

It is important that only individuals listed on the application form may attend or be present in the rooms where each party member is joining.

## Recording

Agree in writing that recording is not permitted, this will help to create confidence and trust.

## Planned or possible interruptions

Being at home can create planned and unplanned interruptions from other household members. If this happens, it is important to alert all participants. Not doing so can negatively impact the trust between parties and the mediator.

## Use of phones/checking emails during the mediation

Parties will receive emails and communications on the device they use to log-in to the mediation. It is important to disable any email or messenger facilities whilst the mediation is taking place.

### Key guidelines will help to ensure the mediation is successful:

- Confidentiality
- Privacy
- Recording
- Planned or possible interruptions
- Use of phones and emails

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# The process

## The Process

Parties will need to make a joint application to RICS. Where only one party applies, DRS will attempt to contact the other side to encourage them to engage with the process.

Once both parties have agreed to the process, DRS will appoint an appropriately qualified specialist to act as the mediator. DRS will undertake reasonable due diligence to ensure that the mediator is properly qualified and free of conflicts of interest. DRS will also obtain a potential date(s) for the mediation.

RICS DRS will then formally appoint the mediator and notify the parties. RICS DRS will liaise with the mediator and the parties on setting up calls/online sessions as appropriate.

## Payment

Parties will submit a non-refundable administration fee payment borne equally (or wholly by the applicant) with their documents for the mediation to RICS DRS.

### Address:

RICS Dispute Resolution Service

55 Colmore Row

Birmingham

B3 2AA

### Email:

[drs@rics.org](mailto:drs@rics.org)

In addition, parties will be required to pay the fixed period mediator fees in advance and before the mediation begins.

These fees will normally be paid equally by both parties; however, one party may choose to pay the full amount.

Any additional hours will be billed for immediately after the mediation and the parties will be jointly and severally liable to pay for these.





# Costs

- We have two different pricing categories for disputes:
- Disputes up to £25,000
- Disputes over £25,000

## Disputes up to £25,000

A non-refundable administration fee payment of £50+VAT each (or £100 + VAT if paid by the applicant)

### Mediator's Fees

Amount in disputes	Number of mediation hours	Payment per party
<b>0 - £5,000</b>	2 hours	£150
<b>£5,001 - £15,000</b>	3 hours	£300
<b>£15,001 - £25,000</b>	4 hours	£400

Additional hours will be charged at £100 per hour

## Disputes over £25,000

A non-refundable administration fee payment of £100+VAT each (or £200 + VAT if paid by the applicant)

### Mediator's Fees

Amount in disputes	Number of mediation hours	Payment per party
<b>£25,001 - £50,000</b>	5 hours	£500
<b>£50,001 - £75,000</b>	6 hours	£650
<b>£75,001 - £100,000</b>	7 hours	£800

Additional hours will be charged at £150 per hour

All figures are exclusive of VAT

DRS will recoup a fee of 10% of the total fee charged by the mediator from the mediator upon completion of the mediation proceedings. This does not impact on the parties.

# Delivering confidence

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

## Americas

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### **Latin America**

[ricsamericalatina@rics.org](mailto:ricsamericalatina@rics.org)

### **North America**

[ricsamericas@rics.org](mailto:ricsamericas@rics.org)

## Asia Pacific

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### **Australasia**

[australasia@rics.org](mailto:australasia@rics.org)

### **Greater China (Hong Kong)**

[ricshk@rics.org](mailto:ricshk@rics.org)

### **Greater China (Shanghai)**

[ricschina@rics.org](mailto:ricschina@rics.org)

### **Japan**

[ricsjapan@rics.org](mailto:ricsjapan@rics.org)

### **South Asia**

[ricsindia@rics.org](mailto:ricsindia@rics.org)

### **Southeast Asia**

[sea@rics.org](mailto:sea@rics.org)

## EMEA

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### **Africa**

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### **Ireland**

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### **Middle East**

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### **United Kingdom RICS HQ**

[contactrics@rics.org](mailto:contactrics@rics.org)



[rics.org](https://www.rics.org)