

# Catalyst Mediation

## A Case Study in a Contract Dispute.

### Brief details of the dispute

Party A were a Scottish based electronics manufacturer who had supplied components to Party B, and English company, for several years. Party B had placed a considerable order, worth millions over three years, for the development and supply a new component. After the initial delivery of components, Party B had cancelled the contract on the basis of component quality and refused to pay the agreed development and tooling costs, totalling just under £1m. Party B had delayed the launch of a new product using the component, resulting in lost profit. Party A had immediately instigated a court action, bringing independent experts to show the component quality was as specified and Party B had counter sued.

### Particular features

- Legal Issues: the case would revolve around Party A's ability to prove the component quality was as specified.
- Relationship issues: the two companies had worked together for several years and there were strong feelings of hurt pride, distrust and confusion.

### Mediation

In a joint meeting, the mediators encouraged the two Party's to review and agreed the issues that were really important to each for future discussions. This lead to an argument about the independent quality report, so private meetings were agreed. Party B then revealed that the delay to their new product had put them under severe financial pressure. They were also sure that the component brief had specified a complex function which had not been delivered, but they could not find the document specifying the function. In discussions with Party A it transpired they would have to close a factory if they weren't paid and the quality implications would have been damaging to their reputation. The mediators then moved between the Parties, slowly gaining a focus away from the quality report and on to future solutions. During this process it transpired that Party A had a different understanding of the specific function required by Party B, but as a software issue, it would be relatively simple to fix.

### Outcomes

Party A agreed to have the software fixed so the product could be launched and they would receive their cash, over a carefully negotiated time scale. Party B agreed to make an upfront payment to cover these costs. Both sides agreed to put a joint working group together to review their contract management processes to ensure this did not happen again.

### Learning points

- Given the will power, mediation can create an atmosphere in which future solutions can be created, despite an apparent deadlock.
- The role of advisors can be central to creating the detail of complex solutions that can safeguard current and future relationships.

### Note

Mediations are always confidential unless the parties agree otherwise, so while many details have been changed, the Clients comments are verbatim and the outcomes factual.

### Dispute Duration

The conflict had been ongoing for 9 months.

### Mediation Length

12 hours on one day.

### Client Comments

*"It was very difficult to see a way out of this – we were convinced we were right, but the time a case could take could have put us under. In the end we were "*

*"The mediation was very stressful, but a long case in the courts would have been worse and with more uncertainty about the result".*

*"The mediators were impartial and helpful at all times and allowed us to move through a really emotional position towards a practical resolution"*

*"The main benefit of mediation was the ability for our Clients to provide practical help which was less costly than a straight financial settlement and more positive for the other side."*

### Mediation Budget

Total cost circa £6,500.

