

# FORM 1

## Technology and Construction Mediation Survey



HER MAJESTY'S  
COURTS SERVICE



University of London

### A research project by

### The Technology and Construction Court and King's College, London

This survey is part of a research project by the Technology and Construction Court and the Centre of Construction Law and Management, King's College London. The goal of this survey is to gather information regarding the use of mediation in TCC disputes and the effectiveness or otherwise of court instigated ADR processes, in particular mediation. The analysis aims to:

1. reveal in what circumstances mediation is an efficacious alternative to litigation;
2. assist the court to determine whether, and at what stage, it should encourage mediation in future cases; and
3. identify which mediation techniques are particularly successful.

You should only disclose information that you and the parties are happy to disclose. It is fully understood that there may be good reasons why you may be unwilling to answer some of the questions.

Your details will be treated in the strictest confidence. Publication of the results of this questionnaire will be restricted to statistical data and analysis based upon the responses received.

Please insert Claim Number (clearly)

F1

1. What was the nature of the case (please tick **all those that apply**)?

- |  |   |
|--|---|
| <input type="checkbox"/> Change to scope of work   | <input type="checkbox"/> A dispute about adjudication |
| <input type="checkbox"/> Delay                     | <input type="checkbox"/> Arbitration claim            |
| <input type="checkbox"/> Differing site conditions | <input type="checkbox"/> Professional negligence      |
| <input type="checkbox"/> Payment issues            | <input type="checkbox"/> Personal injury              |
| <input type="checkbox"/> Defects                   | <input type="checkbox"/> Property damage              |
| <input type="checkbox"/> Design issues             | <input type="checkbox"/> IT dispute                   |
| <input type="checkbox"/> Other (please specify)    |   |
- 

2. A what stage did the litigation settle or discontinue **\*\*\*(please tick only one)?**

- |  |  |
|--|--|
| <input type="checkbox"/> During Pre-Action Protocol ("PAP") correspondence | <input type="checkbox"/> As a result of a Part 36 or other offer to settle |
| <input type="checkbox"/> At or as a result of PAP meeting                  | <input type="checkbox"/> As a result of a Payment In                       |
| <input type="checkbox"/> Between PAP and service of claim form             | <input type="checkbox"/> As a result of a preliminary issue(s) judgment    |
| <input type="checkbox"/> During exchange of pleadings                      | <input type="checkbox"/> Shortly before trial                              |
| <input type="checkbox"/> During or as a result of disclosure               | <input type="checkbox"/> During trial                                      |
| <input type="checkbox"/> As a result of exchange of witness statements     | <input type="checkbox"/> After trial but before judgment                   |
| <input type="checkbox"/> Other (please specify)                            |  |
- 

3. Was the settlement reached or the matter discontinued following **\*\*\*(please tick only one)?**

- conventional negotiation
- mediation
- some other (if so what, see 4 below) form of dispute resolution procedure

4. If some other procedure please briefly describe:

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If the answer to question 3 was "mediation" please continue. If not please go to Personal Details.

## FORM 1

5. Was the mediation undertaken:

- on the parties' own initiative
- as a result of some (if so what) indication of the Court
- as a result of some (if so what) order of the Court

6. Was the mediator a:

- Construction Professional                       Barrister                       Solicitor
- A TCC Judge as part of the Court Settlement Process
- Other (please specify) \_\_\_\_\_

7. Please state the name of the mediator: \_\_\_\_\_

8. Please state name of Nominating Body: \_\_\_\_\_

9. What were the approximate costs (in the lead up and on the day) of the mediation in respect of:

the mediator (overall costs)	£
room hire for the mediation	£
your firm's costs	£
your client	£
any other costs, e.g. experts	£

10. If the mediation had not taken place, is it your opinion that **\*\*\*(please tick only one):**

- the action would have settled anyway and at about the same time
- the action would have settled at a later stage
- the action would have been fully contested to judgment

11. If you have ticked the second or third box for question 10, what costs do you consider were saved by the mediation? In other words what is the difference between the costs which were actually incurred on the mediation and the notional future costs of the litigation which were saved by all parties? Please tick only one.

- |  |  |
|--|--|
| <input type="checkbox"/> £0 - £25,000      | <input type="checkbox"/> £100,001 - £150,000 |
| <input type="checkbox"/> £25,001 - £50,000 | <input type="checkbox"/> £150,001 - £200,000 |
| <input type="checkbox"/> £50,001 - £75,000 | <input type="checkbox"/> £200,001 - £300,000 |
| <input type="checkbox"/> £75,001 - 100,000 | <input type="checkbox"/> More than £300,000  |

**Personal details (optional). You may attach your business card here instead.**

Name \_\_\_\_\_

Firm's name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

**Thank you for completing this survey**

Please **return** this questionnaire to (and address any questions to) **Aaron Hudson-Tyreman**, at The Centre of Construction Law and Management, King's College London, The Old Watch House, Strand, London, WC2A 2LS or fax to 0207 872 0210.

Do you wish to receive a copy of the results (please provide contact details)      YES      
NO