

## **SAFE AND SUCCESSFUL VIDEO MEDIATION**

As Covid restrictions are relaxed, it is natural that clients should enquire about physical face to face mediations.

Although I am constantly reviewing the position, I am not currently conducting physical face to face mediations and the reasons are not limited to safety.

1. Video mediation works really well and for almost every type of dispute. The success rate and client satisfaction rate is very high. Many of those who have experienced the process have a clear preference for it.
2. Video mediation is very cost and time effective. There is no travel time or cost (of the parties, their legal teams or the mediator), no venue cost, and resolution is typically quicker (less late nights, and when drafting extends the day, no missed last trains!)
3. Physical face to face mediation continues to present a particularly high and arguably wholly avoidable Covid risk:
  - i. The relatively long periods during which individuals share a room gives rise to an exponential and much greater risk than most business or social meetings.
  - ii. Although some mediations are conducted in face masks, these provide poorer chemistry than video, which actually offers pretty good 'face to face' communication and chemistry.
  - iii. Whilst offices are being repopulated by staff, it will remain a real challenge to provide a safe environment for participants from different work and home groups occupying the same room for many hours as well as using toilets, lifts, catering etc.
  - iv. These risks arise even before the mediator moves between rooms or any joint session is contemplated.
  - v. Additional inconvenience risks and concerns may arise if public transport or overnight accommodation is required.
  - vi. Relaxations to the rules in 2021 do not remove the need to assess whether it is safe and necessary for mixed groups to be in a room for a prolonged period, and current rates of infection pose a continued challenge. Such relaxation of social distancing rules does not mean that infection is less likely, and every individual is encouraged to make responsible choices and to avoid unnecessary risk.
4. Video mediation is flexible enough to accommodate specific needs for example where a client prefers to be physically in the same room as his/her solicitor. Provided that steps are taken to preserve 'equality of face' and to avoid the imbalance that a single boardroom monitor can cause (to other

parties), 'blended mediation' allows parties and the mediator to remain safe in separate locations, but two or more individuals to be in one room.

5. The ability to share, annotate and amend documents on screen is a powerful part of video mediation and assists all types of disputes in the private rooms, in joint session, and when drafting compromise agreements.

Almost every party who has experienced video mediation has been enthusiastic about it and I have now completed well over 100 since April 2020. Understandably, some who have not tried it are wary. If any of the parties have concerns, I am happy to arrange a video mediation familiarisation session. This is free of charge and without obligation. The session focuses on the enhanced features of Zoom which make it confidential and effective. Often parties have experienced Zoom for conferences or social activities but have not seen the enhanced features in action.

If you have any queries please do email me at [patrick.walker@immediate.co.uk](mailto:patrick.walker@immediate.co.uk) or telephone 07912 888851