

Medation Terms & Conditions

PRS Property
Redress
Scheme

*1st Edition valid
from April 1st 2020*



**PRS Members
and Consumers**

The Property Redress Scheme (PRS) Tenancy Mediation

Terms and Conditions

Introduction

The PRS offers a mediation service to landlords and tenants to help them to resolve issues that may have arisen during their tenancy or to help the parties to end a tenancy. These issues could relate to rent payments being made by a tenant and or other issues that have developed and require resolution to prevent the matter progressing to court.

Mediator

- 1)** The PRS will supply a mediator to try to resolve the tenancy dispute between the parties.
- 2)** The mediator shall:
 - a) Contact the landlord first to confirm their position with regards to the tenancy;
 - b) Then contact the tenant to obtain their agreement to mediate and discuss the issues raised by the landlord with the intention of agreeing a resolution;
 - c) If necessary re engage with the landlord to attempt to settle the matter between the parties;
 - d) Facilitate the drawing up of any settlement agreement between the parties.
- 3)** The PRS, its mediators and other employees are independent from the parties in connection with the any dispute case.
- 4)** The parties accept that neither the PRS nor the mediator will offer any legal advice to the parties and that no comments made by a mediator during the process can be construed as legal advice.

The Parties

- 5)** The parties will generally be a landlord and a tenant. A landlord may act for other joint landlords and a tenant may act for other joint tenants.
- 6)** Each of the parties will confirm to the mediator that they have sufficient authority to settle or compromise the dispute. Either the landlord or tenant may wish to allow an authorised representative to discuss the matter on their behalf. If a party has any restriction on its authority to settle the matter then they must inform the mediator as soon as practicable.
- 7)** The parties to the mediation agree that they will act reasonably and be open to discussion and negotiation on the matters in dispute.
- 8)** The parties also confirm that they will comply with any reasonable directions of the PRS or the mediator provided as part of the process.

The Mediation

- 9)** The mediator shall discuss the matter with both the landlord and the tenant separately in the first instance. If the mediator feels it would be beneficial to arrange a conference call with both landlord and tenant then the mediator will make that request to the parties.
- 10)** It is envisaged that the discussion and negotiation time spent with both parties will not take more than two hours. If the matter requires more time than that then the PRS reserves the right to charge for the mediator's time at the rate mentioned below in paragraph 23.
- 11)** It is also envisaged that the process from landlord first instructing the PRS to us completion of the mediation process should take no longer than 10 working days.

- 12)** The parties will discuss the matter with the mediator in an attempt to negotiate a settlement but it is agreed that no offer, proposals or comment made during the discussions will constitute a binding offer or agreement until a settlement agreement has been drafted and signed by all parties.
- 13)** If the parties are unable to reach a settlement with mediator and each other, then the Mediator may, if all the parties so request, draft a non-binding recommendation on possible terms of settlement. Any such recommendation shall not represent legal advice to the parties nor will it represent an opinion as to what a court might order but it may set out what the mediator considers are appropriate terms of settlement in all the circumstances.
- 14)** Any of the parties may withdraw from the process at any time whereupon which the mediator will explain the consequences of ending the process and then provide a brief report to the parties on what happened.

Court Proceedings

- 15)** The parties understand that the intention of the mediation process is to try to prevent the matter from proceeding to court. They do also understand however that if the process is not successful then they may commence litigation notwithstanding what occurred during the mediation.

Confidentiality

- 16)** Unless otherwise agreed, the mediation shall be held without prejudice and legally privileged and PRS, the mediator, and the parties will keep strictly confidential and not disclose outside of the process to any other person or use for their own purposes:
- a) The fact that the mediation process took place;
 - b) Any information or documents presented or exchanged during the process.
- 17)** The PRS, or mediator shall further keep strictly confidential and not disclose to any other Party (unless authorised so to do) any information supplied by any of the Parties in any private session at the Mediation (being a session at which not all of the Parties are present)
- 18)** Nothing in this Agreement shall prevent disclosure:
- a) By the parties to any court or tribunal where the fact that the mediation took take place is disclosed;
 - b) By the parties in proceedings to enforce the terms of any settlement reached during the mediation process;
 - c) By any of the parties, the PRS or by the mediator an appropriate authority or person in so far as they may be required by law;
 - d) By any of the parties, the PRS or by the mediator to an appropriate authority or person in so far as they reasonably consider that they may be exposed to the risk of any criminal penalty if they do not make such disclosure;
 - e) By any of the parties, the PRS or by the mediator to an appropriate authority or person in so far as they reasonably consider that there is a serious risk of harm to the life or safety of any person if the information in question is not disclosed;
 - f) By the parties for the purposes of obtaining legal, professional or medical advice or insurance to any advisor, insurer or insurance broker who is themselves bound by an obligation of confidentiality.
- 19)** The parties agree they will not call the mediator or any employee or partner of the PRS as witness, consultant, arbitrator or expert in any proceedings or litigation or other proceedings arising in connection with the dispute or out of or in connection with the mediation.
- 20)** The PRS and mediator shall be entitled to destroy any papers received in connection with the mediation at the conclusion of the process.

Fees and Expenses

- 21)** The PRS fees shall be in accordance with the PRS's published fee rates (plus VAT) unless agreed otherwise and shall be payable in the first instance by the landlord ("the Mediation Fee").
- 22)** Any PRS fees must be payable in advance of each step of the mediation.
- 23)** If our step 2 of the mediation takes longer than 2 hours then we reserve the right to charge an hourly fee of the mediator at £75 plus vat.
- 24)** In the absence of any agreement to the contrary the parties will bear their own costs and expenses of participating in the mediation process.
- 25)** For the avoidance of doubt, nothing in this agreement shall prevent a court from making an award of costs incurred by a party.

Data Protection

- 26)** The PRS shall handle any data supplied to it by or on behalf of any of the parties in accordance with the PRS privacy policy available at www.theprs.co.uk/privacy-policy

Exclusion of Liability

- 27)** The parties acknowledge that in attempting to facilitate a settlement to the dispute, the PRS and the mediator will use his or her personal experience, skill, judgment and intuition.
- 28)** The parties further acknowledge that as the mediator has obligations under the confidentiality clauses of this agreement not disclose to the other party all the information supplied by each of the parties in private session during the mediation that none of the parties will know the full circumstances in which the mediator so exercises his or her skill, judgment and intuition. Accordingly, neither the mediator nor PRS shall be liable to the parties for any act or omission in the services provided by the mediator or the PRS under this agreement unless such act or omission was in bad faith.

Pandemics and other national emergencies

- 29)** In the event of an epidemic, pandemic or other national emergency affecting the United Kingdom, the parties shall comply with the reasonable requirements of the PRS or the mediator to allow the parties to communicate with the intention of resolving the dispute.

Law and Jurisdiction

- 30)** This agreement shall be construed in accordance with the law of England and Wales and the parties hereby submit to the non exclusive jurisdiction of the courts of England and Wales.



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Scheme Authorised by:



Ministry of Housing,
Communities &
Local Government

**NATIONAL
TRADING
STANDARDS**
Estate Agency Team
Protecting Consumers
Safeguarding Businesses

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