

DMCC Workplace Mediation FAQs

1. What is mediation?

Mediation is a voluntary and flexible form of dispute resolution in which a neutral third-party assists parties to work towards a negotiated settlement of their dispute. The parties retain control of the decision on whether or not to settle and on what terms.

2. What are the advantages of mediation?

Mediation provides a private forum in which the parties can gain a better understanding of each other's positions and work to gather to explore options for resolution. It often narrows the issues in dispute very quickly and whilst it does not always result in settlement, it is a highly successful method of bringing disputes to an end. Most importantly, where settlement is reached between the parties, it avoids the significant time and expense of formal court proceedings.

3. Does mediation mean that I cannot take my claim to court?

No. Mediation is a consensual, optional process and a party can bring its participation in a mediation to an end whenever it chooses to, and for any reason. Mediation does not prevent a party taking its claim to court at any time unless the parties have settled their claims and have agreed that the matters between them are resolved.

4. Who can attend a mediation?

The parties themselves should attend the mediation. However, the parties may choose to bring along another person to act in a supportive capacity with the other party's consent if they feel it would be helpful.

5. I am the owner of the company; can someone else attend the meeting on my behalf?

Yes, someone else can attend the meeting on your behalf, but only if the DMCC Disputes Centre receives a signed letter of authorisation (either from the company owner or a director of the company) confirming that the attendee is entitled to act on behalf of the company and that he / she has the authority to bind the company to any settlement terms that are agreed. Please note that the meeting cannot go ahead until the DMCC Disputes Centre receives this letter of authorisation.

6. I am the employee but I can't attend the meeting; can someone else attend the mediation on my behalf?

Yes, someone else can attend the meeting on your behalf, but only if the DMCC Disputes Centre receives a letter of authorisation from the employee confirming that the attendee is entitled to act on behalf of the employee and that he / she has the authority to bind the employee to any settlement terms that are agreed. Please note that the meeting cannot go ahead until the DMCC Disputes Centre receives this letter of authorisation.

7. Can I bring a lawyer to the mediation meeting?

Yes, you can bring a lawyer to a mediation meeting but only with the other party's consent (this forms part of the Workplace Mediation Terms and Conditions.) The other party can give that consent at any point – either prior to, or on the day of, the mediation meeting. If the other party does not give their consent to the lawyer attending the mediation meeting, there are two options available to the parties: 1) proceed with the mediation meeting without the lawyer present; 2) request an NOC and take the matter to court.

The DMCC Disputes Centre asks the parties to confirm the names of the individuals attending the mediation meeting at least 48 hours ahead of the mediation meeting. If you are intending to bring a lawyer to the mediation meeting, it is essential that you inform the DMCC Disputes Centre and the other party that a lawyer will be present. This is intended to ensure that mediation meetings are not unnecessarily delayed.

8. What is the role of DMCC as mediator?

The mediator from the DMCC Disputes Centre will act as an impartial facilitator to assist the parties with their negotiations. It is not the mediator's role to tell the parties what their rights are, or how they should resolve the dispute, and he or she does not have the authority to impose any binding decision on the parties.

Unlike a judge or arbitrator, the mediator will not decide the case on its merits but will work to facilitate agreement between the parties. The mediator will also ensure that all parties understand and agree to the terms of any settlement reached.

The DMCC Disputes Centre requires all parties participating in the mediation process to enter into DMCC's Workplace Mediation Terms and Conditions (a copy of which will be emailed to the parties prior to the mediation meeting). The Workplace Mediation Terms and Conditions set out the DMCC Disputes Centre's role in the mediation and what it will and will not do in resolving the dispute, and also sets out the parties' obligations during the mediation process.

9. What should I do to prepare for the mediation?

The dispute is more likely to be resolved when the parties are well prepared. Parties should review the documents relevant to the dispute in advance of the mediation and be clear as to where they stand on each of the issues. It is also important to provide documents to the DMCC Disputes Centre ahead of the mediation meeting in order that the mediator can prepare for the mediation meeting. This helps to ensure that time is not wasted at the mediation meeting.

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10. What happens at a typical mediation?

The DMCC Disputes Centre will review the documents provided to it in advance of the mediation meeting to identify the key issues. The mediator conducting the mediation will greet the parties, provide an overview of the process and his or her role, and will invite each party to give its perspective on the dispute and highlight points of particular concern. The mediator will then try and facilitate the parties in negotiating a settlement, and in doing so, may have private discussions with each party. The mediator may also suggest a further meeting with the parties if he / she considers it appropriate (for example, if one party needs further time to consider a particular issue).

If, at any time, a party considers that a settlement is unlikely to, or cannot, be achieved, that party may withdraw from the procedure and seek alternative means of resolution, such as court action.

11. What fees are payable?

AED 205 excluding VAT plus Knowledge and Innovation fees must be paid to DMCC by the party who lodges the complaint (i.e. the complainant.) This is non-refundable.

12. What happens if one party fails to attend the mediation meeting?

The DMCC Disputes Centre provides a neutral forum in which parties can attempt to resolve their differences and the mediator's role is to facilitate that discussion. This means that once a complaint has been raised formally, it would be inappropriate for the mediator to discuss the dispute with one party without the other party being present. If the other party fails to attend the mediation meeting, the meeting can either be rescheduled or the other party can request an NOC to go to court.

13. What if I can no longer attend the mediation meeting?

Please ensure that you notify the DMCC Disputes Centre at least 24 hours before the mediation meeting is scheduled to take place if you can no longer attend the mediation meeting.

14. What if we manage to settle the dispute prior to the mediation meeting?

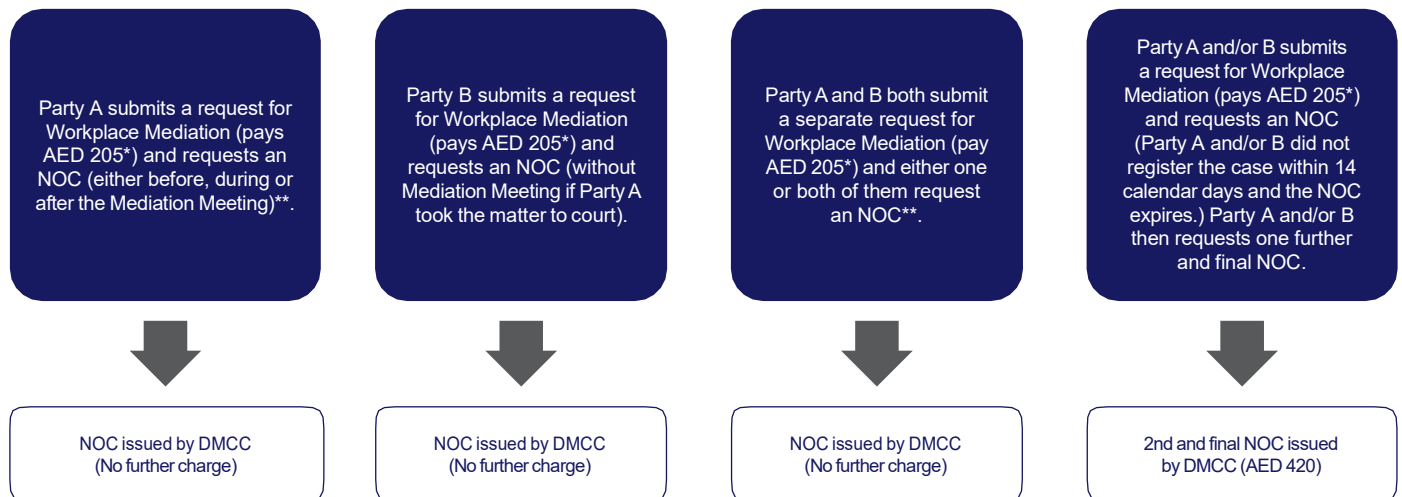
Please inform the DMCC Disputes Centre that the matter has been settled and we will then proceed to close the case. Please note that the filing fee of AED 205 plus Knowledge and Innovation fee is non-refundable whether or not any mediation meeting has taken place.

15. I have some concerns about the way my company is being run, should I raise a mediation complaint?

No, if you have a general concern about the way your company is being run rather than an issue that is personal to you under the terms of your employment contract, you should raise the issue using the DMCC Member Whistleblowing Policy.

16. What NOC fees are payable?

The diagram below sets out DMCC's policy when issuing a No Objection Certificate.



* AED 205 excluding VAT plus Knowledge and Innovation fees.

** NOC will be issued by DMCC at the request of a party at any time after the expiry of 3 Business Days, the parties are given to try to amicably resolve the dispute.

Important note:

1. For the avoidance of doubt, DMCC will issue a maximum of 2 NOCs to a party in relation to the same dispute and no further NOC will be provided to a party following issuance of the 2nd NOC.
2. DMCC shall not be held liable to the parties if the parties fail to undertake necessary actions (legal or otherwise) within the validity timeframe of the NOC.
3. If a Judgment is issued, DMCC will not issue further NOC to the parties to appeal.