



CEDR Accreditation: 1994

Panel Admission: 1996

Languages: English

Location: United Kingdom

## Heather Allen

*“...calm and measured, and brilliant at dialling down the emotion between parties...”*

*“A winning combination of pragmatism and insight.”*

*Chambers & Partners Guide to the Legal Profession*

### Overview

Heather Allen has been a professional mediator since 1995 and is a founder member of the CEDR Chambers Practice Group. She combines her experience from a career in the commercial world with her legal qualification as a barrister to assist in resolving disputes in a wide range of sectors. Heather has mediated contractual claims in many types of industry and handles complex employment claims and sensitive cases between professionals and their regulatory bodies. Heather regularly mediates clinical negligence claims as a leading member of CEDR’s specialist panel. One of her particular strengths is in working with power imbalance, perceived or real, and with overt inter-personal conflict. She has supported collaborative working initiatives in the public sector, and has helped to resolve potentially disastrous shareholder disputes and internal disputes between Board members, as well as professional indemnity claims and acrimonious inheritance disputes.

Historically, she acted as a volunteer adviser and advocate at tribunals for clients through the CAB, working with a wide range of people and problems.

She appears as a Leading Mediator in several Directories, including Chambers and Legal 500, and joined CPR’s Panel of Distinguished Neutrals in Europe in 2019.

She is skilled at dealing with multi-cultural issues having worked with many organisations in the UK on equality policy implementation, and also as an international mediation consultant working in dozens of countries around the world including Egypt, Georgia, Hong Kong, India, Lebanon, Moldova, Nigeria, Pakistan, Rwanda, South Africa and the USA.



As well as having a busy mediation practice, Heather was Head of CEDR's Mediator Training Faculty from 2005 – 2018 and continues as a lead member of Faculty, enjoying training others in the skills of mediation, nationally and internationally.

### Expertise

- Banking & Finance
- Clinical Negligence
- Commercial Contracts
- Construction - domestic
- Employment & Workplace
- Inheritance, Wills & Probate
- NHS & Healthcare
- Professional Negligence
- Property
- Public Sector and Police
- Shareholder and Partnership
- Trustees and Charities

### Dispute Experience

#### Banking & Finance

- Exit negotiated with member of senior management team of a major bank
- Commercial tax dispute where it was alleged that non-cooperation had caused financial losses and embarrassment with the Revenue for a multi-national company
- Claim by widow of an employee who claimed that the bank had caused husband's suicide
- Dispute between a money market trader and a foreign bank over millions of pounds of claimed bonus payments following termination of contract.

#### Clinical Negligence

Heather is a leading mediator on CEDR's specialist Clinical Negligence panel, and has been part of this scheme since its inception.

Heather has mediated a wide spectrum of clinical claims in NHS and private medicine, both pre- and post-issue, where breach and /or causation were disputed as well as quantum, some involving human rights issues.

Cases and outcomes vary widely. From small to multi-million-pound financial settlements, and occasionally claims are withdrawn as a result of mediation. The non-financial issues and outcomes are varied, too, and always need to be considered.

- Claims related to cerebral palsy and other serious birth injuries, with parents and clinicians present at the mediation
- Claim by a deceased's family regarding fatal delay in providing care following a heart attack

- Complex multi-disciplinary claims where women’s health was allegedly damaged due to poor care before, during and after childbirth, including issues of options advice, consent, and poor outcomes from emergency treatment
- Claim by a parent against multiple agencies after an adult child died while in penal custody
- Claim against GPs and out-of-hours GP service for a missed diagnosis leading to acquired brain injury
- Claim against a mental health trust for failing to prevent C’s suicide attempt, resulting in paraplegia
- Claim against a mental health facility where, it was alleged, C had been exposed to an unsafe environment resulting in serious assault by other inmates
- Claim by a woman, who was known to have suffered FGM as a child, for negligent care during her pregnancy
- Claims arising from her child’s still-birth including a serious obstetric haemorrhage, additional surgery, hospitalisation and psychiatric injury
- Claim related to late diagnosis of a cancer resulting in infertility; schedule included costs of surrogacy
- Claim by patient whose transplanted organ was damaged during unrelated surgery, resulting in a significantly accelerated need for dialysis and a further transplant
- In the 1990s Heather worked pro bono as a conciliator of NHS complaints between patients and primary health care professionals, related hospital services and the Health Authority itself.

### Commercial Contracts

- Alleged breach of contract between owner /designer and distributor in a highly specialised security-related field
- Dispute over the termination of contract between a school and a nursery business to provide kindergarten services, where the school wanted to terminate a fixed-term contract early
- Alleged breach of contract, with a counterclaim for non-payment of fees, between a retailer and an e-advertising agency
- Dispute between a magazine publisher and a printer regarding product quality, distribution errors and outstanding invoices
- Breach of contract dispute between an advertising agency and a video production company regarding specification and quality
- Commercial contract dispute between European manufacturer and their South American distributors
- Dispute between franchisee and franchisor relating to breach of the franchise agreement, including ending of leases, stock values, unfair terms and fraudulent misrepresentation allegations
- Claim against local authority for unpaid invoices on a substantial supply of services contract.

### Construction - domestic

- Several acrimonious disputes settled between builders or building firms and householders.

## Employment & workplace

Heather has expertise in resolving complex employment disputes, both contractual and involving allegations of harassment, discrimination, whistle-blowing and victimisation. These are often large claims in the commercial, public authority, higher education and health sectors; several with an international element.

## Discrimination

- A unfair constructive dismissal claim between a long-serving member of staff and a global company related to alleged agreed arrangements for return to work after maternity leave, including allegations of sex discrimination and discrimination connected with maternity and pregnancy
- Sex discrimination claim by a vice-president employee of a bank against her manager, and further claims against the bank for the way her grievance and appeal had been handled
- Race and sex discrimination claims against a high profile public authority in which mediation offered a unique opportunity to open negotiations on severance, not available as a remedy for either party through the impending proceedings
- Age discrimination claim by two directors of an e-business
- Race and sex discrimination claim involving whistle-blowing issues as well as harassment claims
- Disability Discrimination allegations by a member against a professional body and several senior executives over its refusal to offer employment
- Claim by two ex-employees against a government department for race and sex discrimination
- Claim for disability discrimination against a water authority
- Claims against universities involving senior academics both as claimants and defendants
- Dispute between insurer and senior legal advisor who claimed constructive unfair dismissal, sex discrimination and victimisation.

## Grievances

- Neutral chair for a large university departmental meeting involving SMT and senior national Union representatives, following the outcomes of a series of grievances
- Internal grievance against a university Head of Department by several members of staff, with Union involvement. Over two (short) days, mediated a withdrawal of the grievances with an action plan for future working
- Claim for personal injury and breach of contract by a Head of Department against a university, naming the Vice- Chancellor, amongst others, as a defendant.

## Pensions

- Claim by two ex-employees against a government department for breach of contract in relation to pension rights

- Heather is experienced in working with formal and informal methods of calculating pension loss.

### Relationship Breakdowns

- Internal dispute between a manager and senior staff member, involving a number of headline themes, which was difficult for the individuals and disruptive for the organisation- settled over two weeks with 10 hours of contact.

### Inheritance, Wills & Probate

- Dispute between siblings where land, dwellings and other assets were held by a company of which the Directors were the siblings, requiring unanimity for decision-making. Communication and trust had broken down resulting in stalemate
- Claim by a step-mother for reasonable provision against three surviving grown-up children from a previous marriage who were the beneficiaries of the father's will
- A claim by a large charity against the estate of a deceased and his two adult children for unpaid contractual fees for residential care services
- Dispute involving a non-family member claiming on the basis of care provided to the deceased over many years
- Dispute between a brother and sister over the division of property and other assets left to them by their deceased father where the instructions in the will were contested as ambiguous
- Claim by one sibling against two others seeking a variation in the father's Will in her favour on the basis of need
- Inheritance dispute involving a non-family member claiming on the basis of care provided over a number of years.
- Contested Will dispute between four siblings regarding their mother's estate including a farm and other property.

### NHS & Healthcare *See also Clinical Negligence above*

- Care and treatment package disputes between families and public bodies including related to funding. For example, differences within a clinical team about the treatment needs of a disabled child; a parent and a local authority disagreeing about accommodation needs for an adult child without capacity; and a family and local authority disagreeing about schooling provision
- A mediation about the interpretation of a significant part of a 10-year contract between a local authority and a group of care service provider businesses was settled over one day, thus avoiding the need for judicial review
- Internal dispute at a large Health Care Centre involving clinical and non-clinical staff
- Dispute between a local Authority and a parent about the living arrangements for an adult child with learning difficulties

- Partnership dispute at a GP practice: settled with three meetings over several weeks
- Dispute between a UK County Council and a private care provider over the cost of care provided to the elderly under contract
- Heather is familiar with NHS and healthcare structures, having handled many employment and whistle-blowing claims in that sector, at all staffing levels, and having facilitated resolution of internal disputes between hospital consultants and difficulties between NHS CEOs/Trusts.

### Professional negligence

- Claim for damages against a professional body by a member who alleged that it had failed to determine a third- party complaint properly, resulting in substantial financial loss and stress to the claimant member
- Claim by two private clients against a firm of solicitors
- Claim by a city law firm partner against an architect and building contractor in relation to a high value domestic building contract
- Claim against chartered surveyors for substantial losses resulting from the alleged mismanagement of property and the premature surrender of keys
- Claim by a business against two separate firms of solicitors.

### Property

- A highly-charged dispute between a litigant in person and a commercial premises neighbour, in a claim under the Protection from Harassment Act; an interim injunction was already in place, considerable costs had been expended, and the case had been set down for a 5-day trial
- Landlord and tenant/leaseholder dispute between a freehold company and nine claimants. The dispute dated back 11 years, proceedings had first been issued six years prior. Settlement was reached between all parties over two days of mediation. Terms included compensation levels, on-going management issues and a detailed schedule of agreed works
- Dispute following the sale of property over the division of proceeds between purchase funder and former tenant.

### Public Sector and Police

- Claim by a public body against a trustee, following erroneous allocation of grant funding to the trustee
- Defamation claim by senior employee against a local authority
- Various claims against police authorities – for false Imprisonment, trespass, personal injury and malicious prosecution
- Claim by public authority for breach of contract against supplier, following D's running of a fund-raising campaign
- Dispute between a local authority and the family of a vulnerable adult over appropriate care provision

- Long standing claim by a police officer against a member of the public, and counter claim by the individual, for malicious prosecution following a road traffic incident.

### Shareholder and Partnership

- Mediated the break-up of a publishing business, including division of customers, intellectual property, buildings and other assets
- Dispute following the breakdown of relationships, personal and business, between joint property owners in UK and abroad
- Claim in deceit by ex-husband, following a paternity suit, for restitution of significant funds expended on children over many years
- Re-established working relations between company board members (several of whom were family members), including a specific dispute between two of the Directors. Solution included redesigning communication methods between Directors, reallocating responsibilities, and agreeing the way that future Board meetings would be run
- Negotiated departure of a Partner from a law firm including issues of fiduciary duty and transfer of client work
- Mediated the amicable break-up of a telecoms company with its two founders.

### Personal Style

Heather has a clear, direct, practical approach to mediation, not flinching from the tensions that so often accompany business difficulties, while sensitive to parties' stress and strength of feeling. She applies a problem-solving approach, combined with empathy and lateral thinking, to help parties achieve a workable agreement. Her expertise in process management assists the parties in using the time flexibly and productively towards settlement.

As a highly effective communicator, Heather is able to help parties to communicate persuasively with each other, and she uses her experience in negotiating contracts in the publishing and advertising industries to assist parties to devise and exchange proposals in a way that encourages progress.

### Feedback – Clients

- *“Your calm, confident approach and sensible down to earth advice was really appreciated. I am quite sure that we would not have achieved a satisfactory result ever, without your help, let alone so peacefully and so quickly.”*
- *“... very approachable and kept the momentum up throughout the day”*
- *“Her presence and approach allowed the parties to have sensible discussions without prejudice.”*
- *“Thank you very much for providing such an excellent mediation service ... Your calm, measured attitude and inclusive, informative approach were exactly what was required for our case.”*

- *“She imported realism to the proceedings.”*
- *“Thank you so much for your invaluable efforts ... It was fascinating to see how the process worked. Very grateful to you for staying so late and keeping everyone focused.”*
- *“Whilst the subject of the mediation required unique specialist knowledge, she exhibited a good working understanding for a lay person.”*
- *“Thank you for your hard work .. I found your approach warm, constructive and very professional.”*
- *“...thank you deeply, for being so patient, professional and human. I could feel that you understood my condition and this helped me enormously.”*
- *“Heather was excellent – firm and clear and obviously knows her stuff.*
- *“Showed great energy and commitment to a very long day.”*
- *“Worked tirelessly and sensitively to bring the parties together during the course of the day, and helped bridge what appeared to be an unbridgeable gap.”*
- *“Worked extremely hard to keep settlement at the forefront of the disputants’ minds.”*
- *“Conciliatory in tone and sensible” “Picked up rapidly on points of difficulty.”*
- *“Did a great job at building up trust on both sides.”*
- *“I was very impressed with Heather. We had some very strong-minded people...all had the potential for throwing their toys out of the pram...I think that Heather handled it very well.”*
- *“Totally professional and objective. Focussed on agreed outcomes.”*
- *“Strengths- listening, energy, calmness, maintenance of a secure, positive environment.”*
- *“Managed a very fair and open process.”*
- *“Patience and perseverance”... “An excellent mediator”*
- *“Heather has tremendous drive and energy” “Quickly got the respect of the parties”*

### **Feedback – Directories**

Heather has, for many years, been identified by independent industry directories such as Chambers & Partners and the Legal 500 as a leading mediator in the field.

- *She is calm and measured and brilliant at dialling down the emotion between the parties. We got to a settlement which was akin to a miracle.*
- *Heather Allen is a “very creative” mediator with a strong practice that often sees her appointed in high-value, high- emotion claims including employment, clinical negligence and commercial matters. She draws praise from market sources for “her constructive, solution-orientated and respectful approach” and her “straight-talking but persuasive” style.*
- *“... she can get clients to conciliate and compromise, even where you think no further movement can be achieved”*
- *“Sources value Heather Allen for her empathetic approach and say she “balances each side's arguments effectively” and is “a good listener.” She is highly regarded for her profile in contentious inheritance and employment matters.”*
- *“Enthusiastic and tireless in the pursuit of settlement..” “Manner...calm, open and available”*



- *“Experience, perceptiveness and attention to detail”*
- *“She is respected for grasping the complexities, whilst simultaneously steering both parties to the wider settlement issues...she remains focussed, positive and driven at all times”*
- *“Her willingness to take a broad overview and ability to adapt to a complex, changing situation proved invaluable”*
- *“Allen’s forte is keeping mediations on track. She knows when to be patient and when to push things on”*
- *“She gently drives things forward”*
- *“A gifted mediator; gets underneath a problem and sees all of its angles”*
- *“Good with clients and very down to earth.”*
- *“A winning combination of pragmatism and insight.”*
- *“Calm, diplomatic and resilient, she is able to keep people focussed in a fraught situation and facilitate the best outcome.”*

- Extracts from Chambers & Partners Guide to the Legal Profession and the Legal 500

### **Professional Skills**

Both in her mediation and facilitation work, Heather draws on broad experience gained in the oil industry, in advertising, publicity and marketing, and then as the managing editor of a small publishing company, as well as her legal training. Heather was called to the Bar (Inner Temple) in 1977 and provided a free settlement negotiation and, where necessary, employment tribunal representation service for five years through NACAB. She then operated her own consultancy business, providing management development for teams, groups and individuals., and working with Boards on planning, problem- solving and decision-making. Heather still works occasionally with Boards of Management and senior management teams. Most recently, she has facilitated collaborative working between procurement teams across several NHS Trusts.

Her consultancy work has included projects requiring consensus-building for such clients as national and international charities, churches, universities, Local Authorities, health organisations and commercial partnerships. She has also assisted registered social landlords to develop creative approaches to problem-solving, and facilitated cultural audit and planning activities before, during and following mergers and acquisitions. A particular challenge for these businesses is to marry the demands of a not-for-profit ethos with the running of multi-million-pound capital and revenue projects in a competitive market environment.

### **CEDR Faculty**

Heather is well known as a mediator trainer and coach and was the Head of CEDR Faculty from 2005 - 2018. She works internationally, training and assessing mediators, and also working with experienced mediators on training skills so that they can provide training for local professionals. Her

experience of working in different traditional social contexts, including in predominantly Muslim societies and those where elder involvement in dispute resolution is the norm, adds a useful dimension to her mediation practice.

She also acts as a supervisor for experienced mediators and provides post-accreditation and advanced development for practicing mediators.

In addition to her training activities Heather also works regularly with the judiciary and other professionals in developing the wider use of mediation. She has worked as a consultant with jurisdictions abroad that are introducing mediation as part of their civil justice system.

### **Professional Background**

- Full time commercial mediator
- Trainer in Conflict Resolution and Mediation
- Advocacy and dispute resolution service for claimants to the Employment and Benefits tribunals
- Called to the Bar (Inner Temple)
- Managing editor of a small publishing company
- Worked in the oil industry in advertising and publicity
- Management trainee Shell-Mex and BP
- University of London honours degree in English Language and Literature.

### **Other Dispute Resolution Experience**

Over the years Heather has contributed to a number of mediation schemes - including for the Housing Ombudsman, the Central London County Court; CEDR/NCVO for voluntary and not-for-profit organisations, Age Concern and the Employment Services.

Heather is a trained community mediator and, as a volunteer, has mediated many community disputes.