

# NEGOTIATIONS

## What are the advantages of negotiation?

- As the most flexible and informal of the dispute resolution methods, negotiation can save the costs and time associated with more formal or assisted dispute resolution processes and might not, for instance, need to involve lawyers.
- Since it does not involve any third parties, the parties retain full control of the discussions, and can bring them to an end at any time. Similarly, negotiation can be undertaken at any stage of a dispute, even very close to trial, without giving rise to the same risk of compromising the trial dates as more formal ADR processes.
- It is a private dispute resolution option, meaning that both the dispute itself and any settlement reached can remain confidential. Therefore, reputations and relationships can remain intact.
- If the negotiations do not succeed and

settlement is not achieved, the parties' rights are not prejudiced provided that discussions proceeded on a without prejudice basis.

## What are the disadvantages of negotiation?

- Direct negotiations between the parties to a dispute can become deadlocked, and the absence of a third party or formal process means that the deadlock can be difficult to break.
- Negotiation may be unlikely to succeed where there is a significant difference in the financial position or bargaining power of the parties, as the weaker party may be less willing to agree to settlement in the absence of a third party, or without the protection of a formal process and the confidence which this may bring.
- In complex or multi-party disputes, direct negotiations may have a lower prospect of success without the assistance of a neutral third party or more formal procedures.

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