

Catalyst Mediation

A Case Study in Insurance Disputes.

Brief details of the dispute

Party A were a family living in a cottage at the bottom of a field. Party B, represented by their Insurer, ran a farm and owned the field. Over a 10 year period Party A's cottage was flooded 8 times by run off water from the field, despite Party B's attempts to provide adequate drainage. Party B accused Party A of blocking the drains with garden waste. Party A found home insurance impossible to get and once the case had appeared in the local press they had been informed by a local estate agent that their cottage was un-saleable. As a result Party A had started a court action against Party B to recover the sale value of the cottage and damages, running into several hundred thousand pounds.

Particular features

- Legal Issues : the Court seemed to be indicating they believed Party B had installed inadequate drainage, so their insurers were faced with a long battle to prove otherwise.
- Relationship issues: the emotions felt by Party A were extremely strong and they were determined to safeguard their financial future.

Mediation

The mediators encouraged Party A tell their story in some detail, so enabling them to feel they had been heard by a previously faceless and uncaring organisation. They were also able to discuss their future plans, which included moving several hundred miles nearer to their grandchildren and their fears they would not be able to sell the cottage. The Insurers representative, in the confidential forum of the mediation, expressed their understanding of the distress caused and their apology that the dispute had gone on for so long. This helped to reduce the anger felt by Party A and lead to more realistic and constructive discussions about a resolution.

Outcomes

The outcomes included a substantial sum, albeit less than the court might have awarded, for damages, part of which was invested, through the Insurer's subsidiary, in a tax efficient vehicle for Party A's grandchildren. The Insurer, through another subsidiary, also agreed to purchase the cottage at an independently agreed price, to provide insurance for any new property at a very advantageous rate and pay for Party A's removal costs.

Learning points

- Given the will power, mediation can create an atmosphere in which extremely innovative solutions can be created.
- The role of advisors can be central to creating trust and solutions that can save money and future relationships in even the most hopeless case.
- Even when a dispute has been going on for years and there is suspicion on all sides, frank, facilitated discussions can still lead to positive outcomes.

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 four years.

Mediation Length

12 hours on one day.

Client Comments

"All our concerns were met and we were able to see the other side as human beings who wanted to provide practical help."

"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.

