

Virtual Mediations – Preparation

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When you try to work from



HOME

How is virtual mediation different in Lockdown?



- Unique challenges of lockdown
- Home schooling and childcare responsibilities
- Other caring responsibilities
- No magical arrival of catering
- More tiring
- When participants are remote, more challenging to:
 - Make and keep a “team” atmosphere
 - Maintain interest, commitment and engagement

But it is eminently possible



How? - Be Prepared!



- Pre–mediation calls/video calls
 - Technology
 - Housekeeping
- The substantive dispute
 - Bundles
 - Exchange of position papers
 - Confidential papers for mediator
 - Reply papers
- Essential information to permit settlement

The challenges of technology



Housekeeping – beforehand by email



- What technology has been agreed?
- Agreement of video protocol
- Plenary session – arrangements, need for screen sharing, PowerPoint, spreadsheets
- Mediation Agreement signature
- Working hours
- Planned breaks
- Contact details – emails and mobiles

Pre-Mediation calls/videos - preliminaries





- By video - start to establish relationships and test access (for everyone)
- Mediation introduction
- Consider having more participants than just the solicitor
- How VM is different and how to make it a success
- Communications on the day
- Constraints

Pre-mediation calls/videos – people and comms



Pre-mediation calls/videos – people and comms



- Who is attending
- Authority
- Existing relationships
- Plenary session
 - Need for one?
 - Structure
 - Rehearsal
 - Document sharing, PowerPoint, Excel etc.

Pre-mediation calls/videos - documents and information



Pre-mediation calls/videos - documents and information



- Mediation Agreement signed and shared?
- Position Papers
- Bundles – arrangements for sharing
- Replies?
- Early concessions/confidential papers for mediator
- What information do you need in order to settle?
Have you got it all?
- Expectations, strengths, weaknesses
- Mediation exercises, BATNA, WATNA, costs

“As regards the virtual mediation process today, I think the feedback can only be positive. The process ran smoothly and in many ways virtual mediations are more efficient than face-to-face mediations. Obviously, travel time is cut for all attending. From our point of view we did not feel inhibited in anyway during the process and everybody had an opportunity to contribute”.

Feedback to Rosemary Jackson Q.C.

Thank you for listening

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