University of the Built Environment
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Patron: His Majesty King Charles III

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Mediation Practice and Procedure

Module Descriptor

Module Code:	LAW7MPP
Version:	V1.00
Status:	Final
Date:	20/10/2026

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Summary Module Details

Module details

Module Title: Mediation Practice and Procedure

Module Leader: Matt Fedigan

Module Mode: Supported online learning

Semester: Autumn (UK) and Spring (UK)

Level: 7

Credits: 40

Learning Hours: 400

Contact & Study Hours

Directed Study Time: 120 hrs (30%)

Self-directed Study Time: 140 hrs (35%)

Assessment Study Time: 140 hrs (35%)

Assessment Type

Computer Marked Assessment: 20%

Portfolio: 80%

Module Summary

This module provides an in-depth analysis of mediation practice and procedure, focusing on the tactical, procedural, and legal aspects of mediating complex construction and engineering disputes. It equips professionals to move beyond adversarial litigation and act as mediators or advocates in negotiated settlement.

Taken on which Programmes

LLM Construction Law **(E)**

PG Dip Construction Law **(E)**

Core (C) or Elective (E)

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Module Aims

This module aims to:

- Provide an in-depth understanding of the role of mediation within the hierarchy of dispute resolution techniques, particularly in contrast to litigation, arbitration, and adjudication. In addition, it will analyse the legal underpinnings of mediation, including confidentiality, 'without prejudice' privileges, the enforceability of mediation agreements, and the impact of the Pre-Action Protocol;
- Develop the practical skills to manage the mediation process, from initial appointment, pre-mediation preparation and the opening stage, to managing negotiations and closing the mediation, including the use of AI;
- Critically evaluate different mediation approaches (facilitative, evaluative) and apply them to complex, high-stakes construction and engineering disputes;
- Develop strategies for breaking deadlock, conducting reality testing, and addressing multi-party or technical construction conflicts to achieve sustainable, 'win-win' settlements, in additional to developing advocacy skills;
- Explore the ethical, professional, and practical responsibilities of mediators, party representatives, and advisors within the construction industry; and
- Through reflective practice, develop students' ability to critically evaluate how relevant legal theory can be applied to workplace actions and decisions.

Module Learning Outcomes

LO1. Critically evaluate the mediation process including pre-mediation practices and procedures such as selecting mediators, drafting the mediation agreement, pre-action protocols, and preparing position papers, as well as 'in-mediation' practices, such as facilitative vs. evaluative methods, opening statements, private sessions (caucus), and closing the deal.

LO2. Critically analyse the legal principles associated with mediation including confidentiality, without prejudice, privilege, and the role of technical experts in construction mediation.

LO3. Critique the legal standing of mediated agreements, understanding court-mandated mediation, and sanctions for refusing to mediate.

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LO4. Demonstrate advanced mediation advocacy skills, including techniques for representing parties effectively during mediation sessions.

Indicative Module Content

Module topics

- **Introduction to dispute resolution in construction**

  The context of alternative dispute resolution in the construction industry, the move away from litigation, and the role of mediation in construction contracts will be covered.

- **The mediation process**

  Detail related to the pre-mediation process will be reviewed, including the selecting of mediators, drafting the agreement, pre-action protocols, and preparing position papers. The 'in-mediation' procedure will also be analysed, including the process for either facilitative or evaluative methods, opening statements, private sessions (caucus), and closing the deal. The difference between conciliation and mediation will be examined, along with the efficacy of the settlement agreements.

- **Legal principles**

  The legal principles associated with the mediation process will be examined, including issues such as confidentiality, without prejudice, privilege, and the role of technical experts in construction mediation.

- **Enforceability and legal challenges**

  The legal standing of mediated agreements, court-mandated mediation, and the sanctions for refusing to mediate will be examined.

- **Mediation advocacy**

  Techniques for representing parties effectively during mediation sessions will be developed.

This content will be reviewed and updated regularly to reflect the legal, moral and financial changes in professional standards and practice.

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Overview of Summative Assessment

Module learning outcomes	Assessment	Word count or equivalent	Weighting
LO1	**Assessment 1** Computer Marked Assessment (CMA)	2,500	20%
LO2, LO3 & LO4	**Assessment 2** Portfolio	7,500	80%

Module Pass Mark (as a weighted average of all assessments): 50%

Key Module Learning Resources

Core Sources and Texts

The core reading resources within each module will be provided via the specific Virtual Learning Environment (VLE) module pages and within the e-Library. Additional reference material and supplementary resources to support your studies are available through the University e-Library.

Module tools

Students will have access to study materials, dedicated academic support, student forums, and learning activities via an online learning platform (VLE).

The module page on the VLE is broken down into structured study weeks to help students plan their time, with each week containing a mixture of reading, case studies, videos/recordings and interactive activities to go through. Online webinars/seminars led by the Module Leader can be attended in real time and provide opportunities to consolidate knowledge, ask questions, discuss topics and work through learning activities together. These sessions are recorded to support students who cannot attend and to enable students to recap the session and work through it at their own pace. Module forums on the VLE provide further opportunities to discuss topics with other students, complete collaborative work and get extra help from the module team.

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Professional online resources

The e-Library provides access to trusted, quality online resources, selected by subject specialists, to support students' study. This includes journals, industry publications, magazines, academic books and a dissertation/work-based library. For a list of the key industry specific and education resources available please visit the VLE e-Library.

Other relevant resources

Access is also provided to further information sources that include the British Library and Open University UK catalogues, as well as providing a monthly current awareness service entitled, ***Knowledge Foundations*** - a compendium of news, research and resources relating to the educational sector and the Built Environment.

The module resource list is available on the module VLE page and is updated regularly to ensure materials are relevant and current.

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