

Key Considerations Before Mediation or Settlement Discussions

Considering your objectives, evidence and commercial priorities before negotiations begin can help you enter the process with a clear and realistic strategy.



Your Preferred Outcome

Decide what you most want the settlement to achieve. This may involve a financial payment, ending an agreement, changing future conduct or preserving a commercial relationship.



Your Evidence

Gather the contracts, correspondence, financial records and other documents relevant to the dispute. Clear evidence can strengthen your negotiating position and help the mediator understand the issues.



The Cost of Continuing

Decide whether maintaining the relationship with the other party remains important. Mediation can allow parties to agree more flexible solutions than those generally available through a court judgment.



The Commercial Relationship

Provide copies of payment reminders, emails, letters and any responses from the debtor. These communications may show whether the debt has been admitted, disputed or subject to a proposed payment arrangement.



Confidentiality and Reputation

Identify any confidential, commercially sensitive or reputational issues that need to be protected. These concerns may affect how negotiations are conducted and the terms included in a settlement agreement.

 Authority to Settle

Make sure the appropriate decision-makers are available and understand the parameters for negotiation. Mediation is more effective when those involved have authority to agree terms.

 Payment and Practical Terms

Consider whether any settlement payment must be made immediately or over time. The agreement may also need to address security, interest, tax, costs and the consequences of late payment.

 Ongoing Court Deadlines

Identify any limitation dates, hearings or procedural deadlines that apply. Settlement discussions do not automatically remove the need to protect your position in ongoing or potential proceedings.



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