



# Mediating by remote - a first!

**T**his year, 2020, will be my 30th as a lawyer. Yes, 1990 seems a long time ago! I spent the first 16 years as a solicitor. For the last 14 years I have been a mediator.

After mediating over 800 disputes I have just completed mediating my first dispute using Zoom Pro.

Did it work well? The short answer is a resounding **yes**.

It had all the hallmarks of a "classic mediation":

- The Venue (me hosting the mediation)
- The Main Meeting room (everyone can meet for a joint session)
- The Breakout rooms (for each party and their advisers to have private space for discussion amongst themselves and with me)
- A separate Breakout room for facilitated discussion between me and the lawyers

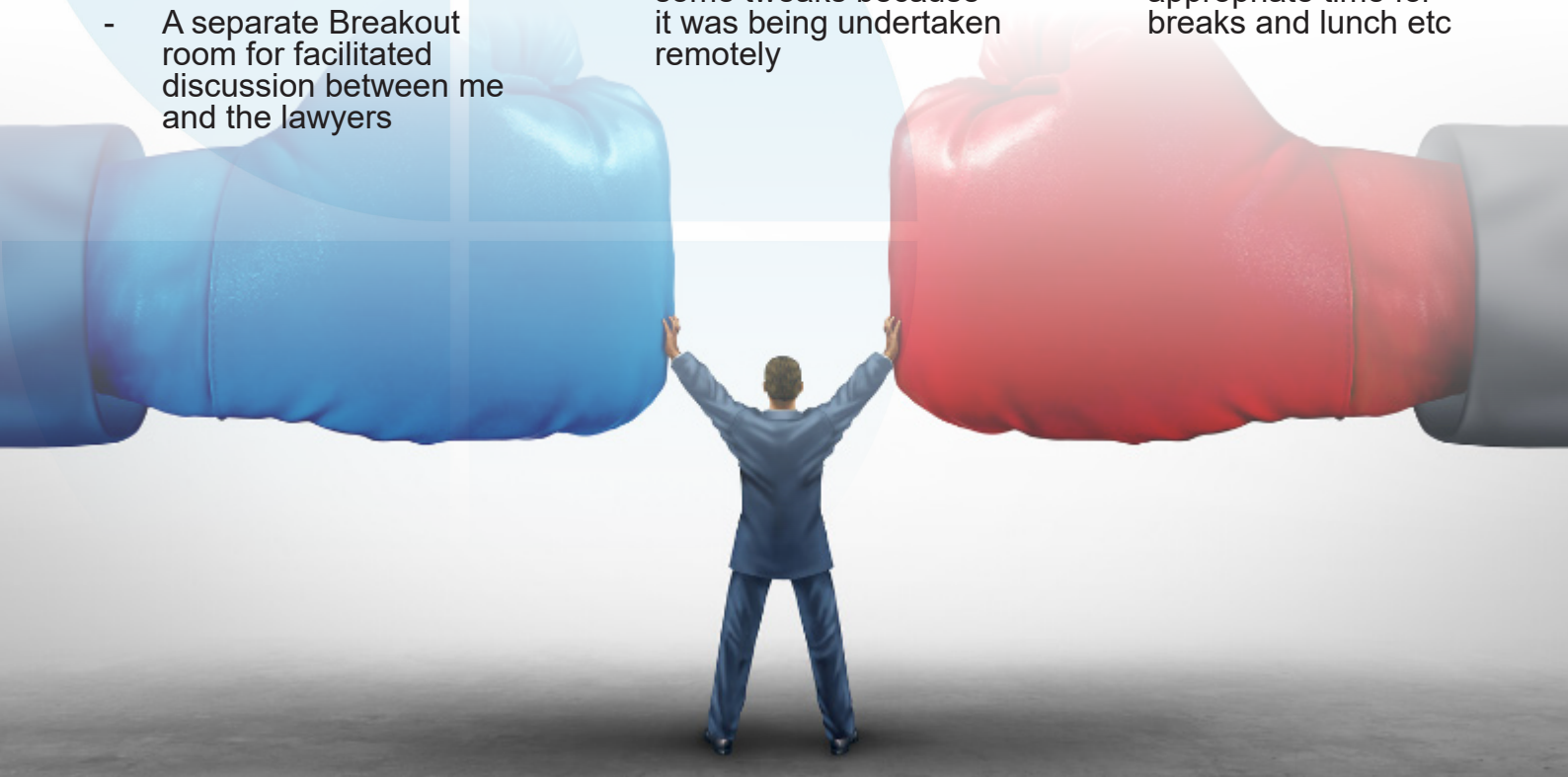
The remote process requires some adjustments:

## Pre-mediation contact

- I arranged separate "scheduled meetings" with each party/ attendees and their advisers before the mediation day
- I wanted to "meet" the participants and discuss the mediation process, the software and any specific concerns
- I spent about an hour with each party and their advisers
- It helped promote confidence in the software and encourage a positive approach to the mediation being conducted "on screen"
- The mediation agreement needed some tweaks because it was being undertaken remotely

## The Mediation day

- Clarity on use of time enables the avoidance of the "time vacuum" in communication between meetings with me
- I joined the Zoom "meeting" in good time before the designated start time to ensure I was available to meet and "admit" participants to their respective Breakout rooms
- I was particular in the amount of time I would spend with each party and their advisers
- If I needed to spend longer time with a party I ensured I returned to the other party at the allotted time and agreed a new time
- I ensured there was appropriate time for breaks and lunch etc





- Agree an approach for who speaks – I suggested a raising of the hand
- Courtesy matters because distance by remote gives some “equivalence” – for example inappropriate aggression has very limited effect

**What did the parties and their advisers think?**

- “I was pleasantly surprised to find how well the Zoom set up worked ... this was the first time I had been exposed to it on a professional level ...
- “The audio and video clarity was remarkable and it worked just as well, if not better, than a face to face mediation would have ... there was no possibility of the lay parties bumping into each other during the breaks or in public area. From this point of view the online

platform serves even better than a physical meeting ...”

- “It [was] very useful to be able to take frequent breaks and then easily mute both audio and video – privacy is important”
- “I found that you conducted the entire mediation – from the preliminary session yesterday – to the closing – in a highly professional, courteous yet appropriately firm manner ... in what was ... a smooth and hassle free process that lasted many hours ...”
- “I thought that the mediation worked well and the mediation was assisted and facilitated by your use of Zoom. The clients were impressed.”

We now live in unusual times.

The way in which we live and work has changed. Perhaps a huge investment in fantastic IT communications across the UK has a better cost/benefit analysis than a new train line from London to the Midlands and beyond?



**Paul Johnson**  
*Mediator*  
**Year of Call: 2006**

