

Mediation is a well-established forum for dispute resolution and is especially effective where parties have become entrenched in their positions in a longstanding dispute or a dispute involving a personal business relationship or a dispute where there are a number of parties with varying interests.

Mediation is a dynamic process, which can achieve results beyond the parties' expectations and often beyond the scope of the Courts since unlike formal litigation mediation is not constrained by procedural rules and it is a process controlled solely by the parties involved.

Mediation has the advantage of being an entirely voluntary process, enabling parties to retain control of the decision to settle and/or the terms of settlement. It is conducted confidentially by an impartial third party (the mediator) who can be selected with specialist knowledge of the subject matter in dispute. In addition mediation offers flexibility with regard to timing, venue, format etc and the process can be tailored to meet the demands of the parties.

Our litigation department is a keen advocate of mediation and has successfully mediated several high value and complex multi party disputes in recent times. We have seen a sharp increase in our opponents' willingness to engage in mediation in respect of claims where there are no court proceedings imposing mediation. We suspect the change reflects the current economic climate and the greater emphasis on cost effective dispute resolution.

Once there are formal court proceedings, the Courts can of course impose costs sanction on any party who unreasonably refuses to mediate in the context of a formal claim. In deciding whether a refusal to mediate was reasonable, the Courts will have regard to such factors as the nature of the dispute, the merits of the claim, the prospects of success at mediation and the cost of mediation. The Courts are keen to encourage all parties to consider whether mediation would be the appropriate forum at which to achieve resolution.

We find mediation is a particularly useful tool as a means of enabling our clients to preserve on-going business relations and to resolve disputes swiftly and amicably in order our clients spend the least time and money possible dealing with disputes and focus instead on developing their businesses.

For further information or advice on any issues relating to mediation or dispute resolution, please contact **Harminder Sandhu** on **01384 216840** or [hsandhu@hawkinshatton.co.uk](mailto:hsandhu@hawkinshatton.co.uk)