

Landlord Law Members Training – How mediation can help landlords



With Mike Morgan

If you have any questions, please put them in the Q&A or the chat box. We will answer as many as we can.

9 March 2021

How mediation can help landlords



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Manager

Mike leads HF Assist and
the PRS Mediation Service

A qualified solicitor and previously the
Director of Dispute Resolution at the Tenancy
Deposit Scheme for over 13 years



Where are we with Notices?

Section 8 notice

- Less than six months rent in arrears 6 months notice
- Right to Rent 3 months notice
- Death of a tenant 3 months notice
- **More than or equal to six months arrears** 4 weeks notice
- Domestic violence 2 weeks notice
- Tenancies gained through fraud 2 weeks notice
- Anti-social behaviour required no notice

Section 21 notice

- All Section 21 Notices from 29 August 2020 = 6 months notice
- Validity period extended to 10 months
- The new measures for England apply to Notices served from 29 August 2020 until 31 March 2021



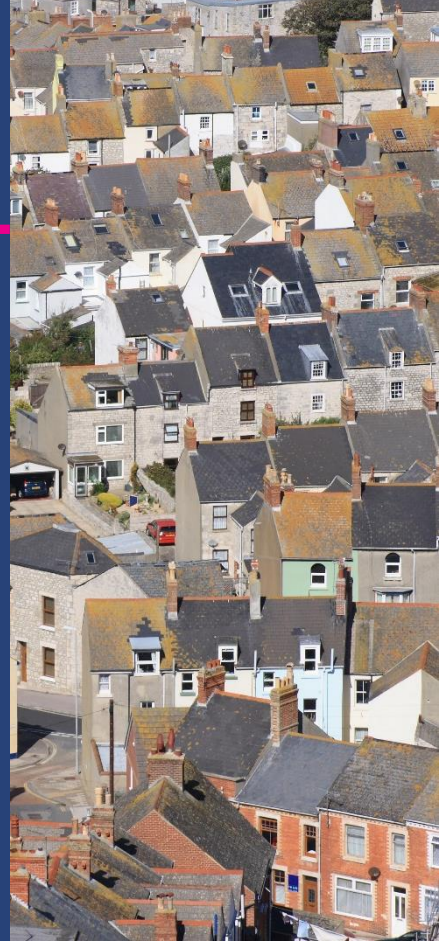
Paul Shamplina
Landlord Action

“... the most sensible solution is mediation, particularly as landlords will be unlikely to be able to gain possession of their properties for twelve months or more ...”



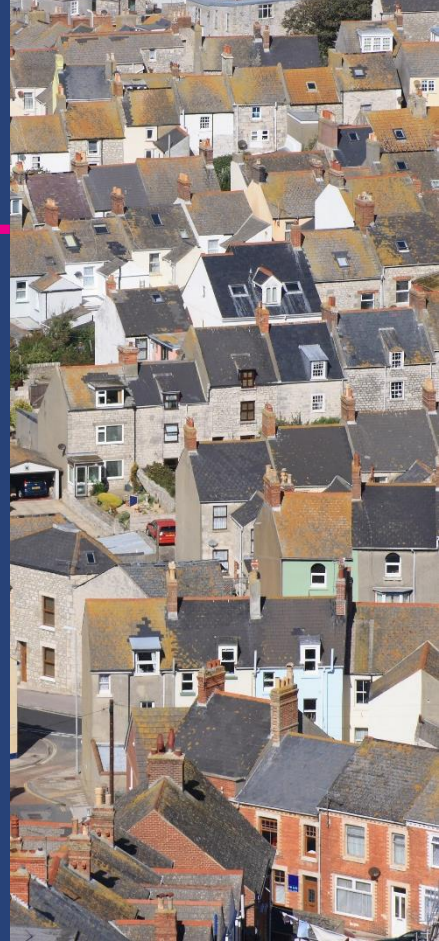
Possessions and evictions: the latest

- The courts are dealing with possession claims, but there is a significant backlog
- Most evictions remain paused until after 31 March 2021
- An eviction by bailiffs can still go ahead in limited situations, for example, if:
 - the court has already made an order, and identified that the eviction can go ahead under the rules in place during lockdown
 - you have at least 6 months' rent arrears
 - there has been antisocial behaviour



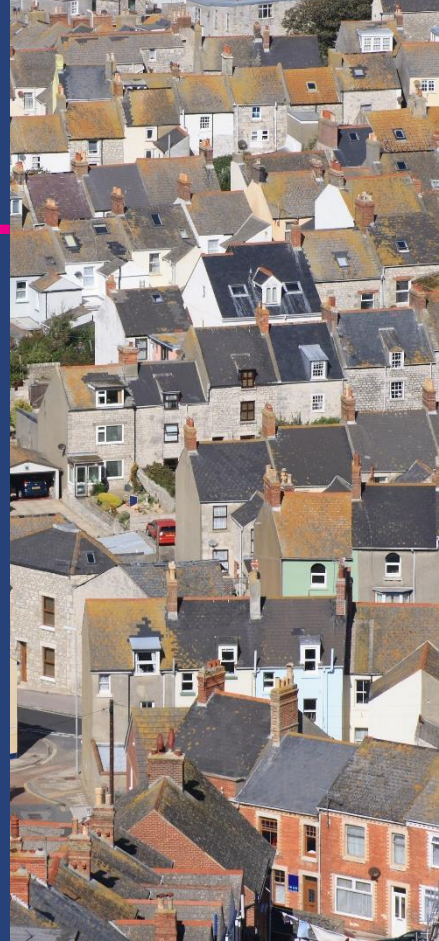
Mediation: a new pilot

- The government has launched a Housing Possession Mediation Scheme for landlords and tenants, provided by The Society of Mediators
- Covers all 170 county courts where possession claims are heard
- Offers mediation during the 28 days between a court's review of the files and the possession hearing
- Too late in the day?



Mediation: a way through the mess

- Mediation is about reaching a solution that works for both parties
 - Allows both parties to be able to explain their position to an experienced and trained professional (the mediator)
- Helps the parties come to an arranged settlement to prevent the matter proceeding to court
 - Earlier intervention is much more likely to be successful
 - Helps show compliance with pre-action protocols
- Its voluntary and consensual – and avoids the pressure of being forced to solve a dispute later
- It is available at any time to deal with rent arrears, or other issues in dispute
- It works particularly well when offered after Notice has been served



Mediation: how does it work?

Step 1 - consent to mediation

5-10 working days

- We contact the tenant to see if they want to take part. This part of the process is free of charge
- Where a tenant chooses not to take part, we will produce a report for you showing the steps we have taken
- You can use this report at Court to show that you tried to mediate
- Cost £25 inc VAT (free to NRLA landlords)

Step 2 – mediation

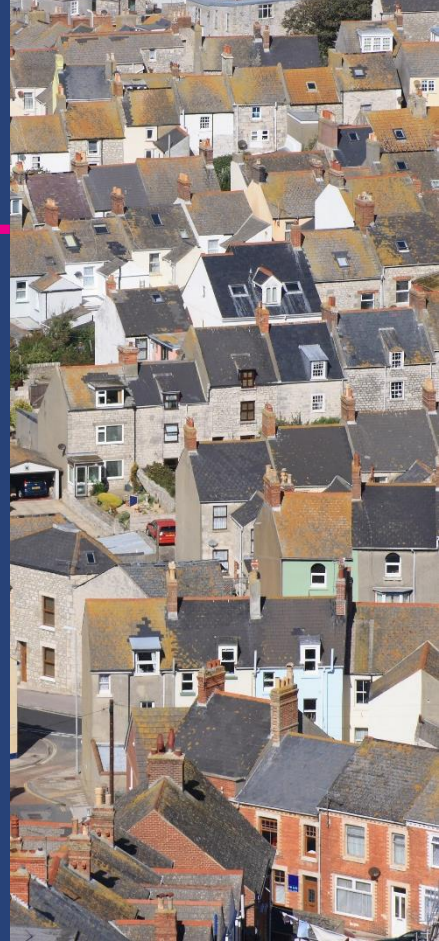
10-15 working days

- We find out more about the tenant's circumstances and what they can offer you. We then work with both parties to put together a proposal that works for both of you. For a typical rent arrears case, this usually means a rent repayment plan which avoids the need to go to Court and can include a tenant agreeing to leave voluntarily
- We expect a typical mediation to be resolved in 1-2 hours of discussion, over roughly 10 working days – but often sooner
- We will record the agreement reached in a legally binding document signed by both parties
- Mediation charges start from £200 inc VAT
- Where a tenant chooses not to take part, or does not respond to contact, we will produce a report showing the steps taken
- You can use this report at Court to show that you tried to mediate
- Cost £25 inc VAT



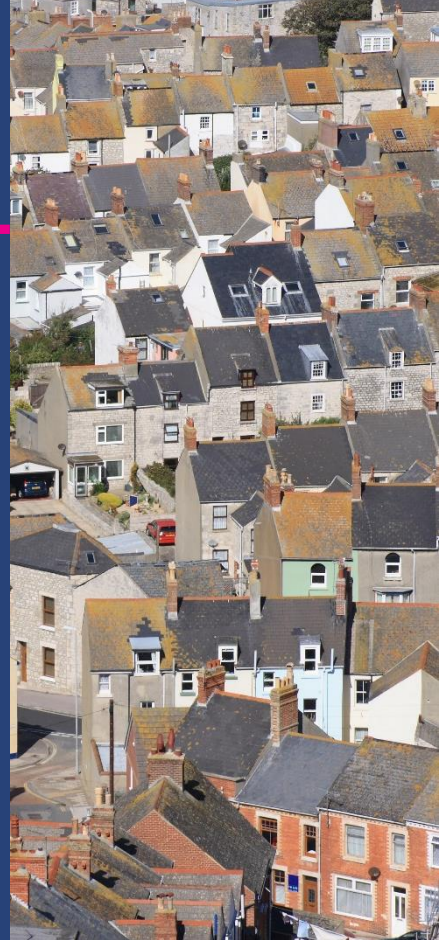
Case study 1

- Landlord happy for tenant to remain at property, but wanted repayment of arrears at a rate that was not affordable to the tenant
- Tenant concerned that fixed term tenancy due to end before repayment plan completed (regardless of its amounts)
- Tenant able to borrow funds to clear arrears in a single sum, loan repayable on more attractive terms than those offered by landlord
- In exchange for single sum to clear arrears, tenant wanted a new fixed term tenancy to run in parallel with loan period
- Mediation agreement completed



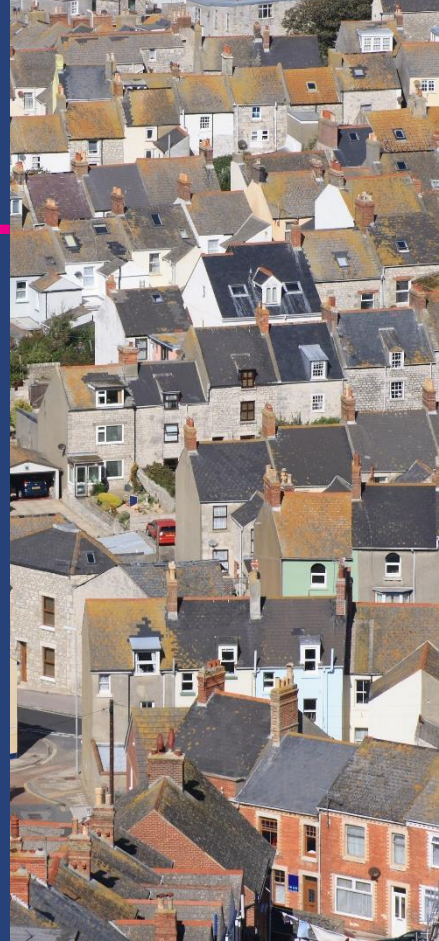
Case study 2

- Tenant of high rent property was in severe financial difficulty in lockdown
- Tenant was exploiting the suspension of possession proceedings, but previous history of rent arrears too
- Option 1
 - property to be vacated in August 2020
 - 20% discount on 3 months rent arrears
 - all remaining rent and arrears payable in 12 months
- Option 2
 - Tenant to remain at property
 - No discount on arrears
 - Arrears to be paid in full in 9 months
- Repayment plan agreed for Option 2



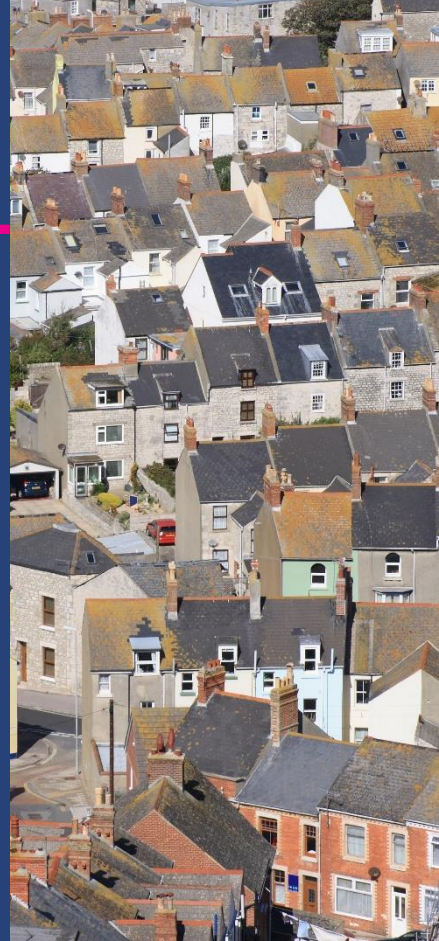
Case study 3

- Anti-social tenant disrupting HMO
- Refusing to speak to landlord or other occupants
- Mediator was able to reach the tenant, who was more forthcoming about the problems during their tenancy
- Tenant agreed that a shared property was not best for them, and agreed to leave
- Landlord was able to understand more about how their property worked as a shared unit, and changed their process for onboarding tenants



Case study 4

- Tenant complaining about lack of repair at property
- Agent insisting on full repayment of rent before repairs would be arranged
- Mediation took place with landlord and tenant
- The landlord realised that there was a stalemate that needed to be broken
- The repairs were arranged before the next rent due date, when the arrears were also paid
- There may have been a parting of ways between landlord and agent...



Mythbusters

“Mediation is all pink and fluffy”

“I don’t trust you - you’ll tell the landlord everything”

“Landlords are rogues and tenants are saints”

“Mediation is just *‘pay and delay’*”

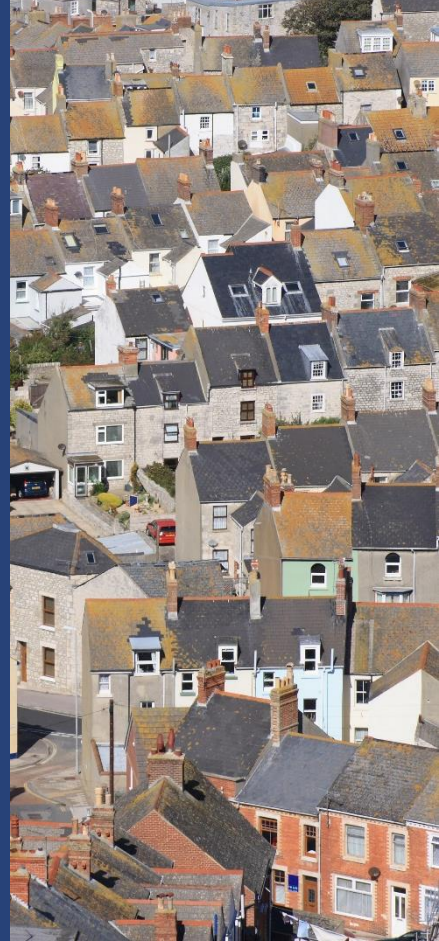
“I have a rent holiday because of Coronavirus”

“If I don’t agree, what are they going to do?”

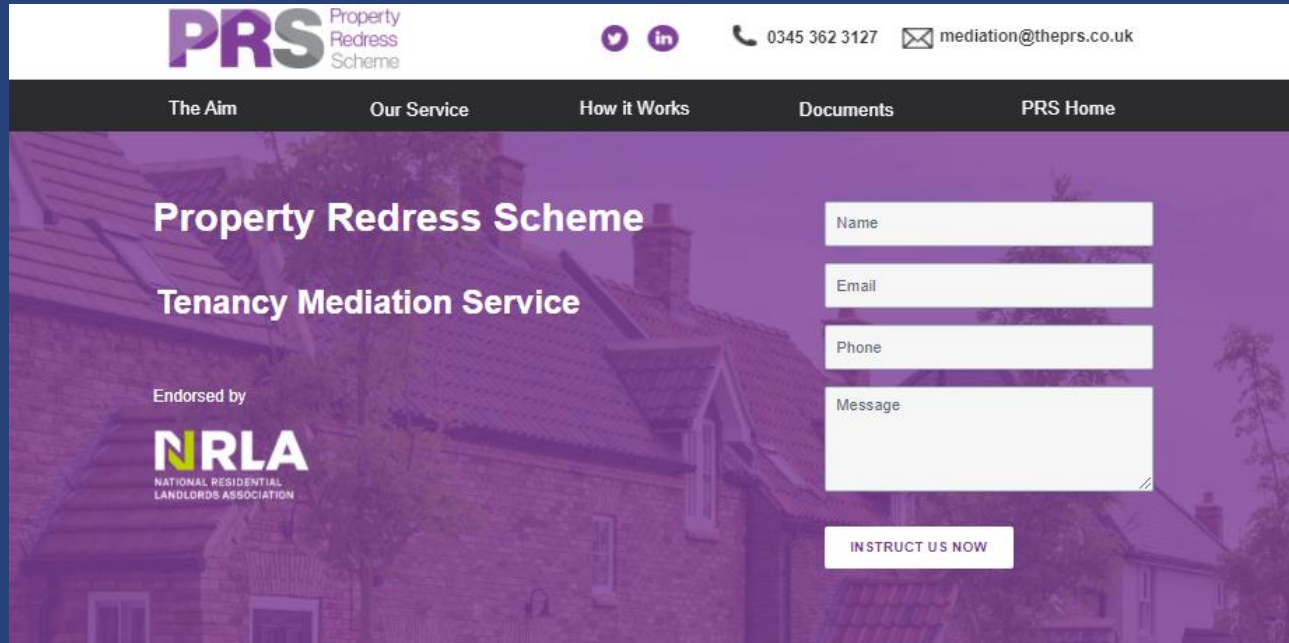
“Whose side are you on?”

“They won’t speak to me, they’ll never speak to you”

Questions & Answers



Need more information?



PRS Property Redress Scheme

0345 362 3127 mediation@theprs.co.uk

The Aim Our Service How it Works Documents PRS Home

Property Redress Scheme

Tenancy Mediation Service

Endorsed by

NRLA
NATIONAL RESIDENTIAL
LANDLORDS ASSOCIATION

Name

Email

Phone

Message

INSTRUCT US NOW

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- Email: mediation@theprs.co.uk
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