

CLIVE DOUGLAS

Commercial & Property Mediator

Terms and Conditions

These terms and conditions must be read in conjunction with the mediation agreement I send to the parties (and, where applicable, their legal representatives). In the event of any difference or conflict between the provisions of the mediation agreement and these terms and conditions, the provisions of the mediation agreement take precedence.

My appointment and role as a Mediator

1. My role as a mediator is to assist and facilitate parties to resolve and settle disputes through mediation. All appointments of me to mediate, including appointments made via a mediation panel or agency, will be undertaken by me solely in my capacity as an accredited mediator and not as a solicitor.
2. If I am appointed to mediate through a mediation panel or agency, the mediation panel's or agency's mediation agreement, including the mediation fees payable under it and other terms and conditions of business, will apply to that appointment.
3. In my role as a mediator, I do not offer legal advice or act as a legal adviser for any party or try to analyse or protect a party's position or rights. A party is free to represent itself at a mediation or choose to be represented by a friend or professional adviser, who may or may not be a lawyer (i.e. solicitor or barrister). A party who is not legally represented at a mediation may wish to consider taking independent legal advice before or during the mediation and prior to finalising any settlement agreement reached through the mediation.

Mediation Agreement

4. Where I am invited to mediate directly by parties or by solicitors and/or barristers (legal representatives) on their behalfs, I will send the parties (and, where applicable, their legal representatives) my form of mediation agreement for review.
5. The mediation agreement confirms details of the mediation, my appointment as mediator and the terms and conditions of my appointment, and must be signed by the parties and their legal representatives (if applicable) in advance of the mediation. At the start of the mediation I will sign, and also ask the parties and their legal representatives to sign, a further copy of the mediation agreement so that all signatures are on a single document.
6. Attached to the mediation agreement is a schedule setting out a confidentiality undertaking, which I will require anyone else present at the mediation who has not signed the mediation agreement itself (e.g. a party's non-lawyer representative, friend or expert or any observer such as a trainee mediator I invite to attend the mediation for observation and training purposes) to sign, committing them to keep all information they hear, read or see at the mediation strictly confidential.

Fees

7. Unless the parties agree otherwise, the parties will be responsible to pay my fees and expenses in equal shares, and also to hire and pay for the use of a mediation venue on the same basis.
8. I will invoice each party for its share of my fees prior to the mediation and, where practicable, also include the cost of any expenses (such as travel and overnight accommodation), although it may be necessary to invoice for expenses after the mediation. Each party must pay its share of my invoiced fees and expenses in full not less than seven (7) days before a mediation.
9. If any additional hours and corresponding additional fees for a mediation are agreed before or during a mediation, each party must pay its share of my additional fees before the mediation continues for the agreed additional time.
10. I will not make any partial refunds of fees if the mediation concludes or terminates more quickly than the agreed time scheduled for it.

Cancellation and Postponement

11. In the event of cancellation or postponement of a mediation, each party becomes liable to pay its share of any irrecoverable expenses I have incurred (e.g. travel expenses or venue cancellation fees if I have organised and paid for a venue) together with the following percentages of its share of my agreed fees:
 - (i) 0% if cancelled or postponed 7 or more days before the mediation;
 - (ii) 50% if cancelled or postponed between 3 and 6 days before the mediation, unless it is rescheduled with 14 days of the original mediation date;
 - (iii) 75% if cancelled or postponed 2 or less days before the mediation, unless it is rescheduled with 14 days of the original mediation date.

Complaints

12. In relation to any complaints that may be made to me arising out of my practice as a registered mediator:
 - (i) I will acknowledge all complaints in writing within 5 working days of receipt. This acknowledgement may include a detailed response or give an indication of how long it will take to send a detailed response.
 - (ii) I will investigate all complaints carefully and thoroughly and, if my initial acknowledgement does not include a detailed response, provide a detailed response within 21 working days of receipt of the complaint. If for any reason further time is required to investigate any complaint, I will notify the complainant of this in writing.
 - (iii) If a complainant does not accept my response to a complaint, I will promptly (and in any event within 5 working days) inform the complainant in writing of the right to refer the complaint on certain grounds to the Civil Mediation Council (CMC) within one month from conclusion of my consideration of it and in any event within 6 months of the events giving rise to the complaint, and the processes for doing so detailed on <https://civilmediation.org/for-the-public/complaints/>.
 - (iv) I will keep written records of any complaints I receive and my responses to them.