

DMCC Silver, Gold and Platinum Mediation FAQ's

1. What is mediation?

Mediation is a voluntary and flexible form of dispute resolution in which a neutral third party assists parties to work towards a negotiated settlement of their dispute. The parties retain control of the decision on whether or not to settle and on what terms.

2. What are the advantages of mediation?

Mediation provides a private forum in which the parties can gain a better understanding of each other's positions and work together to explore options for resolution. It often narrows the issues in dispute very quickly and whilst it does not always result in settlement, it is a highly successful method of bringing disputes to an end. Most importantly, where settlement is reached between the parties, it avoids the significant time and expense of formal court proceedings.

3. Does mediation mean that I cannot take my claim to court?

No. Mediation is a consensual, optional process and a party can bring its participation in a mediation to an end whenever it chooses to, and for any reason. Mediation does not prevent a party taking its claim to court at any time unless the parties have settled their claims and have agreed that the matters between them are resolved.

4. Who can attend a mediation?

The parties themselves should attend the mediation. However, the parties may choose to bring along another person to act in a supportive capacity if they feel it would be helpful.

5. Can I bring a lawyer to the mediation meeting?

Yes, you can bring a lawyer to a mediation meeting but only with the other party's consent. The other party can give that consent at any point – either prior to, or on the day of, the mediation meeting. If the other party does not give their consent to the lawyer attending the mediation meeting, there are two options available to the parties: 1) proceed with the mediation meeting without the lawyer present; 2) take the matter to court.

The DMCC Disputes Centre asks the parties to confirm the names of the individuals attending the mediation meeting at least 48 hours ahead of the mediation meeting. If you are intending to bring a lawyer to the mediation meeting, it is essential that you inform the DMCC Disputes Centre and the other party that a lawyer will be present. This is intended to ensure that mediation meetings are not unnecessarily delayed.

6. What is the role of a mediator?

The mediator will act as an impartial facilitator to assist the parties with their negotiations. It is not the mediator's role to tell the parties what their rights are, or how they should resolve the dispute, and he or she does not have authority to impose any binding decision on the parties.

Unlike a judge or arbitrator, the mediator will not decide the case on its merits, but will work to facilitate agreement between the parties. The mediator will also ensure that all parties understand and agree to the terms of any settlement reached.

7. What should I do to prepare for the mediation?

The dispute is more likely to be resolved when the parties are well prepared. Parties should review the documents relevant to the dispute in advance of the mediation and be clear as to where they stand on each of the issues. It is also important to provide documents to the DMCC Disputes Centre ahead of the mediation meeting in order that the mediator can prepare for the mediation meeting. This helps to ensure that time is not wasted at the mediation meeting.

8. What happens at a typical mediation?

The DMCC Disputes Centre will review the documents provided in advance of the mediation meeting to identify the key issues. The mediator conducting the mediation will greet the parties, provide an overview of the process and his or her role, and will invite each party to give its perspective on the dispute and highlight points of particular concern. The mediator will then try and facilitate the parties in negotiating a settlement, and in doing so may have private discussions with each party. The mediator may also suggest a further meeting with the parties if he or she considers it appropriate (for example, if one party needs further time to consider a particular issue).

If, at any time, a party considers that a settlement is unlikely to, or cannot, be achieved, that party may withdraw from the procedure and seek alternative means of resolution, such as court action.

9. What fees are payable?

This depends on the value of the claim and whether the mediation is classed as a Silver, Gold or Platinum Mediation. Please see Schedule 1 of the DMCC Disputes Centre Mediation Rules for further details.