

Construction Mediation Services

Expert Dispute Resolution for the Built Environment

Executive Summary

Construction Mediation Services (CMS) provides specialised alternative dispute resolution for the construction industry, offering rapid, cost-effective, and expert mediation services to resolve complex construction disputes without the substantial costs, delays, and relationship damage inherent in traditional litigation and arbitration. Our service addresses the critical need for industry-specific expertise in construction law disputes while preserving essential commercial relationships and enabling project continuity.

Service Overview

Core Mediation Services

Primary Areas of Expertise:

- Contract interpretation and breach of contract claims
- Delay and disruption disputes (extensions of time and loss & expense)
- Defective work and remedial costs disputes
- Payment disputes under construction contracts
- Final account and valuation disagreements
- Variation and change order disputes
- Termination and suspension of works conflicts
- Professional negligence claims (architects, engineers, surveyors)
- Insurance coverage disputes and claims handling
- Health and safety liability and prosecution defence
- Adjudication enforcement and challenge proceedings
- International construction contract disputes

Specialised Construction Expertise:

- JCT, NEC, FIDIC, and bespoke contract forms
- Design and build contract disputes
- PFI/PPP project disagreements
- Procurement and tendering disputes
- Supply chain and subcontract conflicts
- Construction product liability claims
- Building defects and latent damage cases
- Planning and building regulation compliance
- Environmental and sustainability disputes
- Technology and smart building system failures

Target Client Base

Construction Industry Participants:

- Main contractors and construction companies
- Subcontractors and specialist trade contractors
- Developers and property companies
- Architects, engineers, and design consultants
- Quantity surveyors and project managers
- Construction product manufacturers and suppliers
- Insurance companies and underwriters
- Financial institutions and project funders

Project Types:

- Residential developments (private and social housing)
- Commercial and retail developments
- Industrial and manufacturing facilities
- Infrastructure projects (transport, utilities, energy)
- Healthcare and education buildings
- Mixed-use and regeneration projects
- Refurbishment and heritage restoration
- International construction projects

Hypothetical Scenarios and Use Cases

Scenario 1: Major Infrastructure Delay and Disruption Claim

Background: A £150 million highway improvement project is 18 months delayed due to unforeseen ground conditions, design changes, and COVID-19 impacts. The main contractor claims £45 million in additional costs and extension of time. The client disputes the claims, alleging contractor inefficiency and poor risk management.

Traditional Arbitration/Litigation Path: 3-4 years duration, costs exceeding £2 million for expert witnesses alone, ongoing relationship breakdown, project reputation damage, potential insolvency risks.

CMS Mediation Solution:

- Joint expert appointment for technical ground condition assessment
- Detailed programme analysis with independent delay analyst
- Separate sessions with contractor, client, and key subcontractors
- Creative settlement including:
 - Agreed extension of time of 14 months
 - Compensation of £18 million (40% of claim)

- Future project collaboration framework
 - Shared lessons learned protocol
- Resolution time: 8 weeks
- Total mediation cost: £85,000 vs. potential dispute costs of £3+ million
- Project completed with enhanced contractor-client relationship

Scenario 2: Defective Work and Professional Negligence Multi-Party Dispute

Background: A £25 million office building develops extensive facade defects within two years of completion. The developer claims against the main contractor, who cross-claims against the curtain wall subcontractor and design consultant. The architect faces separate professional negligence proceedings.

Traditional Litigation Route: Multiple sets of proceedings, 4+ years duration, expert costs of £500,000+, insurance coverage disputes, potential company failures.

CMS Mediation Approach:

- Multi-party mediation including all key stakeholders
- Independent technical assessment of defects and causation
- Insurance coverage clarification and coordination
- Negotiated resolution including:
 - Shared contribution to £4.2 million remedial costs
 - No admission of liability preserving insurance positions
 - Ongoing maintenance and warranty arrangements
 - Future collaboration opportunities
- Preserved business relationships across supply chain
- Resolution time: 6 weeks, cost: £45,000
- Building repairs commenced immediately without further delay

Scenario 3: Payment Dispute and Adjudication Challenge

Background: A mechanical and electrical subcontractor claims £2.8 million in unpaid interim payments from a main contractor on a hospital project. An adjudicator awards £2.1 million, but the main contractor challenges enforcement claiming fundamental procedural errors and threatens counter claims for delay costs.

Traditional Court Route: Technology and Construction Court proceedings, 12-18 months, costs of £400,000+, cash flow crisis for subcontractor, project delays.

CMS Mediation Benefits:

- Rapid scheduling within one week of enforcement proceedings
- Independent review of adjudication procedures and substantive merits
- Cash flow preservation through interim payment arrangement
- Negotiated final settlement of £2.3 million
- Agreement on remaining project works and program
- Enhanced project delivery collaboration

- Completion time: 10 days, cost: £18,500

Scenario 4: International Construction Joint Venture Dispute

Background: A UK-based construction company in joint venture with a local partner on a £200 million airport terminal project in emerging market faces disputes over cost overruns, design responsibilities, and local content requirements. Cultural and legal system differences complicate resolution.

Traditional International Arbitration: 3-5 years, costs of £3-5 million, enforcement challenges across jurisdictions, relationship breakdown affecting future opportunities.

CMS Mediation Solution:

- Culturally sensitive mediation approach with local legal expertise
- Technical review by internationally recognized construction experts
- Commercial solution preserving joint venture relationship:
 - Revised cost-sharing arrangement reflecting changed circumstances
 - Clear responsibility matrix for remaining works
 - Local content compliance strategy
 - Future project pipeline development agreement
- Resolution enabling project completion and relationship continuation
- Duration: 4 weeks (including travel), cost: £95,000

Scenario 5: Construction Product Liability and Supply Chain Dispute

Background: A building materials manufacturer faces claims from multiple contractors following product failures in several projects. The product allegedly causes structural defects requiring extensive remedial work. Multiple insurance policies and supply chain relationships are affected.

LCMS Mediation Approach:

- Coordinated resolution of multiple related claims
- Independent technical assessment of product performance and failures
- Insurance coverage optimization across multiple policies
- Supply chain relationship preservation through:
 - Improved product specifications and quality control
 - Enhanced training and support programs
 - Shared risk management protocols
 - Continued supply arrangements with modified terms
- Total settlement value: £12 million across all claims
- Preserved market position and customer relationships
- Resolution time: 10 weeks, cost: £125,000

Service Delivery Model

Pre-Mediation Assessment and Preparation (1-2 weeks)

- Comprehensive case analysis and strategy development
- Technical expert identification and briefing
- Document review and case theory development
- Stakeholder analysis and preparation sessions
- Commercial outcome modelling and negotiation parameters

Mediation Process Design (Tailored to Each Case)

- **Single-Day Mediation:** Simple payment or variation disputes
- **Multi-Day Process:** Complex delay, defective work, or multi-party claims
- **Staged Mediation:** Large-scale disputes with technical and commercial phases
- **Online/Hybrid:** International disputes or ongoing pandemic considerations
- **Site Visits:** Defect investigations and technical assessments

Post-Mediation Implementation and Support

- Settlement agreement drafting and execution
- Implementation monitoring and milestone management
- Relationship repair and future collaboration facilitation
- Lessons learned analysis and process improvement
- Dispute prevention training and contract enhancement

Conclusion

Construction Law Mediation Services represents a revolutionary approach to construction dispute resolution, combining unparalleled technical expertise with sophisticated mediation techniques to deliver outcomes that preserve relationships while protecting commercial interests. The construction industry's complex, relationship-dependent nature makes mediation not just an alternative to litigation, but often the superior choice for resolving disputes.

The modern construction industry faces unprecedented challenges—from supply chain disruption and labour shortages to sustainability requirements and technological change. These challenges require innovative approaches to dispute resolution that strengthen rather than damage the collaborative relationships essential for successful project delivery.

CMS is committed to transforming how the construction industry handles disputes, creating better outcomes for all stakeholders while fostering the trust and cooperation that enables great projects to be delivered. We invite you to join us in building a more collaborative, efficient, and successful construction industry.

The future of construction depends not just on avoiding disputes, but on resolving them in ways that enhance rather than undermine the partnerships that deliver the built environment. CMS provides that vision of industry excellence through expert, efficient, and relationship-preserving dispute resolution.