

trustmediation

~ not-for-profit dispute resolution ~

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What needs to be prepared before a mediation?

Apart from arranging any refreshments at the venue and reserving rooms, if these fall to you to do, then the other matters to attend to will be:

- (1) An agreed Mediation Bundle, to be with the mediator at least two days before the mediation in normal circumstances: this need not be paginated (although it often helps) but should ordinarily contain -
 - (a) a summary of the case from the perspective of both parties (this can be in one agreed document or by individual documents - we suggest that these are no longer than four pages);
 - (b) any pleadings if the matter is before the court;
 - (c) any schedules and counter schedules, if relevant;
 - (d) any witness statements or summaries of relevance;
 - (e) any expert reports of relevance;
 - (f) any medical records or other documents of relevance;
 - (g) any plans, photographs or media of relevance;
 - (h) details of any offers to settle;
 - (i) details of costs to date and to trial if the matter does not settle (these can be non-binding estimates or schedules); and
 - (j) anything else, from case law to precedents, that you would like the mediator to have read in advance.
- (2) Briefing your client and ensuring that someone with full authority to settle will be able to attend the mediation (this usually means the Claimant or Litigation Friend, and an insurer unless delegated authority has been provided). Experience shows that much of the benefit of a mediation can be lost if the insurer is not present to listen to the matters as they unfold - being on the end of a telephone does not offer the same immediacy and can make changes in perceptions difficult to convey.
- (3) Letting trust Mediation know if you or your client have any special needs, or access restrictions, that may affect the logistics of the day. You will need to arrange for appropriate interpreters or signers if these are relevant.
- (4) Letting trust Mediation know at least two days before the mediation who is attending: you will need to get your opponent's agreement if you intend to bring someone who is not a party, client, or professional adviser to the mediation because of the confidential nature of the day.

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