

# In mediation a binary view is just too basic

John Sturrock QC MCI Arb explains why bringing parties together in creative ways should absolutely continue

**E**arlier this year I wrote a blog in which I reflected on 'joint meetings' in mediation, and on the fact that much has been said and written about the demise of such meetings in the modern mediator's practice. In fact, I understand that in some jurisdictions there is now resistance to the very notion of them.

In my experience, such a development would be premature. More than that, I fear it would represent a waste of the potential that mediation brings for imaginative problem-solving and providing new approaches to deadlocked disputes. It may also represent a regression into a more legalistic, binary view of a process, which would actually seem to mirror the habits we acquired in the adversarial world.

I am also very much aware of how much clients and other decision-makers appreciate a creative approach to the structure of meetings in mediation, and how much they can gain from sitting together and learning more about the commercial, technical, personal and practical angles of a dispute.

To illustrate my point, consider this (very abbreviated) example, right, of a series of meetings that occurred in a two-party construction-related mediation where independent experts were involved. Of course, this is not a prescriptive template – much must be improvised on the day and will be stimulated by each succeeding stage.

Perhaps the mistake is to see the succession of meetings as either exclusively joint or private. These words and concepts are themselves binary and dualistic. I prefer to view a progression of meetings as representing opportunities for participants to meet in whatever combinations or groupings make sense at each stage of the mediation journey.



**ABOUT THE AUTHOR**

John Sturrock QC MCI Arb is Founder, CEO and Senior Mediator at Core Solutions Group. For details visit [core-solutions.com](http://core-solutions.com)

## HOW MIGHT JOINT MEETINGS WORK?

