

DISPUTE RESOLUTION

Court approved Alternative Dispute Resolution Service – Mediation

RICS Dispute Resolution Service



Mediation Procedure

A service to help resolve disputes concerning land, property and building/construction works when parties, who are involved in litigation, have been directed by the court to attempt settlement through mediation.

This mediation service is provided by the Royal Institution of Chartered Surveyors (RICS).

Mediation is a process for resolving disputes between two parties where a neutral third person, or mediator, helps them to engage in constructive dialogue with the aim of achieving a jointly acceptable resolution of issues in conflict. Mediation has proven to be highly successful and is recognised as being significantly quicker and more cost-effective than litigation. It is also less formal than court and the process is normally confidential. Another of the attractions of mediation is that a settlement cannot be imposed on the parties.

A mediator appointed under this service will normally be an impartial professional (chartered surveyor, lawyer, engineer) who is trained in mediation skills and procedure. The mediator will hold a meeting with both parties present, where they will be encouraged to discuss their differences and explore a variety of solutions.

Getting the mediation started

1. One or both parties may, following the court's direction, refer their dispute to a mediator appointed by RICS. This is done by downloading a standard application form, available on the website, completing it and emailing, along with a copy of the court direction and mediation fee to drs@rics.org. For more information about the fee, see the "Fees" section below).
2. Neither party is obliged to retain a lawyer or a professional advisor, but they may seek independent advice or be represented or assisted in the mediation by a lawyer or professional adviser at any stage of the procedure.
3. RICS will contact both the parties within 2 working days and acknowledge receipt of the application form.
4. Within 10 working days RICS will appoint a professionally qualified and impartial mediator who will work with both parties and help them achieve a mutually acceptable, and cost-effective solution.
5. Once appointed, the mediator will contact both parties and explain the process and answer any initial questions.
6. The mediator will set a timetable for the mediation and arrange a mediation hearing, which will normally be via MS Teams or similar online platform. The mediation hearing will normally take place within 10 working days of the mediator being appointed.

7. Before the mediation hearing takes place, the mediator may request additional information from one or both parties.
8. Any communication made by the mediator to one party, such as a request for further information, will be copied to the other party.
9. Any documents or information submitted by either party to the mediator will be copied to the other party who will be given an opportunity to comment.

Mediation Hearing

10. The mediator will meet the parties and encourage them to each identify and discuss the issues and to fully appreciate and understand each other's viewpoint.
11. Each party will be invited by the mediator to present their views of the dispute. The mediator will manage the process to ensure that each party can speak uninterrupted. The mediator will summarise the issues raised by the parties and encourage both parties to suggest and consider possible solutions. The mediator is completely impartial and will not pass judgement on what either party has said.
12. The mediator will work with both parties and make it possible for them to continue to engage in a meaningful discussion. The mediator will help the parties to avoid becoming locked in entrenched positions and will keep them focused on finding a viable settlement of their dispute.
13. The mediator will explore common ground with the parties, and help them to identify options for settlement, which may include solutions that would not be available through the courts.

Concluding the mediation

14. Either party can withdraw from the mediation at any time.
15. The mediation will conclude when:
 - a. One or both parties decide to withdraw from the process,
 - b. The parties agree settlement terms on the entire dispute and ratify this in a mediation settlement agreement.
 - c. The parties agree on settlement terms on part of the dispute and require matters which they have not been able to agree on to be referred back to the court.
16. If the mediation concludes with a solution which both parties are satisfied with, the parties can invite the mediator to help them complete a mediation settlement agreement¹.

¹ There is a template mediation settlement agreement published by HMCTS. This could perhaps be used or adapted for this service <https://www.gov.uk/government/publications/form-n182-mediation-settlement-agreement>

17. The parties should note:
- They are not bound to agree any proposed solution raised in the mediation hearing.
 - Participation in the mediation does not prevent the possibility of seeking redress through court proceedings.
 - A proposed solution can provide a different outcome than might be determined by a court applying legal rules.
 - Once an agreement has been achieved and properly documented in a mediation settlement agreement it will normally be legally binding.
18. On completion of the mediation the mediator will notify RICS who will seek feedback from the parties on how well the process worked.

Fees

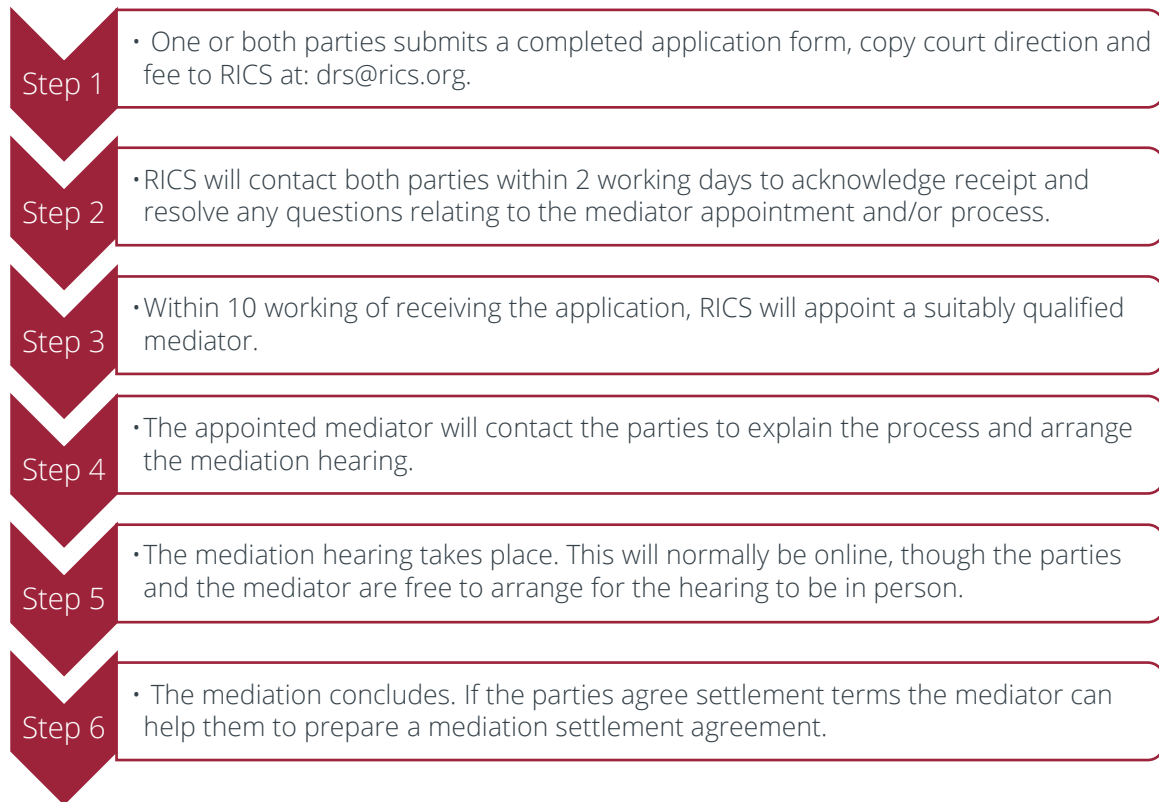
The mediation fee covers RICS' administrative costs and the mediator's professional fee for undertaking the mediation.

Each party will normally be expected to pay half of the mediation fee. Mediation hearings will normally be conducted online using MS Teams or a similar online service.

Amount in dispute	Mediation fee
£5,000 or less*	£400 (£200 x 2) + VAT
£5,000 - £25,000	£1000 (£500 x 2) + VAT
£25,000 to £100,000	£2,500 (£1,250 x 2) + VAT

If the parties require an in-person mediation hearing, they will bear any additional costs such as the mediator's reasonable travel costs, room hire, refreshments etc. These costs (or the basis on which they will be calculated if costs are not available) will be made known to the parties and agreed prior to the face-to-face hearing.

Outline of Process



RICS provides a helpline which is available for any party who is not professionally represented. The telephone number is +44 (0)20 7334 3806 and the caller may be eligible for up to half an hour of free advice from a chartered surveyor.

Contact

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55 Colmore Row

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T +44 (0) 207 334 3806 (DRS helpline)

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