

Established mediators

Brick Court's mediators represent some of the most respected, experienced, and approachable mediators available across the world. Tony Willis, William Wood QC and Stephen Rutt QC's dedication to mediation is reflected by their rankings in band 1 of Chambers & Partners and The Legal 500, and presence of all three in the top ten of the International Who's Who of Commercial Mediation. Tony Willis is the sole holder of the title Who's Who Legal Global Commercial Mediator of the Year, being awarded the title, based on votes by peers and clients as well as feedback and research, in the three consecutive years since its inception.

New mediators

"Brick Court secures global mediation capacity" reported Legal Week, as in 2013 other illustrious names joined the Brick Court mediator contingent as door tenants for a total of 12 mediators. Geoff Sharp also features in the top ten of the Who's Who Legal of Commercial Mediation, making a total of four Brick Court Mediators in the top ten of a list of 301 leading mediators, from 41 jurisdictions. Geoff is one of New Zealand's leading mediators, with a notable practice across Asia also. Scotland's leading mediator John Sturrock QC also brought with him an outstanding reputation and breadth of practice, and is also top ranked in The Legal 500. They followed HH Nicholas Chambers QC's addition in 2012, returning from the bench to resume a mediation and arbitration practice.

Adaptable mediators

Brick Court mediators pride themselves on their adaptability and flexibility. Their experience can assist you in designing a process configured to suit your particular dispute, whether in arranging to meet the Mediator in advance of the Mediation, either alone or with other parties, which can assist in streamlining the mediation day itself, or a full plenary session of all parties in advance of the mediation day. Mediations can be held in any location on any continent, or you may need to hold the mediation outside normal working hours, or at a weekend. Our mediators and our mediation clerk, [Kate Trott](#), will assist with the best mediation process possible.

Recent Brick Court Mediation news

[Brick Court mediators in the Who's Who Legal of Commercial Mediation 2014](#)

[Brick Court Chambers announces links with respected international mediators](#)

[Tony Willis named Who's Who Legal's Global Commercial Mediator of the Year](#)



Mediation at Brick Court Chambers

Article: Mediation and the post-jackson costs regime

Mediator Bill Wood QC examines how the civil justice reforms will affect the balance of power between claimants and defendants

Almost all mediations are strongly affected by cost considerations. Many are completely dominated by them. Costs are a crucial element in the weighing of risk and reward that parties are being asked to engage in at a mediation and mediation's big attraction is often that it gives the parties the chance to settle and to "stop the clock".

So it is unsurprising that the changing machinery for the incurring and recovering of legal costs in our civil procedure system is a matter of enormous interest, indeed concern, to the mediation community.

The Super-claimant

Mediators got used to working in the CFA/ATE universe. It had its problems but we got used to it. It was always difficult to negotiate with the "super-claimant" who had passed all the risks of defeat to a combination of his lawyers and his insurers. "Bill, what incentive do I have to settle for that?" such a Claimant would ask. "There is simply no down-side for me in fighting on." The obligation to pay the lawyers and the ATE insurers (and often the funders too) might well mean that until a very substantial sum of money indeed had been tabled at a mediation, the super-claimant him- or herself was getting nothing.

Mediating would often involve discussing not just the issues between the parties but the financial issues between the party, his lawyer, his funder and his ATE insurer. My experience is normally that I am kept out of delicate discussions of that kind. But it is hard not to pick up the vibe coming from a room in which these kind of matters were being thrashed out: lawyers are being asked to take a "hair-cut" on their success fees and insurers are being asked to discount their accrued premium.

It seemed that it was right at the end of the super-claimant era that there were one or two well-publicised disasters where Claimants lost and proved not to be fully protected by their ATE insurance. Individuals and indeed whole action groups were faced with significant liabilities. This proved at the end to be a risk which none of us had properly assessed.

There are a lot more cases to be disposed of under the old rules. Only today I was told that ATE insurers spent the early part of 2013 "dining on fillet steak". In other words as the deadline loomed and applications poured in for funding under the old rules, they could afford to be extremely choosy about the strength of the cases they insured. The solicitor added "When they had finished the fillet steak they were too full to look at my clients slightly riskier claim".

How Costs Changes Will Affect Mediation

Now mediators face cases under the new rules. What will the effect on the dynamics of the mediation be? Will there simply be less litigation in absolute terms? If as the Claimant firms have argued the effect of the recent reforms has been considerably to reduce access to justice then possibly so, perhaps particularly in the personal injury and medical negligence worlds. Mediation can of course only work against the background of an effective and accessible system of adjudication: insurers and other defendants will not attend mediations or make offers if there is no real risk of an adverse judgment in due course.

Cost-capping is already a huge influence. I hear that "budget-style thinking" is already affecting the thinking of costs judges even in cases being assessed under the old system. The old 60/70% assessment levels seem to be a thing of the past. The threat by the big, well-resourced party to spend heavily and win the case by attrition should now be much less terrifying.

And what of damages-based agreements? We know from the US experience that lawyers will to some extent be happier to embrace an earlier settlement, "the quick kill", offering as it will a bigger profit. Arguably a Defendant facing a Claimant with a DBA will be less worried for that reason. They will expect a DBA lawyer to be much more disposed to settlement than a CFA lawyer ever was. And of course such a Defendant will no longer be facing a liability for the claim "plus costs" if he loses at the end of the day. He will merely have to pay the substantive claim.

The Response of Funders and Insurers

Well, we shall see. Until we have mediated a few of these we will have no better idea of the likely impact of these changes than the litigators, insurers and funders who are currently grappling with the new rules. While we can read the rules, we know from experience that the critical question is the response of the insuring/funding community to the new rules. How will they adapt their products to fit the new regime?

Mediation is always about the balance of power and advantage in disputes. Few of us can yet be sure where the new rules have set that balance. That they have affected it profoundly is beyond doubt.

Bill Wood QC

Mediator, Brick Court Chambers

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Mediation at Brick Court Chambers

Mediators



Tony Willis



Stephen Ruttle QC



William Wood QC



John Sturrock QC



Geoff Sharp



Hilary Heilbron QC



Richard Lord QC



*David Vaughan
CBE QC*



Sir Oliver Popplewell



*HH Nicholas
Chambers QC*



Klaus Reichert SC



*Judge Fidelma
Macken SC*

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Mediation at Brick Court Chambers

Chambers & Partners 2014

“Tony Willis really stands out,” say sources. He is “hugely experienced and innovative in finding ways of bringing parties together,” and interviewees emphasise his knack for “maintaining trust while being firm with the parties and their advisers, along with taking the trouble to understand the dispute and what, legally and commercially, divides the parties.””

“William Wood QC "combines a great deal of authority and gravitas with a drive to get results." Using "an avuncular and relaxed style which works well," Wood has become one of the mediation market's absolute favourites. "He takes heat out of battles and lets everyone relax." Observers note: "He is very good at dropping the odd comment that will get clients to think of settling.””

“One of the most favoured practitioners currently operating, Stephen Ruttle QC "is always impressive," sources say. "His vast mediation experience gives him the ability to read a room and adapt his style accordingly." Marine, insurance and broad commercial disputes are particular areas of expertise.”

“Scotland's premier mediator is John Sturrock QC. A "highly precise, able man," Sturrock receives various plaudits from all around the market. "He's brilliant – the sort of guy who understands people very well," sources say.””

Who's Who Legal of Commercial Mediation 2014

“Clients would go to Geoff Sharp “10 times out of 10”. A door tenant at Brick Court, he has conducted over a thousand mediations in New Zealand and worldwide, and is one of the most highly rated individuals on our international research”



www.brickcourt.co.uk

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