CONCEPT

Commercial Mediation Skills: Caucus, Impasse and Settlement for Business and Construction Disputes

6 – 10 September 2027
London - Central London four-star



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Ref: 102_9477 **Date:** 6 – 10 September 2027 **Location:** London - Central London four-star **Fees:** 23000 SAR

Introduction:

Claims over delay, defects, variations, unpaid invoices and failed supply deals often run for years and absorb budgets that a well-run commercial mediation could have settled in days. Yet many companies enter mediation unprepared, and many appointed neutrals lack the technique to move entrenched parties. This Core Concept course builds advanced commercial mediation skills for business and construction disputes: structuring the process, running joint sessions and private caucuses, testing each side's case, breaking deadlock and recording a durable settlement. Participants compile a Commercial Mediation Case File from a full simulated dispute.

Course Objectives:

- Position mediation against negotiation, expert determination, adjudication, arbitration and litigation and recommend when a commercial or construction claim suits it
- Prepare a mediation agreement, ground rules, confidentiality terms and a pre-mediation case summary for a multi-party dispute
- Conduct opening joint sessions and private caucuses that surface each party's commercial interests while protecting neutrality and ethics
- Test settlement ranges through reality testing, risk analysis and option generation, and move parties through impasse
- Draft a settlement agreement with clear performance terms and assess its enforceability in general terms, including international settlements
- Represent a company in mediation with a negotiation plan, authority limits and a mediation position paper

Target Audience:

- In-house counsel and legal managers who handle disputes between their company and contractors, suppliers or clients
- Claims and contract managers responsible for delay, variation and payment claims on capital projects
- Commercial managers who carry settlement authority in disputes over supply, distribution or service agreements
- Project and programme leads who must preserve working relationships while a claim is resolved
- Practitioners appointed as neutral mediators or dispute panel members in business and construction matters
- External advisers who prepare and accompany clients at mediation hearings

Course Outline:

Day 1: Commercial Mediation in the Dispute Resolution Spectrum

- Dispute Resolution Spectrum: Negotiation, Mediation, Expert Determination, Adjudication and Arbitration
- Facilitative, Evaluative and Transformative Mediation Models Compared
- Mediation Suitability Screen for Delay, Defect, Payment and Supply Claims
- Tiered Dispute Clauses and Mediation Windows in Construction Contracts
- Cost of Dispute Estimate: Legal Spend, Management Time and Project Disruption

Day 2: Mediation Agreements, Mediator Role and Ethics

- Mediation Agreement Terms: Scope, Fees, Authority to Settle and Termination
- Confidentiality, Without-Prejudice Communications and Document Handling Protocol
- Mediator Code of Conduct: Impartiality, Disclosure of Conflicts and Withdrawal
- Pre-Mediation Case Summaries, Bundles and Position Papers
- Mediator Pre-Meetings With Counsel and Decision-Makers

Day 3: Joint Sessions, Private Caucuses and Interest Analysis

- Mediator Opening Statement and Party Opening Presentations
- Private Caucus Agenda, Questioning Plan and Information Carrying Rules
- Commercial Interest Mapping: Cash Flow, Reputation, Future Work and Precedent
- Reality Testing With BATNA, WATNA and Litigation Risk Assessment
- Option Generation and Package Deals for Multi-Issue Claims

Day 4: Impasse, Multi-Party Disputes and Settlement Drafting

- Impasse Diagnosis and Breakthrough Techniques: Bracketing, Mediator Proposal and Single-Text Method
- Multi-Party Construction Disputes: Employer, Contractor, Subcontractor and Insurer Dynamics
- Power Imbalance, Bad Faith Tactics and Mediator Intervention Choices
- Settlement Agreement Drafting: Payment Terms, Releases, Conditions and Default Clauses
- Enforceability of Settlements and the UNCITRAL Convention on International Settlement Agreements Resulting from Mediation

Day 5: Mediation Role-Plays and the Commercial Mediation Case File

- Role-Play: Mediating a Delay and Variation Claim Between Contractor and Employer
- Role-Play: Mediating a Terminated Distribution Agreement Between Two Companies
- Party Representative Advocacy Drill: Opening Statement and Caucus Negotiation
- Mediation Observer Feedback Against a Mediator Competency Checklist
- Commercial Mediation Case File Assembly and Peer Review

Skills You Will Gain:

- Dispute Process Selection
- Mediation Process Design
- Mediator Neutrality and Ethics
- Caucus Management
- Litigation Risk Analysis
- Impasse Resolution
- Settlement Agreement Drafting
- Mediation Advocacy

Why Attend This Course:

- Leave with a Commercial Mediation Case File containing a mediation plan, caucus notes, a risk analysis and a draft settlement agreement
- Practise both chairs, as the neutral and as the party representative, and receive structured feedback on each
- Know which deadlock techniques to try, in what order, when a claim stalls at the final gap
- Compare dispute experience with counsel, contract and project leads from construction, energy, trade and services

Conclusion:

A commercial or construction claim that reaches mediation still needs skill to settle. This course moves from where mediation sits among other dispute processes, through the mediation agreement, the mediator's duties and case preparation, to joint sessions, private caucuses and interest-based risk testing, and then to impasse, multi-party dynamics and settlement drafting. The final day rehearses complete mediations from both the neutral's and the representative's side and produces a Commercial Mediation Case File.