

What is mediation?

Mediation is an alternative to legal action. It is increasingly seen as an option for clinical negligence cases as it provides an opportunity for both parties to have their say with a view to resolving their differences in a more informal setting.

Mediation can take place at any time, even after legal proceedings have commenced.

Mediation provides an opportunity to discuss non-monetary issues as well as financial compensation.

How does it work?

Both sides have to agree to mediation – it is voluntary.

A trained mediator will listen to both sides' arguments and try to establish common ground as well as areas of dispute. The mediator then works with both parties to try to find an agreed solution.

If an agreement cannot be reached, either party can request a written report from the mediator that outlines views on a reasonable settlement. This can be disregarded by both parties. The conclusion of a mediation is not binding. If the complainant is not satisfied the litigation process can proceed. If however, the terms are acceptable to both parties than a formal contract is issued and signed.

Potential advantages of mediation

- Can be quicker and, even if settlement is not reached, often identifies key issues
- Takes place privately
- Provides the complainant with more control
- Allows the exploration of wider issues, not just compensation

Potential disadvantages of mediation

- May result in a less advantageous settlement than the court process
- Will not necessarily result in changes in medical practice
- May reduce the chance of an incompetent professional being detected.

As there have been very few mediated clinical negligence claims it is difficult to assess the advantages and disadvantages of mediation thoroughly.

Specialist advice

Burnetts are the only practice in Cumbria with its own dedicated Medical Law department. Burnetts are specialists in all aspects of medical law including alternatives to litigation. Whether that means taking advantage of the complaints procedure, arranging mediation of your claim or litigation, Burnetts will advise you on the most effective way for your concerns and grievances to be addressed.



Monday - Friday 9.00 a.m. - 5.30 p.m. Saturday 9.00 a.m. - 12 noon

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