

Dispute resolution and mediation during the COVID-19 disruption

With a rise in commercial disputes caused by difficulties during the COVID-19 pandemic, businesses are increasingly having to examine their legal position and consider what action they can take to protect themselves and enforce their rights. But with courts struggling to switch to remote working and delays increasingly likely, litigation is often not the best solution.

Lord Chief Justice, Lord Burnett, is encouraging the use of alternative dispute resolution to reduce the pressure on courts and keep access to justice open to those who need it, saying, "I would urge all before agreeing to adjourn any hearing to use the available time to explore with the parties the possibility for compromise."

By avoiding the commencement of litigation completely, the progress of a dispute stays completely within the control of the parties. Once the court system has been entered, that control is lost and progress is likely to be frustratingly slow.

An additional risk with litigation is that the outcome may be undesirable. With mediation, the result is agreed upon by all parties, so there is no chance of having an unacceptable solution.

Benefits of mediation

With businesses under unprecedented pressure during the COVID-19 disruption, more disputes than usual are arising. Although contract breaches are often unavoidable following new lockdown rules, both at home and overseas, litigation is rarely the best solution.

By turning to alternative dispute resolution, parties are able to sit down together, guided by a neutral professional, and work out the best way of proceeding in difficult circumstances. A good mediator will be able to help individuals understand that circumstances outside of the other party's control have often caused the problems.

The mediator will also be able to guide the parties in drawing up a document that moves them out of their difficulties. A solution that is acceptable to everyone will not only allow business to continue but frequently helps parties salvage what was previously a beneficial relationship.

There are different types of alternative dispute resolution available, including mediation, early resolution and arbitration. Choosing the right method will depend on various factors, such as how far along the dispute is, whether it is an international dispute and how entrenched the parties are in their views. An experienced dispute resolution professional will be able to help you decide which process is likely to be most effective for your matter.

Mediation during COVID-19

Because mediation is already carried out remotely in some circumstances, the systems are already in place and have been tried and tested. This means that during social distancing, disputes can still proceed smoothly through an alternative resolution process.

Documents can readily and confidentially be shared through online systems and the mediator will be able to set up virtual meetings for all parties together or for a single party with the mediator as needed. He will also ensure that no recordings are made, preserving confidentiality.

Online meetings are easier to arrange than court hearings and travel and waiting times are eliminated. Costs are substantially reduced because of this and the process is entirely more flexible than litigation.

Summary

The level of control offered by alternative dispute resolution cannot be beaten. The parties will find their own solution, acceptable to all, with the help and guidance of their mediator. For businesses who simply want to return to work and concentrate their efforts on moving forward and building a successful enterprise, mediation has always made sense.

In these uncertain times, it is proving its value, even more, helping people to look at problems pragmatically and find a realistic outcome.

At Lux Mediation, we offer a range of different Dispute Resolution Services, designed to deal with all types and stages of disputes. We are experienced in and understand the subtleties of online mediation. Our mediators have extensive credentials and experience in areas including maritime, international, EU and general commercial and civil law.

Our operation is set up to deal easily and efficiently with remote meetings and we are able to guide all parties through this system, offering help and assistance where needed.

If you would like to explore further whether alternative dispute resolution can help you to resolve a dispute or you have any questions about the process, please call Lux-Mediation on +44 (0)7876 232305 or email mediation@lux-mediation.com.