



medical mediation foundation

resolving conflicts in health and social care

Guide for health & care lawyers

Partnering with legal teams to resolve complex disputes

In the practice of health and care law, instructions frequently arise at moments of acute crisis. These cases are rarely just legally complex; they are defined by emotional sensitivity and a need for urgency. While robust legal representation is essential, litigation may not be the most effective route to a sustainable resolution - especially where the ongoing relationship between an NHS Trust, a local authority, and a family is vital to future care.

There is a growing body of evidence supporting the role of specialist mediation as a more flexible, participatory alternative to traditional court processes. As a proportionate and confidential tool, mediation complements your legal strategy by providing a structured space to clarify issues, repair communication, and explore lawful solutions without prejudice to your client's position. The Medical Mediation Foundation (MMF) facilitates this by bridging the gap between clinical realities and legal frameworks, bringing deep expertise in ethics and communication to every dispute.

Why instruct the Medical Mediation Foundation?

- **Complementary, not competing:** We work alongside you. You continue to advise on rights, duties, and risk while we facilitate the dialogue.
- **Without prejudice:** A confidential space to address misunderstandings and explore options safely.
- **Flexible timing:** Effective at any stage - pre-issue (to prevent escalation), post-issue (parallel to proceedings) or post-judgment (restoring relationships).
- **Speed & cost:** Early referral can prevent entrenched disputes, avoid emergency hearings and save significant costs.

How we work

1. **Enquiry & scoping:** Contact us and we will arrange a no-cost, no-obligation call with one of our expert mediators to discuss the dispute, urgency, funding and suitability.
2. **Proposal:** We provide a clear proposal with indicative timescales and costs for the parties' approval.
3. **Pre-mediation:** Private, confidential meetings with each party - with or without their legal representatives - to prepare for joint discussions.

4. **Joint mediation:** Facilitated dialogue focused on understanding and problem-solving. Lawyers are welcome to participate, or to be available for consultation as needed.
5. **Resolution:** Any agreement reached belongs to the parties and can be formalised by legal reps as required (e.g. via consent order).

FAQs: Frequently asked questions about health & care mediation

Q: What types of health and care cases do you mediate?

We handle disputes across the spectrum of health and care law, including:

- **Medical treatment:** Disputes regarding best interests, treatment options, and discharge planning (Adult & Paediatric).
- **End-of-life care:** Highly sensitive cases in respect of the withdrawal of life-sustaining treatment (ICU/NICU/PICU).
- **Court of Protection:** Health and welfare disputes, supporting P's participation and reducing the need for judicial determination.
- **Mental Capacity & Mental Health Acts:** Section 117 after-care, placement disputes and deprivation of liberty challenges.
- **Public Law:** Pre-action protocol engagement for Judicial Review and human rights challenges.

Q: Do we need a second opinion or Clinical Ethics Committee (CEC) meeting before instructing you? A: No.

Mediation can take place before, during or after these steps. In urgency, mediation often runs parallel to other processes. Sometimes, the agreement to seek a second opinion or convene a CEC is the outcome of the mediation itself.

Q: What is the lawyer's role during mediation? A: You remain the primary advisor to your client. You may attend joint meetings to support your client or advise from outside the room. We do not offer legal advice; we facilitate the environment where your client can negotiate effectively based on your counsel.

Q: How strict is confidentiality? A: Absolute, with standard exceptions (risk of harm, law-breaking, court order). The mediator will **not** relay any information shared in private pre-meetings without express permission.

Q: Is mediation appropriate for high-conflict or 'intractable' cases? A: Yes. These are often where mediation adds the most value. It is not a sign of impasse but a proactive step to demonstrate reasonableness and proportionality to the court.

Q: What do lawyers say about working with you?

"I thought the mediator was excellent. She brought a very empathetic, inclusive approach which made everyone feel listened to and we were able to make some constructive progress." - *Counsel for Local Authority, Court of Protection case*

Ready to discuss a case? Contact us for an initial scoping call

Email: admin@medicalmediation.org.uk

Tel: 020 3923 7093