

COVID-19: an introduction to virtual mediation

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Overview

In this video, Professor Suzanne Rab, barrister and mediator at Serle Court, introduces virtual mediation. She explains how virtual mediation works and the benefits of using virtual mediation to resolve disputes given the current restrictions resulting from the COVID-19 outbreak, as well as looking at the potential costs implications. She also considers the impact of virtual mediation as a means of resolving future disputes which may emerge as a result of the COVID-19 pandemic.

Video chapters:

- What is virtual mediation?
- Current potential.
- Cost implications.
- Future potential.

For more information on:

- What mediation is and how it works, see [Practice note, Mediation: an overview](#).
- Organising a mediation, see [Practice note, Organising a mediation](#).
- The attitude of the courts to mediation, the obligations on litigants to consider mediation and the potential costs consequences of failing to do so, see [Practice note, The attitude of the courts to mediation](#).
- The impact of the COVID-19 pandemic on dispute resolution practice, see [Practice note, COVID-19: dispute resolution FAQs](#).
- How virtual mediation could be deployed to deal with an influx of disputes, see [Article, COVID-19: resolving legal disputes through virtual mediation](#).

Video transcript

Introduction

Suzanne Rab: Welcome to this video providing an introduction to virtual mediation. I'm Suzanne Rab and I'm a barrister and mediator at Serle Court Chambers in London. I'm also Professor of Commercial Law and Practice Chair at Brunel University. I'm a mediation trainer with Phoenix Dispute Solutions.

In this video, I'll provide an overview of virtual mediation and I'll consider why now is the right time to be considering this. I'll also look at the future of virtual mediation as an alternative dispute resolution solution.

What is virtual mediation?

The concept of mediation is well established. This is a process where a neutral third party will work with parties in dispute and actively assist them in reaching a settlement. Virtual mediation is essentially mediation conducted online using state-of-the-art technology. With modern video-conferencing facilities, virtual mediation can achieve the equivalent of a physical mediation, often at a fraction of the cost and with savings in terms of efficiency and reducing travel times.

Current potential

The outbreak of the COVID-19 coronavirus has caused radical shifts in all areas of life. Virtually overnight, the pandemic has had to bring the legal profession and the court system into the 21st century; with hearings being necessitated online, parties signing settlement agreements using functionality such as DocuSign and judges giving etiquette guidelines on online hearings.

Reasonable flexibility has been shown but these measures are akin to short-term fixes. Much more sustainable solutions are needed to deal with the backlog of cases and the onslaught of new disputes that will arise, no doubt on the back of the pandemic.

One of the ways in which disputes can be resolved consistently with social distancing measures is through virtual mediation and reaching a settlement through methods which do not require physical interaction.

Cost implications

One of the main benefits of mediation, whether in its physical or its virtual form, is that it allows for disputes to be resolved often at a fraction of the cost of litigation. The structure of the mediation day can provide for fixed fee arrangements where the costing is proportionate to the dispute at hand. With the cost being split between the parties, that can significantly reduce costs, compared to litigation.

When it comes to virtual mediation, that will entail its own costs, depending on the chosen technology. But once a subscription has been made to the technology platform, that can be redeployed to other mediations, or done on an ad hoc basis, purely for the mediation itself.

Mediators' rates should usually remain the same, but the parties can also expect significant savings in the sense that travel costs will be reduced, and people will be freed up for other activities outside the mediation session, if that concludes at an earlier part of the day. Therefore, one can expect that despite the service charges of the provider, mediation through a virtual platform can bring savings.

Future potential

Looking ahead, not all disputes will be amenable to mediation and not all disputes will be amenable to resolution through virtual mediation using video-conferencing technology. But virtual mediation can be an incredibly effective mechanism, potentially used at scale, to provide dispute resolution that does not necessitate physical meetings.

As such, it might have a stabilising impact on the immediate implications of the COVID-19 pandemic for the legal profession in sustaining a form of business, albeit not business as usual.

The pandemic has forced the court system to grapple with an increasing need for digitised solutions and those are being deployed equally in an alternative dispute resolution environment. Dealing with the current challenges on a sustainable basis will require significant innovation. It will require flexibility and enterprise amongst lawyers and businesses.

Virtual mediation may also be the best bet in dealing with disputes as they emerge at scale. Not only on a private basis, but potentially even through government or NGO sponsored initiatives aimed at settling the emerging disputes as they come through.