

In a business dispute?

A step-by-step guide to resolving it

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Introduction

If you are in a business dispute, time is not on your side. The typical small-business dispute is worth about £18,000 and costs about £17,000 to resolve. One small business in six is left with its dispute unresolved, and only around one in thirty tries mediation. It does not have to go that way.

This book shows you how to steady the situation, decide what you need, and reach a settlement while it still makes commercial sense. It is written for owners and managers already in a dispute with a customer, supplier, partner or colleague.

General information only, not legal, financial or tax advice. Laws and time limits differ across the UK and change, so take advice from a solicitor before relying on anything here, especially where a deadline, contract notice, injunction, insolvency or court claim is involved. Mediation does not pause a legal time limit unless the parties agree in writing that it will. Names, figures and scenarios in the examples are illustrative.

CHAPTER 1

Spot the dispute before it takes over the business



Here are three numbers to sit with. The average small-business dispute is worth about £18,000, and it costs about £17,000 to resolve. One small business in six is left with its most recent dispute unresolved. And only around one in thirty ever tries mediation.

None of that is bad luck. It is what tends to happen when a dispute is left to drift, and it is why this book exists.

Most business disputes do not begin with a solicitor's letter. They begin with an invoice that passes its due date, a customer who starts asking for work outside the agreed scope, or a supplier who stops answering direct questions. At first, each incident can look like ordinary business friction. The risk comes when the problem keeps returning, takes more effort to manage, and starts affecting decisions elsewhere in the business.

For a small business, an unresolved dispute is rarely contained. The owner may be chasing payment between client meetings, a manager may be reworking jobs to answer complaints, and staff may be caught between protecting a relationship and protecting the company. Early recognition gives you choices while the issue is still manageable. Delay tends to narrow them.

Treat recurring friction as a business signal

A disagreement becomes a dispute when the parties no longer share a workable view of what happened, what must happen next, or who should bear the cost. It does not need to involve raised voices or formal letters.

Watch for signals that the normal process has stopped working:

1. **Missed or partial payments.** A customer promises payment on Friday, then says an invoice needs "reviewing" after the due date. A supplier demands payment while refusing to address a credit, short delivery or defect.
2. **Changing expectations.** A client describes extra work as included. A supplier revises delivery dates, quantities or specifications after an order has been placed. A business partner reinterprets an agreement when a decision becomes costly.
3. **Unanswered messages.** One delayed reply may mean someone is busy. Repeated silence after clear questions, especially where deadlines or money are involved, usually needs attention.

4. **Blame replacing problem-solving.** Messages move from "the order was delayed" to "your team always causes problems". People begin arguing about motives rather than addressing dates, products, payments or responsibilities.
5. **Repeated complaints without a decision.** The same fault, invoice query or performance concern is discussed several times, but nobody confirms a remedy, deadline or owner.
6. **Threats of formal action.** References to solicitors, court, termination, reporting a business, withholding money or public criticism indicate that the other party may be moving from frustration to escalation.

None of these signs proves that the other party is acting unreasonably. They show that a routine commercial conversation may no longer be enough. The useful question is: **is this issue getting easier to resolve with time, or harder?** If the answer is harder, record it as a live dispute risk rather than leaving it in the ordinary inbox.

Consider a simple example. A design agency completes a £12,000 website project. The customer pays £6,000, then says the remaining amount is conditional on changes that were never included in the proposal. The customer avoids calls and sends sporadic messages saying the site is "not fit for purpose". This is no longer an overdue-invoice reminder. There may be questions about scope, quality, sign-off and payment. Spotting that change early prevents weeks of chasing the wrong issue.

Measure the cost beyond the amount in dispute

The Legal Services Board's Small Business Legal Needs Survey (2021) found that around one in three small businesses (32%) experience a legal issue in a year, such as a late payment, an employment matter or a tax or regulatory problem. That is a broader measure than formal disputes, but the scale matters: problems like these are not unusual failures of management. They are a normal commercial risk that needs an early response.

The visible figure is often an unpaid invoice, a repair bill or a disputed contract value. The hidden cost is usually larger. A £5,000 disagreement can consume far more than £5,000 in attention and disruption. The Federation of Small Businesses' Tied Up report (2016) estimated that disputes cost small businesses in England and Wales at least £11.6 billion a year. More striking still, its research found that the average cost of resolving a dispute was £17,000, counting both direct and indirect costs, against an average dispute value of £18,000. In other words, the typical dispute costs almost as much to resolve as it is worth.

Start by noticing where the dispute is already taking a toll:

- **Management time:** the owner rereads emails late at night, attends unproductive calls, chases updates and explains the situation repeatedly to staff or advisers.
- **Cash pressure:** money that should fund wages, stock, VAT or subcontractors remains tied up. The business may pay for replacement goods or rework before it knows whether it can recover the cost.
- **Operational disruption:** staff pause work while waiting for instructions, deliveries are held up, stock occupies space, or a customer project cannot be closed.
- **Staff strain:** employees become anxious about saying the wrong thing, feel blamed for an issue outside their control, or are drawn into taking sides.
- **Relationship damage:** a customer, supplier or partner who might once have been a valuable contact becomes harder to deal with every week the issue remains unresolved.
- **Personal impact:** sleep is interrupted, ordinary decisions feel heavier, and the dispute follows the owner into evenings and weekends.

These effects are commercially relevant even where they do not appear in the accounts. If a director spends four hours each week on a dispute, that is more than 16 hours in a month. At an internal cost of £75 an hour, the

management time alone is £1,200 before any lost sales, replacement costs or professional fees.

You do not need a perfect calculation at this stage. A rough estimate is enough to expose the cost of doing nothing. Ask: what work is being delayed, who is being pulled away from paid activity, and what cash or commitment is now at risk? A dispute that is small in legal terms may still be urgent in business terms.

Separate a manageable disagreement from an escalating dispute

Most businesses can absorb an occasional misunderstanding. A manageable disagreement has three features: the issue is clear, the right people are communicating, and there is a credible route to a decision.

For example, a customer questions a £480 call-out charge. You can identify the work done, the relevant quotation and the person who approved attendance. The customer is willing to discuss it. That may be resolved quickly through an ordinary commercial conversation.

An escalating dispute has different features. One or more of the following is happening:

1. **The issue keeps widening.** A late-payment conversation turns into allegations about historic quality, communication or conduct.
2. **The account changes.** The other party gives different explanations on different days, or denies points that were previously accepted.
3. **No one has authority.** You speak to people who can complain but cannot approve payment, remedial work, a credit or a revised arrangement.
4. **Deadlines are approaching.** A key delivery date, payment run, seasonal trading period, contract milestone or financing requirement makes drift costly.

5. **The relationship has become personal.** People stop reading messages generously, copy in colleagues to apply pressure, or treat every contact as evidence of bad faith.
6. **The impact spreads.** The issue starts affecting staff, customers, suppliers, production plans or cash decisions beyond the original transaction.
7. **Formal language appears.** Threats, accusations, demands for admissions or references to legal action make an informal resolution less likely without a clearer process.

Use a traffic-light view to decide how much attention the problem needs today.

- **Green:** one identifiable issue, recent communication, a person able to decide, and no material harm from a short wait.
- **Amber:** repeated contact without progress, increasing cost or delay, conflicting accounts, or an important relationship beginning to deteriorate.
- **Red:** a serious cash-flow threat, disrupted supply or customer commitments, a credible formal threat, a major reputational allegation, or conduct that makes ordinary contact difficult.

A green issue still deserves a note and a date for review. Amber and red issues should no longer rely on memory, informal assurances or a hope that the other side will calm down. The purpose of classification is not to label the other party as difficult. It is to match the level of attention to the commercial risk.

Do not abandon a valid issue because it feels too difficult

When an owner is already running payroll, serving customers and managing staff, a dispute can feel like an unwelcome second job. It may seem cheaper to write off an invoice, accept a poor delivery, absorb the cost of remedial work or end a relationship without explanation.

Sometimes a commercial write-off is the right choice. The problem is making that choice by exhaustion rather than by judgement. The Federation of Small Businesses' Tied Up report (2016) found that 17% of small businesses, roughly one in six, said their most recent dispute had been left unresolved. Applied to the UK's 5.5 million small businesses, that is close to a million firms (our estimate, not a figure from the report). With nearly three-quarters of disputes (72%) about late or non-payment, many of those businesses were simply left out of pocket. Not every one of those was a deliberate choice to let it go, but an unresolved dispute is a direct loss, and it also tells the other party that delay and pressure work. Think about what that means. One business in six is left with nothing resolved, and those that do push through pay, on average, almost as much to settle a dispute as it was worth. Neither outcome is inevitable. The businesses that avoid both are usually the ones that act early, talk early and bring in a mediator before positions harden.

Before you decide to let a matter go, distinguish between three things:

- **The issue is not worth the resources required.** This can be a sound commercial conclusion.
- **The evidence or contractual position is too uncertain.** This may call for a limited check before deciding what to do.
- **The issue feels overwhelming.** This is a warning that you need to reduce the problem to a clear record and a next decision, not necessarily that you have no viable route forward.

A useful test is to put a number beside the decision. If you abandon a £3,500 claim, what is the full cost after unrecovered work, replacement spending and management time? If you continue, what result would justify the time involved? If the relationship matters, what would an orderly resolution be worth compared with a hostile exit?

This is also where owners can make the opposite mistake: pursuing every principle regardless of cost. Firmness means making an informed choice. It does not mean treating every disputed £200 as a fight that must

be won. The aim is to prevent avoidance, anger or fatigue from making the decision for you.

Make a one-page dispute snapshot

Once you recognise an issue as more than routine friction, make a one-page dispute snapshot. Complete it in plain language, ideally in 20 to 30 minutes. Its job is to give you a reliable starting point and show whether the matter needs immediate attention.

Use these headings:

1. **Parties involved** Write the legal or trading names, the main contacts and their roles. Include anyone affected internally, such as the project manager, finance lead or director.
2. **What happened** State the core events in five to eight lines, in date order. For example: "Order placed on 4 March. Delivery due 18 March. Goods arrived 2 April with 40 units missing. Invoice for £8,400 issued 5 April. Customer withheld full payment on 19 April, citing missed launch date." Keep this factual. Avoid labels such as dishonest, incompetent or unreasonable.
3. **What is in dispute** Name the immediate point of disagreement. It might be an unpaid invoice, incomplete work, defective goods, delay, an unexpected charge, an alleged breach of exclusivity or a disagreement between business partners.
4. **What is at stake** Record the known financial amount and the wider exposure. Include threatened loss of a customer, interruption to supply, stock that cannot be used, a launch date, employee time or reputational risk. If you do not know a figure, write "to be confirmed" rather than guessing.
5. **What has happened so far** Note the latest contact, any proposal made, any deadline mentioned, and whether communication is still constructive. A single sentence can be enough: "Customer rejected credit note on 24 April and asked for a full refund by 30 April."

6. **What needs attention now** List only the immediate decisions or risks. Examples include an upcoming payment date, a customer event, a delivery commitment, a threatened termination, or the need to decide who speaks for the business.
7. **Current status** Mark the matter green, amber or red and write one sentence explaining why. For example: "Amber: £14,000 remains unpaid, the customer is responding, but the account of agreed scope is diverging."

A good snapshot fits on one page because it is a decision tool, not a case history. If two people in your business read it, they should reach broadly the same understanding of the immediate problem. If they cannot, that lack of clarity is itself an early warning sign.

Date the snapshot and save it where the relevant decision-makers can find it. Update it when a material fact changes. The discipline of writing down what is happening often reduces anxiety because it turns a vague, intrusive problem into a defined business matter with visible priorities.

You can now recognise when ordinary friction is becoming a dispute, judge its immediate business impact and capture the essentials without letting the problem fill every conversation. The next task is to prevent further commercial damage while you decide how to address it.

Key takeaways

- Missed payments, shifting expectations, silence, repeated complaints, blame and formal threats are early signals that a routine issue may be escalating.
- A dispute costs more than the amount claimed because it consumes management time, disrupts operations, strains staff and affects cash flow. The FSB found that resolving the average dispute cost £17,000 against an average value of £18,000.
- Around one in three small businesses (32%) experience a legal issue in a year, so early identification is a practical management habit.

- Do not abandon a dispute solely because it feels expensive or exhausting; make a deliberate commercial decision based on what is at stake.
- A one-page dispute snapshot gives the business a shared, factual view of who is involved, what happened, what is at risk and what needs attention now.

CHAPTER 2

Stabilise the situation before you try to solve it



Once a dispute is active, the first job is to stop it causing fresh damage. A rushed concession can weaken your position. An angry message can harden the other side's. Equally, freezing every transaction can harm a customer relationship or interrupt work that both businesses still need.

Aim for a short stabilisation period, usually one to three working days. During that time, keep the business functioning, secure the record, and put control around decisions. You are creating a reliable starting point for discussion, mediation or legal advice if it becomes necessary.

Stop the argument, not the business

1. Put a temporary brake on communications that have become hostile or circular. Tell the other party who will handle the matter and when they can expect a substantive response. Keep the wording brief:

> "I am reviewing the position and will respond by 4 pm on Thursday. Please send any further correspondence on this issue to me at [email address]. We remain available to deal with operational matters needed to keep current work moving."

This is not an admission and it does not concede their account. It prevents a director, sales manager or accounts assistant from replying defensively in the next ten minutes.

2. Keep essential operational contact separate. If a supplier's components are needed for orders due next week, nominate one person to discuss delivery dates and purchase orders. If you need to collect undisputed invoices, continue the normal credit-control process. Do not let a disagreement about one contract accidentally halt unrelated work.
3. Use a simple two-column log from today. In the first column, record "live operations": deliveries, access to systems, current orders, payment runs and customer commitments. In the second, record "dispute communications": allegations, demands, proposed meetings and settlement discussions. A conversation about Friday's delivery belongs in the first column. A demand for compensation belongs in the second.

4. Do not make a new threat simply to restore control. Avoid saying that you will terminate, report, withhold all payment or begin proceedings unless the business has checked that it can and intends to do so. A statement made in the heat of the moment can become an expensive practical problem later.

If the other party sends abusive messages, preserve them and respond only to the point that needs an answer. If their conduct creates a safety concern, threatens property, or involves intimidation, prioritise staff safety and obtain appropriate urgent advice. Mediation is a voluntary process and does not require anyone to accept unsafe contact.

Secure a clean record

1. Create one restricted dispute folder in your document system. Give it a clear name, such as `Supplier dispute, Northfield Components, 2025-04`. Limit editing rights to the dispute owner and one senior colleague. Use read-only copies or PDFs for important material where possible.
2. Save the underlying documents before anyone starts reorganising files. Collect the signed contract and later variations. Add the relevant quotation, purchase order, invoice and credit note. Download email threads in full rather than copying selected passages into a new message. Export relevant WhatsApp or Teams messages with visible dates. Keep meeting notes, delivery tickets, acceptance records, photographs and proof of work completed.
3. Preserve records in their original form. Do not alter a document to make it clearer, delete an embarrassing internal comment or overwrite a spreadsheet. If you need a working version of a calculation, label it clearly as a copy and keep the original beside it.
4. Ask the people involved for their records now. A project manager may have site photographs on a phone. A warehouse colleague may hold a signed delivery note. An account manager may have notes

from an unminuted call. Give each person a same-day deadline and ask them to send material without editing or commentary.

5. Record where each item came from. A basic evidence index needs only four columns: document name, date, source and what it appears to show. For example, "Delivery note 1184, 12 March, warehouse scan, signed receipt at customer site." This saves hours when you later need to find one document quickly.

Do not forward every internal discussion to the other party. Your immediate task is to preserve the record and understand it, not to conduct the case by email.

Make urgent decisions separately from the final deal

A dispute may require action today even though the overall settlement will take longer. Treat immediate protective decisions as temporary business measures. They should reduce exposure without deciding the whole argument.

1. List each decision that cannot wait until a meeting or mediation. Examples include whether to release goods already made, pay a genuinely undisputed sum, arrange a replacement supplier, extend a service deadline or protect customer data.
2. For each item, write down the decision date, the cost of waiting, the cost of acting and the person authorised to decide. Keep the entry factual. For example: "Alternative courier required by 2 pm Tuesday. Estimated extra cost £340. Existing customer delivery commitment is Wednesday. Operations director to approve."
3. State whether the action is taken with rights reserved. If you make a payment to prevent a supply interruption, write: "We will pay £4,000 on account today to maintain supply. This payment does not resolve the disputed balance of £1,800, which remains under review." Use this only after checking the contract and obtaining advice where the wording matters.

4. Avoid linking an urgent operational concession to a permanent settlement without authority. Agreeing to accept late delivery this week does not automatically mean accepting a revised contract price. Paying an undisputed amount does not mean accepting the disputed portion.

This separation is especially useful where continuing trade is valuable. It allows both sides to protect current customers while leaving the contested issues for a measured discussion.

Put authority and communication rules in writing

Disputes become harder when five people send five versions of the company's position. Set the rules on one page and circulate them internally.

1. Name one external contact. This person receives messages, sends substantive replies and keeps the communication log. Give staff a short instruction: do not debate the dispute by phone, text or social media. Forward any contact to the named person.
2. Name the decision-maker. This may be the sole director, two directors acting together or a board member with a spending limit. Define the limit in pounds. For instance, a commercial manager may offer a credit up to £1,000, while any agreement involving a release of claims must be approved by a director.
3. Set a check-in rhythm that fits the risk. During the first few days, a 15-minute meeting each morning may be enough. Review new evidence, operational pressure and decisions needed that day. Keep a written note of each decision, including who made it.
4. Give customer-facing staff a holding line if the dispute could affect delivery. "We are reviewing the schedule and will confirm by 3 pm tomorrow" is safer than speculation. Do not blame the other party in front of shared customers or post about the dispute online.

Clear authority also helps when mediation becomes appropriate. The person attending must be able to make real decisions, or be able to reach the decision-maker immediately.

Check the clock and write the factual timeline

Before settling into a pause, identify dates that can change your options. Read the contract for notice clauses, dispute-resolution provisions, payment deadlines and termination procedures. Note any requirement to give notice in a particular form, such as by recorded post or to a specified email address. A friendly email may not satisfy a contractual notice clause.

Check whether there are statutory or contractual limitation periods. The usual time limit for a simple contract claim in England and Wales is often six years, but do not rely on a general rule where the facts are complicated, the contract sets a shorter period, or another jurisdiction applies. A limitation deadline can require legal advice even where both sides are willing to mediate.

Obtain prompt legal advice alongside mediation where there is an injunction risk, an imminent termination, a significant insolvency concern, a threat to confidential information, a regulatory deadline or a claim that must be notified to an insurer. Tell the adviser that you want to preserve a practical route to settlement. Legal advice and early mediation can run side by side.

Then prepare a neutral timeline. Use a spreadsheet or one page for a short matter. Each entry should contain a date, an event, the source and any point that remains disputed. Write what happened, not why you think it happened.

For example:

- **3 Feb** – Customer ordered 500 units at £18 each. *Source: PO 4471. Status: agreed.*
- **18 Feb** – Goods delivered to the customer warehouse. *Source: signed delivery note. Status: delivery proven.*

- **25 Feb** – Customer says 60 units were damaged. *Source: email from buyer. Status: quantity disputed.*
- **28 Feb** – Supplier offered replacement units. *Source: email from operations. Status: offer recorded.*

Leave out phrases such as "they deliberately delayed payment" or "we were forced to accept". If motive becomes relevant, identify the evidence that supports the point and keep it separate from the factual chronology. A neutral timeline makes gaps visible. It also gives the other side less material to argue about when you are trying to arrange a constructive conversation.

At the end of this stabilisation period, you should have controlled contact, a protected file, a list of urgent decisions and a clear view of the dates that matter. You can now define the actual issues and decide what outcome would make commercial sense, without allowing the latest message to dictate the response.

Key takeaways

- Pause hostile exchanges promptly, while maintaining the operational contact needed to protect current work.
- Preserve original records in one controlled folder and create an index that shows where each document came from.
- Treat urgent payments, supply decisions and customer commitments as temporary protective measures rather than final settlement terms.
- Give one person responsibility for external communications and state clearly who can bind the business to an agreement.
- Check contractual notices, limitation issues and urgent legal risks before relying on informal discussions or mediation.

CHAPTER 3

Define the real problem and the outcome you need



A dispute becomes expensive when the argument is allowed to remain a single, loaded sentence: “They have not paid us”, “Their work was unusable”, or “They changed the deal.” Such statements may be true, but they do not tell you what must be decided, what can be traded, or what result would allow the business to move on.

Use the controlled record and timeline to turn the dispute into a set of decisions. Your aim is a clear commercial brief: the issues, the evidence that matters, the cost of each issue continuing, and the range of outcomes you can responsibly agree. Do this before proposing mediation or entering a serious settlement discussion.

Separate the demand from the concern behind it

Start with the position each side has stated. A position is the outcome someone says they require.

- "Pay the invoice in full by Friday."
- "We will not pay for defective work."
- "Take the stock back."
- "We are ending the contract."

Write each position down verbatim where possible. Then ask a more useful question: **what problem is that position trying to solve?** The answer is often an underlying concern, and it may be different from the words used in the latest email.

A demand for full payment may be driven by an immediate cash shortfall, a belief that the work was accepted, concern about setting a precedent with other customers, or the cost of having staff chase the debt. A refusal to pay may reflect genuine quality failures, the cost of putting work right, missed revenue caused by delay, or a loss of trust after poor communication.

Do not assume you know the other side's concern. Mark it as a working hypothesis until they confirm it. You can, however, identify your own concerns precisely. Complete these sentences for your business:

1. **Our stated position is:** for example, "£18,400 remains due under invoices 1041 to 1044."
2. **The immediate business problem is:** for example, "We need £12,000 within ten days to meet payroll and supplier commitments."

3. **The concern behind our position is:** for example, "We cannot continue extending unsecured credit while the customer disputes work only after using it."
4. **What we need to protect is:** cash, customer service, a supply chain, confidential information, goodwill, or the ability to exit safely.

This exercise changes the choices available. If the real need is £12,000 quickly, a staged settlement with an initial payment may be more useful than insisting on every pound immediately and receiving nothing for months. If the real concern is defective work, a defined replacement programme may solve more than an argument about blame. If trust has broken down beyond repair, a planned end to trading may be safer than forcing a nominally continuing relationship.

Keep the distinction honest. Understanding the concern does not mean accepting the other side's version of events or giving up a valid claim. It gives you information for designing a workable answer.

Turn one conflict into a decision list

Broad labels hide separate questions. "The project failed" might contain a dispute about the agreed scope, three late milestones, two allegedly defective deliverables, an unpaid final invoice, a disputed change request and a relationship that neither side wants to continue.

Make an issue list. Limit each row to one question that could be answered or settled. A useful format is:

- **Invoice 1044, £6,800** – *Agreed:* Invoice was issued on 4 June. *Disputed:* Whether final milestone was achieved. *Evidence needed:* Contract, acceptance emails, delivery record. *Business consequence:* Cash receipt delayed. *Decision needed:* Pay, reduce, credit or defer?
- **Website handover** – *Agreed:* Site was delivered. *Disputed:* Whether it met the agreed specification. *Evidence needed:* Scope document, defect list, test results. *Business consequence:* Client cannot launch campaign. *Decision needed:* Repair by when, and at whose cost?

- **Future work** – *Agreed:* Contract remains live. *Disputed:* Whether either party can continue confidently. *Evidence needed:* Contract term, current workload. *Business consequence:* Further exposure and disruption. *Decision needed:* Continue on revised terms or end?

Use categories that fit the dispute. Most commercial conflicts can be broken into some combination of:

- **Money owed:** invoices, retention, credits, interest, refunds, costs of corrective work.
- **Quality of work or goods:** defects, specification, acceptance criteria, remedial work, warranties.
- **Timing:** missed dates, dependencies, lost trading opportunities, revised completion dates.
- **Scope:** what was included, what changed, whether extra work was authorised and how it should be priced.
- **Communication and conduct:** who had authority, whether information was withheld, whether complaints were raised promptly, and what contact arrangements are now needed.
- **Future trading:** outstanding commitments, exclusivity, handover, return of materials, customer communications and an orderly exit.
- **Reputation or confidentiality:** agreed wording to customers, non-disparagement where appropriate, treatment of confidential material and online statements.

For each issue, separate four things. First, record agreed facts. Second, list disputed facts in neutral terms. Third, identify any legal or contractual question, such as whether a change required written approval. Fourth, state the commercial consequence even if the legal question remains uncertain.

For example: "The customer requested extra reporting on 12 May" may be agreed. "The supplier says this was included in the original fee; we say it was additional work" is disputed. The contractual question is whether the variation clause was followed. The commercial consequence is that

£3,200 is held up and both teams are still producing reports nobody has agreed to pay for.

Do not turn the list into a trial bundle. Include only material that helps a decision-maker understand the point and evaluate an option. If an allegation does not affect money, performance, risk, future dealings or a possible settlement term, leave it out of the working list.

Put a value on resolution, delay and the options available

Now calculate what each issue is actually costing. Use real figures, sensible assumptions and a stated date. A precise calculation can later be adjusted. An unpriced grievance cannot be weighed against a settlement proposal.

For money issues, start with the headline amount, then identify the amount genuinely in dispute. If a £20,000 invoice includes £14,000 of work the customer accepts, do not describe the whole £20,000 as disputed. Record the undisputed sum, the disputed sum, any credit already offered and any amount your business might owe in return.

For performance issues, calculate the direct cost of a practical remedy. Obtain a quote for replacement work if you can. Estimate internal rework using hours multiplied by a loaded hourly cost, not only salary. If a project manager costs the business £38 an hour including employment costs and spends 12 hours coordinating remedial work, record £456. Add unavoidable external costs, such as a £1,250 subcontractor quote or £600 in rush freight.

Then identify the operational effect. Write it in concrete terms:

- A delayed component prevents 40 finished units from shipping each week.
- A disputed software handover requires two staff members to run a manual process for three weeks.
- The unresolved account stops a key supplier from releasing the next order.

- A public complaint risks a customer renewal due next month.

You may not be able to convert every effect into a reliable cash number. Give it a rating of high, medium or low impact and explain why. "High: the October launch depends on this delivery" is more useful than "reputational damage."

Finally, cost the conflict continuing for a defined period, usually 30 days. Include management time from this point forward, additional replacement costs, likely lost margin, finance charges, and the cost of delaying a decision. Keep legal advice as a separate line rather than guessing at a whole court case. The purpose is to compare routes realistically, not to produce a dramatic total.

A simple example:

- Unpaid but undisputed sum: £14,000 cash not received
- Project manager time, 10 hours at £38: £380
- Temporary manual processing: £900
- Replacement supplier premium: £1,600
- Initial legal advice budget: £1,500
- **Total identified exposure: £18,380 plus any loss of customer revenue**

This does not mean you should accept an £18,380 discount. It means you can judge an offer against the economic cost of holding out. A settlement that is imperfect on paper may be commercially sound if it releases cash, protects delivery and stops a costly distraction. Equally, an offer that looks quick may be unacceptable if it leaves you exposed to repeat failures or requires admissions that create wider risk.

Where a contractual deadline, limitation issue, regulatory concern or serious legal point remains live, obtain appropriate specialist advice before treating it as negotiable. Your settlement range should not be built on an assumption that a deadline can safely be ignored.

Set your settlement range and write the brief

For every significant issue, decide three levels before speaking about settlement.

Preferred outcome. This is the result you would choose if the evidence and commercial position were fully accepted. State it in operational terms. For example: "£14,000 paid within five working days, £4,400 paid by 31 July, and the supplier completes the agreed handover by 12 July at no extra charge."

Acceptable outcome. This is a result you can approve because it protects what matters most, even though it involves compromise. For example: "£12,000 paid within five working days, the balance settled by a credit against future work, and a signed handover plan." An acceptable outcome should be specific enough that the person attending a discussion knows when they can say yes.

Boundaries. These are terms you cannot cross without further authority or advice. Typical boundaries include a maximum discount, a latest acceptable payment date, no admission of liability, no continuation of work without a revised written scope, no personal guarantee, no disclosure of confidential information, or no contact with your customers without agreement.

Also identify tradeable items. These are concessions of lower importance that may help create a deal: extending a payment date in return for an initial instalment, providing a credit instead of a cash refund, waiving interest after prompt payment, offering replacement work within a fixed period, or agreeing a neutral reference and orderly termination.

Non-cash terms often solve the part of the problem money cannot. Consider:

- revised delivery or completion dates tied to named milestones;
- staged payments with dates, amounts and a consequence for missed instalments;
- replacement work with a detailed specification, testing process and sign-off date;

- a credit note for future purchases, where continued trade is genuinely viable;
- revised terms for future work, such as deposits, shorter payment terms or a single authorised contact;
- a defined end to the relationship, covering final payments, handover, return of property, confidential information and communications to shared customers.

Write a settlement brief of no more than two pages. It should contain:

1. **The problem:** a neutral, one-paragraph description of what requires resolution.
2. **The issues:** the short decision list, in order of financial or operational importance.
3. **Key evidence:** the documents or events that support your view, with dates and references rather than a long narrative.
4. **Impact of delay:** the material cash and operational consequences over the next 30 days.
5. **Resolution sought:** your preferred outcome, acceptable outcome and any practical non-cash options.
6. **Boundaries and authority:** what requires further approval, and who can give it promptly.

Use plain language. "We seek payment of £14,000 that is not disputed, followed by a structured resolution of the remaining £6,000 and the handover defects" is clearer than pages of accusation. Keep a version for internal use that includes your limits. Prepare a shareable version that removes confidential strategy, settlement range and comments about personalities.

Once the brief is complete, you have a disciplined basis for a direct approach, mediation or focused legal advice. You know which issues must be resolved, which can be exchanged, and what terms would allow the business to operate normally again.

A defined problem gives you choices. Instead of defending a broad grievance, you can ask the other side to address a short set of decisions and consider practical terms that meet both businesses' real constraints.

The next step is choosing whether that conversation can happen directly, needs a mediator, or requires legal action to protect your position.

Key takeaways

- A stated demand is only the surface of a dispute; identify the cash, performance, trust or continuity concern underneath it.
- Break the conflict into separate, decision-ready issues so money, quality, timing, scope and future trading do not become one unmanageable argument.
- Price the direct and operational cost of each issue continuing for the next 30 days before judging any settlement proposal.
- Set a preferred outcome, an acceptable outcome and firm boundaries before you negotiate.
- Use a short settlement brief to present the evidence, business impact and practical resolution sought without exposing your internal strategy.

CHAPTER 4

Choose the right route: direct discussion, mediation or legal action



You now have a defined problem, a sense of what resolution is worth, and a private view of the terms you can accept. The next decision is procedural:

who needs to be in the room, and what route gives the business the best chance of reaching a usable answer soon.

Choose the lightest route that can realistically produce a decision. A short direct discussion can settle a straightforward issue at little cost. Where trust has gone, several issues are tied together, or the people involved can no longer talk productively, early mediation can restore enough structure for a deal. Some situations need legal protection first, even if mediation follows.

Test whether direct discussion is still a credible option

Start with a 20-minute internal test. Direct discussion is suitable only where the right people can speak, exchange information and make or recommend decisions without the conversation becoming a contest.

Answer these six questions in writing:

1. **Is there one defined decision to make?** A disputed £4,800 invoice, a delivery date, or a limited piece of remedial work may be capable of a direct agreement. A dispute involving payment, alleged defective work, a damaged customer relationship and a proposed contract exit is less likely to be resolved in one unstructured call.
2. **Can you identify a person with authority on the other side?** A useful discussion requires someone who can approve a payment, variation, credit, timetable or settlement recommendation. A contact who only repeats that "head office is looking at it" cannot close the matter.
3. **Have previous discussions produced movement?** Look for concrete progress: exchanged figures, agreed facts, a proposal, a meeting date or a clear decision deadline. If each contact restates the same demand, introduces a new complaint or leads to silence, the format is failing.
4. **Can the conversation be conducted safely and professionally?** Do not use a direct meeting where there has been

intimidation, harassment, a serious power imbalance, or a genuine concern that a participant will be pressured into agreeing something they do not understand.

5. **Can each side hear an unwelcome point?** A direct discussion can work when both parties can say, "I disagree with that figure, but I can see why you need an answer by Friday." It is unlikely to work if every challenge is treated as a personal attack or evidence of bad faith.
6. **Would a short meeting have a clear purpose?** Set one: agree the undisputed payment, select an independent expert, decide the scope and cost of remedial work, or agree whether future trade continues. "Clear the air" is rarely enough on its own.

If the answers are mainly positive, suggest a 30 to 45-minute call or meeting. Send a short agenda beforehand. Include the issues to be decided, the documents each person should have available, and the decision-makers expected to attend. Ask for a response within two working days.

Use a controlled opening: "We want to resolve the outstanding issues commercially. The meeting should cover the £6,200 balance, the costed remedial proposal and the timetable for completion. Please confirm whether you can attend with authority to agree a way forward."

At the end, record what was agreed, what remains open and the date of the next step. If there is no measurable progress after one properly prepared attempt, stop repeating the same conversation. A different process is needed.

Recognise when a mediator will add value

Mediation is still under-used. The Federation of Small Businesses' 2016 research found that only 3% of small businesses used mediation to resolve their most recent dispute, and only 8% used any form of alternative dispute resolution. Many disputes that could have been settled in a structured conversation went down a slower, costlier route.

Mediation becomes useful when the parties still need an outcome but can no longer reliably create one between themselves. It does not require friendship, trust or agreement on the facts. It requires enough willingness to explore whether a practical settlement is preferable to continued conflict.

Move towards mediation when one or more of these conditions applies:

- **Deadlock:** each side has made its position clear and neither can move without a different way of discussing risk, cost or alternatives.
- **Mistrust:** one side assumes that every proposal conceals a trap, or disputes figures and assurances that could be checked or explained in a managed process.
- **Misunderstanding:** the parties are arguing from different versions of the scope, sequence of events or commercial expectations, and emails are making the gap wider.
- **Multiple linked issues:** a money claim cannot sensibly be separated from quality, timing, future supply, confidentiality, an exit arrangement or a complaint about conduct.
- **A power imbalance:** one party is much larger, more experienced, better resourced or personally dominant. A mediator can manage speaking time, private discussions and the pace of offers.
- **Reluctance to meet directly:** the people involved are avoiding each other, or a face-to-face meeting would predictably deteriorate. Mediation can be held online, in separate rooms, or through private meetings with the mediator.

Consider a small manufacturer owed £18,000 by a retailer. The retailer says stock was late and several units were unsaleable. The manufacturer says the delivery dates changed at the retailer's request and rejects the quality allegation. There may be a valid contractual argument on both sides, yet the immediate commercial questions are broader: how much is genuinely in dispute, whether stock can be returned or discounted, how quickly cash can be released, and whether both businesses want future

orders. A mediator can keep those questions connected while allowing each party to assess the strength of its position.

Mediation is especially valuable where a direct negotiation has become personal. The mediator gives each side a way to alter its position without appearing to surrender. A revised proposal can be presented as a response to information, risk and commercial reality, rather than as a public climb-down.

Know what a mediator does, and what they cannot do

A mediator is an impartial facilitator. They do not act for either business, decide who is right, impose a settlement or provide legal advice to either side. Their job is to organise a process in which the parties can identify the real issues, communicate safely, test proposals and decide whether they can make their own agreement.

A commercial mediation commonly begins with a joint session, although the mediator may recommend separate arrivals or no joint opening where relations are strained. Each side explains the dispute and what it needs to resolve it. The mediator then usually holds private meetings, often called caucuses, moving between the parties to clarify concerns, carry proposals and test options.

In private, you can tell the mediator what may not be shared without permission. For example: "We could accept £12,000 paid over 60 days, but do not disclose that figure unless I authorise it." Confirm the mediator's confidentiality approach at the outset. Ask how they will handle documents, private information, notes and any proposal expressed on a without-prejudice basis.

The mediator may ask difficult commercial questions: what will delay cost you, what evidence would be expensive to test, what happens if the relationship ends, and which term matters more than the headline payment. These questions are intended to help decision-making. They are not a ruling on the merits.

Do not expect the mediator to investigate allegations, calculate damages with judicial authority, compel disclosure, freeze assets or declare a contract terminated. If you need any of those outcomes, obtain legal advice promptly. Mediation can still be useful alongside legal steps, provided the process does not compromise an urgent remedy or an immovable deadline.

Compare time, cost and the value of specialist help

Early mediation can usually be arranged within days or weeks, depending on the availability of the parties and mediator. A half-day online mediation may be enough for a limited invoice, service or quality dispute. A full day is more realistic where there are several issues, senior decision-makers or a continuing commercial relationship.

Fees vary with the mediator's experience, the amount at stake, preparation required and whether the meeting is online or in person. Before appointing anyone, ask for a written quote covering the mediator's fee, administration, preparation, meeting time, venue or platform costs, VAT and cancellation charges. The parties commonly share the mediator's fee equally, although they may agree another split. Compare the total with the cost of management time, extended correspondence and solicitors preparing for a contested route.

Mediation costs a fraction of prolonged legal action in many commercial disputes because the parties are buying a focused process rather than months of procedural work. The CEDR Mediation Audit 2025 reports that 70% of mediations settled on the day, and a further 17% shortly afterwards: 87% in total. Set that beside the FSB's findings. Only around one small business in thirty uses mediation, yet nearly nine in ten mediations end in a settlement, often within a day, while the average dispute costs £17,000 to resolve. The figures come from different studies and no process guarantees a result, so treat them as a strong indication, not a promise. But a route that settles nearly nine cases in ten is one that very few small businesses

ever try. The quality of preparation, authority in the room and willingness to consider workable terms matter more than any headline rate.

Bring an adviser where the dispute needs expertise that neither the mediator nor the business owner can safely supply. The right support may be limited and targeted:

- A **solicitor** can explain contractual rights, litigation risk, the effect of proposed release wording, guarantees, personal liability, statutory claims or settlement enforceability.
- An **accountant** can check disputed calculations, tax treatment, valuation assumptions, payment schedules and the cash effect of a proposed deal.
- A **surveyor, engineer, IT specialist or quantity surveyor** can help where defective work, technical performance, property condition or project valuation is central.
- An **employment specialist** may be needed if a commercial disagreement overlaps with employment status, discrimination, whistleblowing or restrictive covenants.

Instruct the adviser narrowly. Give them the issue list and ask specific questions by a fixed date, such as: "Is a £15,000 settlement payment subject to VAT?" or "What are the consequences of accepting remedial work after the contractual completion date?" This keeps advice proportionate and gives you information you can use in negotiation.

For a larger or legally complex matter, ask your solicitor to attend the mediation or remain available by telephone. The commercial decision should still be made by someone with authority from the business. An adviser can explain risk; they cannot decide what cash pressure, customer continuity or management time is worth to you.

Protect urgent rights before choosing a consensual route

Mediation is voluntary and flexible. That makes it a poor first response where waiting could cause harm that cannot be repaired by a later

payment or settlement. Seek urgent specialist legal advice if any of the following is present:

- You may need an **injunction** to stop misuse of confidential information, breach of restrictive obligations, removal of assets, passing off, disruption of a business system or another imminent act.
- There is a credible **insolvency risk**, such as signs that a debtor cannot pay, a threat to appoint an administrator, a winding-up petition, or exposure to a supplier's failure that may affect your own customers.
- The dispute involves suspected **fraud, forgery, theft, dishonest misrepresentation** or a serious concern that records or assets may disappear.
- A contractual, statutory or court **deadline cannot be protected** by agreement, and missing it may extinguish a claim, defence or remedy.
- A party is threatening immediate termination, calling a bond or guarantee, enforcing security, presenting a petition, or taking another step with consequences that need legal analysis before the mediation date.
- There are regulatory, safeguarding, health and safety, data protection or criminal issues requiring reporting or specialist handling.

Do not assume that proposing mediation pauses a deadline. It may not. Ask a solicitor whether a standstill agreement, protective court step, formal notice or other measure is needed. If an urgent step is required, take it without treating the dispute as permanently destined for court. A protected legal position can create the breathing room needed for a sensible mediation later.

Make the route decision now. Choose direct discussion for a bounded problem with capable participants. Choose mediation when a deal remains commercially valuable but communication needs an impartial structure. Take urgent legal advice where delay threatens rights, assets

or safety. Once mediation is the right route, the next task is to invite the other side in a way that gives them a practical reason to say yes.

You can now select a process based on the dispute's actual demands rather than habit, frustration or the loudest voice involved. The next step is to make a firm, credible invitation to mediation that protects your position and opens the door to a decision.

Key takeaways

- Use direct discussion only where the issue is bounded, the right people can participate and a short meeting has a defined decision to reach.
- Mediation is particularly useful for deadlock, mistrust, linked issues, power imbalances and relationships that have become difficult to manage directly.
- A mediator manages the process and helps parties develop their own agreement; they do not decide the case or give either party legal advice.
- Early mediation can be arranged within days or weeks, often costs far less than prolonged legal action, and, according to the CEDR Mediation Audit 2025, around 87% of mediations settle on the day or shortly afterwards.
- Seek urgent specialist advice where an injunction, insolvency risk, fraud allegation, unprotected deadline or other irreversible risk may require immediate action.

CHAPTER 5

Invite the other side to mediation without making things worse



A mediation invitation is a business communication with two jobs. It must make a sensible route to resolution available, and it must leave a clean

record if the other side refuses, delays or later misrepresents what was proposed.

Send it while there is still room for a practical conversation. Once letters before action, accusations on social media, threats to report someone, or personal exchanges take hold, accepting mediation can feel like surrender. Earlier is usually cheaper and more credible, provided you have enough clarity to describe the problem and enough internal authority to mean what you say.

Choose the moment and sender

Propose mediation after you have decided that direct discussion is unlikely to produce a usable agreement, but before either party has made the dispute a public contest. A short delay to obtain a key invoice, technical report or contractual clause may be sensible. Waiting for every document, every internal view or every grievance to be settled is usually not.

Use the person already appointed to handle the dispute. That person should write in the business's name, know the immediate commercial priorities and be able to answer basic process questions. Do not have an operations manager offer mediation while a director sends hostile demands from another address. Mixed messages create doubt about authority and intent.

Check the contract first for any dispute-resolution clause. Some agreements require negotiation at a specified management level, referral to mediation through a named provider, or notice in a particular form. Follow the clause where possible. If it is unclear or impractical, say that you propose an agreed independent mediator and reserve the business's position on the contractual process.

Before sending, confirm four points internally:

1. **The purpose of the meeting.** Write it in one sentence: for example, "to reach a binding commercial settlement of the disputed January and February invoices, the alleged defects and the proposed credit note."

2. **Who can attend for your business.** The attendee needs enough knowledge to negotiate. A person with authority to settle within an agreed range should be available during the meeting, even if they do not attend every session.
3. **What process you can offer.** For many small-business disputes, one online mediation day or a half-day meeting is proportionate. A mediator's fee can be shared equally unless the parties agree otherwise.
4. **Dates that work.** Offer two or three realistic dates within the next 10 to 20 working days. An invitation with no proposed timetable is easy to put aside.

If a payment, performance or legal deadline is close, deal with that separately. A proposal to mediate does not automatically extend a contractual deadline, stop limitation time running or suspend court requirements. Obtain legal advice where timing matters, and seek a written standstill or extension only if that is appropriate and both sides agree.

Give them a reason to say yes

The invitation should not read like a lecture on the virtues of mediation. It should show why this route serves the recipient's interests as well as yours.

Start with the commercial problem. Describe the defined issues in neutral language and use only the level of detail needed to identify them. "The amount due under invoices 1042 to 1048, the standard of the installation work and responsibility for remedial costs" is useful. "Your company's dishonest and incompetent behaviour" is not.

Then explain the practical value of a mediated discussion. Choose the benefits that fit the dispute:

- **Privacy:** the conversation can take place away from customers, staff, competitors and public hearings, subject to agreed terms and legal exceptions.

- **Speed:** the parties can often arrange a meeting within weeks, rather than waiting for an extended formal process.
- **Cost control:** each party chooses what advisers to involve and can agree a proportionate format.
- **Control:** neither party hands the result to a judge, arbitrator or investigator. Nothing is settled unless both sides agree.
- **Commercial flexibility:** a deal can combine payment dates, remedial work, stock return, revised scope, a release, an orderly exit or terms for continuing to trade.
- **Working relationships:** where the parties share customers, supply chains or projects, a private resolution can reduce avoidable disruption.

Avoid claiming that mediation will certainly be quick, cheap or successful. It may not be. Say instead that it offers a focused opportunity to resolve the matters without committing either party to a settlement.

Do not argue the whole case in the invitation. A six-page rebuttal attached to an offer of mediation invites a six-page counterattack. The aim is to create a route to a meeting, not to win the first round by email. If a short background note would help a mediator understand the matter, offer to exchange one after the other side agrees to the process.

Write a firm, usable invitation

Use a clear subject line, such as **Proposal to mediate: [business name] / [business name]**. Send the message by the normal business channel and, where the sums or risks justify it, by the contractual notice method as well. Keep a copy of what was sent and proof of delivery.

A good invitation has seven parts:

1. **Identify the dispute.** Name the contract, project, invoices or events, with dates where helpful.
2. **State the purpose.** Say that you wish to explore a negotiated resolution through mediation.

3. **List the issues for discussion.** Use three to five neutral categories, rather than accusations.
4. **Set out the proposed format.** Suggest online or in-person, expected duration, and whether the mediator can conduct private meetings with each side.
5. **Suggest mediator selection.** Name one suitably qualified neutral mediator or propose that each side nominates two candidates and agrees one. For a technical dispute, look for someone who understands the sector, but do not insist on a mediator who appears aligned with your trade or region.
6. **Address cost and attendees.** A straightforward starting proposal is equal sharing of the mediator's fee, with each party paying its own adviser costs. Ask for an attendee able to make decisions, or for a stated route to obtain approval during the meeting.
7. **Ask for a response by a specific date.** Five working days is often reasonable for a simple proposal. Allow seven to ten where the recipient is likely to need board, insurer or adviser approval.

Use a separate paragraph for status. Ask that the mediation communications and settlement discussions be conducted on an agreed without-prejudice basis and subject to a mediation agreement. Do not assume that placing "without prejudice" at the top of an ordinary email makes every statement protected. If you need to preserve rights or comply with a notice requirement, say so plainly and take advice on the wording.

A practical template is:

> Dear [name],
>
> We propose mediation to seek a practical resolution of the dispute concerning [contract/project], including [issue 1], [issue 2] and [issue 3]. We consider a focused mediation preferable to further correspondence and capable of addressing the commercial arrangements both businesses need.

> We suggest a half-day online mediation during the weeks beginning [date] or [date], with an independent mediator agreed by both parties. We propose that the mediator's fee is shared equally and that each party bears its own costs. Each side should arrange for a person with authority to negotiate and settle to participate or be immediately available.
>
> We suggest [mediator name] as a possible neutral, or each party could put forward two names by [date] and agree an appointment promptly.
>
> Please confirm by [date, five working days] whether you will take part and, if so, your preferred dates and mediator candidates. This proposal does not waive any rights or alter any applicable deadlines.
>
> Yours sincerely, [name]

Adapt the wording to the facts. If you already know that the other side cannot meet in person, proposing an in-person meeting 200 miles away is unlikely to be seen as a genuine attempt to resolve matters.

Handle silence and resistance without feeding the dispute

A refusal often masks a practical objection: uncertainty about cost, fear of being pressured, lack of authority, a belief that mediation means weakness, or a desire to see a claim quantified first. Treat the objection as information, not provocation.

If they say mediation is too expensive, offer a proportionate design. Suggest a two-hour online meeting, a capped mediator fee agreed in advance, or a short preliminary call with a mediator to set scope. Do not promise a low figure that you have not checked. Ask the mediator or provider for a written fee estimate and cancellation terms before committing.

If they say they need more information, ask what specific document or calculation is required to decide whether to participate. Supply material that is safe and useful, or offer a limited exchange for the mediation. Avoid producing every internal analysis merely to persuade them through correspondence.

If they insist they are right, do not respond with a point-by-point defence. A concise answer is enough: "We recognise that your position differs from ours. Mediation would allow both positions to be considered while exploring a commercial outcome." Restate the response date once.

If no reply arrives, send one measured follow-up on the business day after the deadline. Confirm that the offer remains open until a stated short date, perhaps a further five working days, unless circumstances change. Do not send daily reminders, copy in customers or junior staff, or use the proposal as a platform for new threats.

Do not reduce your settlement expectation simply because the other side agrees to mediate. Agreement to use a process is not an agreement on the merits. Equally, do not make participation conditional on admissions, apologies or acceptance of your account. Those demands can be discussed at the meeting if they genuinely matter to the outcome.

Keep a record that helps rather than harms

Assume that every procedural message may later be read by a solicitor, insurer, tribunal or judge. Write so that an independent reader can see a genuine effort to resolve a defined commercial problem.

Use factual language. Refer to "the alleged delay in delivery" rather than "your deliberate sabotage"; "the disputed balance" rather than "money you stole"; "our proposal" rather than "our final warning." Do not speculate about motives or threaten reputational damage. Keep operational arrangements, such as safety issues, deliveries or customer handovers, in their own correspondence where possible.

Maintain a simple mediation contact note with the date sent, recipient, response deadline, reply, mediator names proposed, dates offered and any

agreed process point. Save the original messages. If a telephone conversation occurs, send a short neutral email afterwards: "Thank you for speaking today. My understanding is that you will check availability for an online half-day mediation and respond by Thursday 14 March. Please let me know if that is inaccurate."

Where the parties agree to mediate, obtain the mediator's terms before the meeting. Check the fee, cancellation charge, format, attendees, authority arrangements, treatment of documents, privacy terms, and what can be reported if no settlement is reached. The invitation has done its job when the parties have a date, an independent facilitator and a shared understanding of what they are meeting to decide.

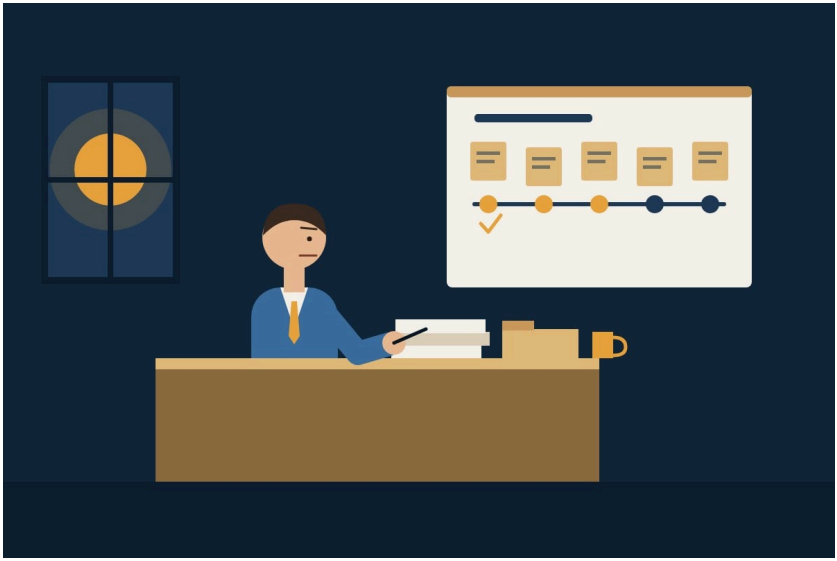
A well-pitched invitation makes cooperation easier without softening the business's position. Once the other side agrees, the work changes from persuading them to attend to arriving with the right people, information and settlement choices ready for a decision.

Key takeaways

- Propose mediation while the dispute is defined but before hostile correspondence and public allegations make agreement harder.
- Make the offer about resolving named commercial issues efficiently, with benefits that matter to both businesses.
- State the format, mediator-selection method, cost approach, attendees and a reasonable response date in writing.
- Treat resistance as a process problem to solve once, not an invitation to argue the merits or make early concessions.
- Keep every mediation-related message factual and preserve deadlines, contractual rights and a clear record of what was offered.

CHAPTER 6

Prepare properly for the mediation meeting



A mediation day is expensive when the people in the room cannot make decisions, cannot find the relevant document, or discover too late that their own business has no workable offer. Preparation is what converts a difficult conversation into a controlled commercial meeting.

Set aside time before the mediation for the people who know the facts, the person who controls the money, and anyone whose operational input affects the deal. The aim is a short, usable case file, a clear mandate and several settlement routes that can be approved without panic.

Choose a mediator both sides can trust

Start with a shortlist of two or three mediators. Ask the proposed provider, professional body or each mediator for a brief profile, their available dates, daily fee, cancellation terms and a description of their usual process. For a modest dispute, a half-day online mediation may be proportionate. A dispute involving a key supplier, technical performance, several linked contracts or a damaged ongoing relationship may justify a full day.

Assess each candidate against six practical questions:

1. **Commercial experience.** Has the mediator handled owner-managed business disputes, unpaid account disputes, supply problems, shareholder disagreements or the type of contract at issue? A mediator who understands how stock, payment terms and customer commitments affect a small business will usually get to the useful questions faster.
2. **Sector knowledge.** Relevant experience can help where the dispute turns on construction sequencing, software implementation, manufacturing tolerances, recruitment practice or professional services. Sector knowledge should assist the conversation, not lead the mediator to assume they know the facts.
3. **Availability.** Ask for actual dates, not a vague indication of availability. If a cash or trading decision is pressing, a mediator available in eight days may be worth more than a highly regarded specialist available in six weeks.
4. **Fees and terms.** Obtain the total expected mediator fee, VAT treatment, administrative charges, travel costs and cancellation

charges. Clarify whether preparation time is included. Record who pays what and when payment is due.

5. **Process.** Ask whether the mediator expects a joint opening, separate private meetings, pre-mediation calls, position papers and a formal bundle. There is no single right format. The right one lets the necessary decision-makers communicate safely and make progress.
6. **Independence.** Disclose prior professional, personal or commercial connections. A mediator who previously advised one side, works regularly for its solicitor or has another connection may still be acceptable if both businesses expressly agree, but silence about a connection can destroy trust on the day.

Do not choose solely on the lowest quote. Equally, do not pay for a heavyweight specialist where the dispute concerns one invoice and a narrow factual disagreement. Select a person whose credibility will be accepted by both sides and whose process fits the value and complexity of the matter.

Once appointed, read the mediation agreement rather than treating it as an administrative formality. Check the scope of the appointment, fee split, payment date, cancellation liability, confidentiality terms, authority requirements, treatment of documents and what the mediator may say if no deal is reached. Raise questions before signing. If a contractual or court deadline is close, obtain advice about protecting it separately; booking a mediation does not itself alter time limits.

Lock down the practical arrangements

Confirm the arrangements in one written note shared with the mediator and the other side. A short confirmation avoids the familiar problem of discovering on the morning that a key person is absent, the online link has no private breakout rooms or nobody can approve a payment.

Agree the following:

- **Attendees:** name everyone attending, their role and whether they will be present all day. Include a director, owner or senior manager with genuine settlement authority. Bring a technical lead only where

they can answer a live issue, such as specification, quality, delivery or system performance.

- **Advisers:** decide whether solicitors, accountants, surveyors or other advisers will attend, remain available by phone or provide a pre-meeting note. Their role should be clear. A lawyer can advise on risk and draft terms; they should not turn a commercial mediation into a hearing.
- **Venue or online format:** for an in-person mediation, ask for separate private rooms, reliable Wi-Fi, access times and catering. For an online session, test the platform 48 hours beforehand, confirm private virtual rooms, use headphones and ensure every participant has a private, uninterrupted location.
- **Timetable:** confirm start and finish times, breaks and whether the mediator will hold pre-meeting calls. A full day commonly starts around 9.30am and runs until 5.00pm, though settlement discussions may continue later if everyone agrees. Keep the evening free where possible. A deal often emerges after the first proposals have been rejected and revised.
- **Document exchange:** set a date and format for concise papers. Decide whether documents go to the mediator only, to both sides, or in separate shared and private packs. Use secure transfer methods for commercially sensitive material.
- **Privacy and communication:** confirm who may be told that mediation is taking place, whether public statements are prohibited, and whether anyone may contact the mediator directly outside the agreed process.
- **Costs:** confirm the mediator-fee split, payment mechanics and responsibility for venue, travel and adviser costs. Do not leave a small cost issue unresolved; it can become an unnecessary proxy battle.

Send the internal team a one-page practical brief the day before. Give the arrival time or online link, attendee names, contact numbers, the agenda, authority arrangements and a reminder that all external communication

runs through the agreed spokesperson. This is especially useful when operations staff must keep the business running while directors are in mediation.

Build a pack people can use under pressure

The purpose of the evidence pack is to make the key points easy to verify. It is not a warehouse for every email sent since the relationship began. A 40-page, well-indexed pack is often more useful than 400 pages of unfiltered material.

Begin with the issues that must be decided. For each issue, choose the few documents that establish the agreed starting point, show the disputed event and support the commercial consequence. A supply dispute, for example, may need the signed order, specification, delivery record, photographs dated at the time, a concise email thread about the complaint, invoices and the quotation for replacement work. It probably does not need repeated internal forwarding emails.

Use this structure:

1. A one-page contents list with document number, date, description and page reference.
2. A two-page chronology showing only events relevant to the decisions sought.
3. The key contract terms, order, variation or other documents defining the arrangement.
4. Documents grouped by issue, such as payment, delivery, quality or termination.
5. A calculation sheet showing how each material figure is made up, with supporting source documents.
6. A short list of documents the other side relies on that you dispute, with a sentence explaining why.

Number pages consecutively and give files intelligible names, such as `04_Invoice_1847_12_March_2025.pdf`. Check that screenshots show dates and participants, spreadsheets display formulas or source figures

where necessary, and photographs are labelled with location and date. Remove duplicates. Redact personal data or commercially sensitive material only after considering whether the redaction will create suspicion or obscure a necessary point.

Prepare two versions where needed. The shared pack contains material you are content for the other side and mediator to see. A private note for your own team can identify weaknesses, negotiation limits, predicted objections and proposed answers. Keep those files physically and digitally separate. Do not accidentally circulate the private note in a rushed email.

Give the mediator a compact written summary, usually no more than four pages unless the case genuinely requires more. State the issues, your account of the material facts, the documents that matter, the business effect and the resolution you want. Use neutral language. A mediator needs enough context to plan the day, not a pleading designed to prove moral superiority.

Prepare the people, the opening and the mandate

Hold an internal preparation meeting of 60 to 90 minutes shortly before the mediation. Work through the opening statement, likely questions, decision limits and practical mechanics of any agreement. If the person with authority cannot attend, arrange a defined approval route: a named individual, reachable number, times when they will answer, the amount they may approve and whether they need written figures before deciding. A director who is "available if needed" but is on a flight or in another meeting is not a reliable approval route.

Set authority in writing. Record:

- the preferred settlement outcome;
- the maximum payment, minimum recovery or other financial boundary, where applicable;

- any non-financial terms requiring approval, such as a revised supply arrangement, release of equipment, reference wording, confidentiality or future trading restrictions;
- matters that cannot be agreed without legal, board, lender, insurer or shareholder approval;
- who may make and accept offers during the day;
- the method for recording approval, such as a message to the lead negotiator followed by a signed settlement document.

Keep the actual bottom line in the private team note. The mediator may ask about the decision-makers' authority and the realistic room for movement. Be honest about process constraints without disclosing a figure you have no reason to reveal.

Draft a spoken opening of about three minutes. It should be calm enough to be heard and concrete enough to orient the room. Avoid a chronological recital and avoid accusations about character or motive. A useful structure is:

1. acknowledge the purpose of meeting;
2. describe the practical effect on the business;
3. identify the two or three matters requiring agreement;
4. state the resolution you are seeking;
5. signal willingness to consider workable proposals.

For example: "We are here because the delayed delivery and the disagreement over the final invoice have left us carrying replacement costs and uncertainty with our customer. We need to resolve the outstanding balance, responsibility for the affected units and the arrangements for future orders. Our preference is an agreement that gives both businesses certainty this month and allows us to decide whether trading can continue on clear terms."

Practise the opening once aloud. The aim is not performance. It is to prevent the first ten minutes being driven by anger, interruption or an unhelpful argument over every historical detail.

Map concessions before the room starts bargaining

A mediation needs movement, but unplanned movement is expensive. List every term that could be offered, requested, delayed, divided or exchanged. Then give each a value and a purpose.

Use a private concessions table with five columns: the term, its cost to your business, its value to the other side, the condition attached and the person who can approve it. A £5,000 reduction in an invoice, for example, should not appear as an isolated figure. It might be available only in return for payment within seven days, return of disputed goods, a full and final settlement, no public comment and an agreed end to future orders. The condition prevents a concession becoming a free gift.

Consider commercial trades beyond the headline amount. Depending on the dispute, these may include:

- payment dates or instalments, supported by a direct debit or agreed security where appropriate;
- collection, return or disposal of stock or equipment;
- revised delivery dates or a limited replacement supply;
- an agreed closing date for an ongoing contract;
- withdrawal of a disputed allegation or a neutral statement to customers;
- mutual confidentiality, non-disparagement or a carefully defined reference;
- allocating a known operational task to the party best able to complete it.

Separate three categories. **Tradeable terms** can be moved if they buy something useful. **Conditional terms** can be offered only as part of a complete package. **Protected terms** cannot be conceded because they create unacceptable legal, financial, safety or operational exposure. Tell the internal team which category applies before the meeting begins.

Prepare at least three packages rather than one demand and one fallback. For instance, one package may prioritise fast cash at a lower

total amount; another may preserve a supply relationship with staged performance; a third may provide an orderly exit with mutual releases. Packages help the mediator test what matters most to the other side without reducing the discussion to a single number.

Finally, decide your stopping point. If no acceptable agreement is available, you may pause, seek advice, ask for further information or end the day without settlement. That decision should be deliberate. A rushed agreement with uncertain payment dates, vague obligations or no release of claims can create a second dispute that is harder to manage than the first.

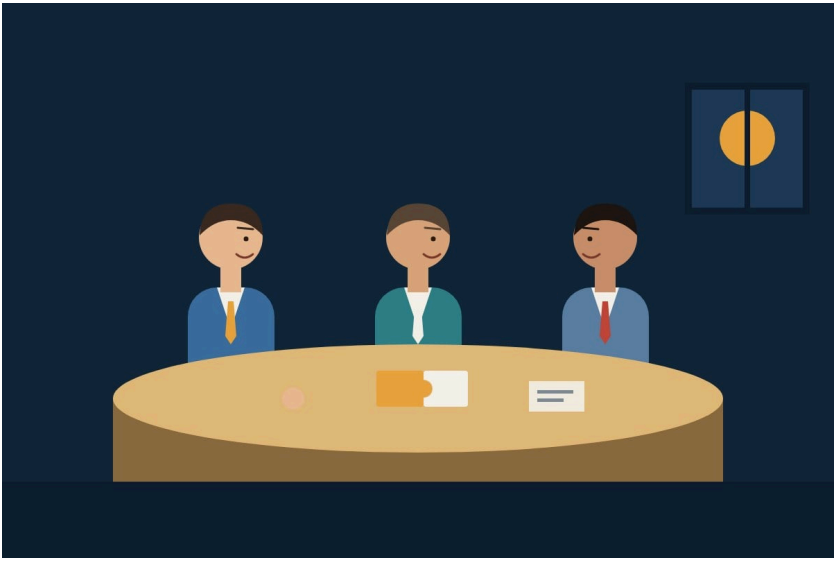
Arrive with a mediator both sides accept, a lean evidence pack, a prepared team and authority that works in real time. You can then use the mediation to compare complete commercial options rather than argue from memory. The meeting itself is where those options are tested, refined and converted into terms people can carry out.

Key takeaways

- Choose a mediator for fit, availability, transparent terms and accepted independence, not reputation alone.
- Confirm attendees, authority, format, timetable, document handling and costs in writing before the day.
- Use a short, indexed evidence pack that proves the material issues and makes figures easy to check.
- Give the negotiating team a written mandate and a reliable route for approvals during the mediation.
- Plan conditional concessions and complete settlement packages before bargaining begins.

CHAPTER 7

Work through the mediation and build a workable deal



A mediation day can feel slower than the dispute that led to it. There may be long periods in separate rooms, proposals that appear to go backwards, and fresh objections to points you assumed were settled. That does not mean the process has failed. It is often how the real constraints emerge.

Your job is to make decisions that improve the business position. Use the meeting to understand what is blocking agreement, test whether a proposal will work in practice, and trade only where there is a clear return. The mediator manages the process. You retain control over what you offer, accept or refuse.

Set the tone in the opening session

The mediator will usually begin by explaining the ground rules, the timetable and how private meetings will work. Listen carefully. Confirm who can speak for each business and how any approval outside the room will be obtained.

If there is a joint opening, use the three-minute statement prepared beforehand. State the issue in business terms, identify the effect on your company and describe the result you came to achieve. Keep it factual.

For example:

> We supplied the agreed units in March and April. You say part of the delivery did not meet specification, while £18,400 remains unpaid. We need to establish what can be verified, agree how the affected units will be dealt with, and resolve payment on a timetable our business can rely on.

Then stop. Do not use the opening to answer every allegation or persuade the mediator that you are right. The other side needs room to give its account. Take notes under three headings: points they accept, points they dispute, and new information that may affect a deal.

When their account seems wrong, ask short questions that expose the practical gap. “Which purchase order do you say changed the specification?” is more useful than “That is completely untrue.” Ask for a document, date or calculation where it would help. If the answer cannot be produced

immediately, ask the mediator to record it as an item to verify rather than allowing a twenty-minute argument about memory.

The opening session has done useful work if both sides can describe the decisions required in similar language, even where they disagree about responsibility. A shared description such as "payment, the disputed 120 units, and future supply" is enough to begin negotiating.

Use private sessions honestly and purposefully

Private meetings, often called caucuses, are where you can speak more freely with the mediator. They are not a performance. Tell the mediator what is driving your position: a payroll date, a customer deadline, a lack of storage space, concern about precedent, or reluctance to trade again without safeguards.

Be explicit about what the mediator may repeat. Say, "You may tell them we can consider staged payment, but do not give them our minimum figure," or, "You may say we need the stock collected by Friday, but do not mention our alternative supplier." Do not assume a point will remain private merely because it was said in a separate room.

Use the caucus to test your own case as well. Ask the mediator:

1. What do you understand their main obstacle to be?
2. Which facts do they say would change their view?
3. Are they seeking a number, a practical fix, or reassurance about future dealings?
4. Does our proposal address their actual concern?

Give the mediator permission to challenge weak assumptions. Perhaps you have treated an alleged defect as a minor issue, while the other side faces a firm deadline from its customer. Perhaps they have assumed immediate payment is impossible when your accounts show it could be made against a proper release. A mediator cannot decide who is right, yet can show where each side may be overestimating its leverage.

Do not announce a final position early merely because you want the day to end. It restricts the mediator's room to work. Describe the limits

that genuinely matter and the conditions under which movement might be possible.

Break the deal into decisions

A mediation often stalls when one side asks, "What is your offer?" before the components of the dispute have been separated. Work through the issues one at a time. Agreement on a smaller item changes the tone and narrows what remains.

Take the issue sheet and turn each row into a decision. For a disputed supply contract, this might mean:

1. **Verification:** Who will inspect the 120 disputed units, using what specification, and by when?
2. **Goods:** Will acceptable units be retained, returned, replaced or sold at a reduced price?
3. **Money:** What amount is due now, what amount is held pending verification, and what payment dates are workable?
4. **Future trade:** Will there be another order, revised quality checks, or no further commitment?

Put options on the table as complete packages where possible. A bare offer of "£12,000" creates a fight over the number. A package can connect money to action: £12,000 paid within 48 hours, independent inspection within seven days, a further payment once the inspection result is known, and collection arrangements for any rejected goods. The value lies in the linked obligations.

If direct exchanges become repetitive, stop addressing proposals across the table. Ask the mediator to carry options privately and report what would make them workable. The mediator may discover that a £3,000 difference is less important than a payment date, an apology, continued supply, or clarity about who pays for collection.

Do not bargain against yourself. When you improve a proposal, seek something specific in return. A longer payment period might be conditional on an agreed instalment plan and no further dispute over the

accepted invoices. A price reduction might depend on prompt collection of stock. State the condition at the same time as the concession.

Test every proposal before you move

Before responding to an offer, write it down in full. Ask the mediator to confirm any unclear wording. Then assess it against the commercial questions that determine whether it is usable:

- **Cost:** What will the business actually pay or recover, including transport, inspection, finance charges and tax treatment?
- **Timing:** On which dates will money, goods or information change hands? Can those dates be monitored?
- **Cash flow:** Does the proposal meet the dates on which your business must pay staff, suppliers or lenders?
- **Operational effect:** Who will do the work, how long will it take, and does it interfere with live customer commitments?
- **Risk:** What happens if the inspection is inconclusive, a payment is missed or a third party fails to cooperate?
- **Relationship value:** Does this preserve a supplier, customer channel or reputation worth retaining, and on terms you can live with?

A proposal may look generous while transferring unacceptable delivery risk to you. Equally, a lower cash sum paid within two days may be worth more than a larger sum dependent on a vague inspection process three weeks later. Compare net value and certainty, rather than focusing only on the headline figure.

Take a short private break before altering a substantial offer. Check the figures with the person responsible for finance or operations. Use your approval route if a term falls outside the authority agreed before the meeting. Tell the mediator you are checking feasibility, not retreating from the discussion.

Where a new claim appears, ask what evidence is needed and whether it can be obtained that day. If it cannot, consider a conditional arrangement. For example, agree the undisputed payment now and specify a short

process for resolving the new item. Do not accept an undefined deduction simply to keep the conversation moving.

Bring difficult moments back to business reality

Mediation can revive anger about a missed promise, a dismissive email or the way staff were treated. Acknowledge the point briefly where appropriate. Then move the discussion towards a decision.

Useful phrases include:

- "We have different recollections of that call. The record we have is dated 14 May. What arrangement would deal with the resulting delivery problem?"
- "I can hear that trust has been damaged. What assurance would you need before accepting instalments?"
- "We may not resolve responsibility for every past exchange today. We can decide who collects the goods and when payment is made."

If someone becomes hostile, ask for a private session or a ten-minute break. Do not reply in kind, make a new accusation, or use the room to punish them. Tell the mediator what conduct is preventing useful discussion and what format would allow it to continue. Separate rooms, written proposals and mediator-led communication can keep a difficult mediation productive.

Use the consequences of no agreement carefully. Explain the real effect of delay on stock, cash or customer commitments. Avoid threats you cannot or do not intend to act on. The purpose is to help the other side compare a defined deal with continued uncertainty.

Sometimes the sensible result is that no deal is available that day. Before ending, ask the mediator whether one narrow point can still be agreed, whether further information would make discussion worthwhile, and whether a timed follow-up is justified. Do not sign up to an open-ended process merely because substantial time has already been spent.

By the end of the meeting, you should know whether there is a deal, which terms still need work, and whether the proposed arrangement can

function in day-to-day operations. If agreement is reached, slow down before anyone leaves. The terms now need to become clear commitments that can be carried out and checked.

Key takeaways

- Use the joint opening to establish the decisions required and to hear the other side's account without turning the session into a trial.
- Tell the mediator candidly about business pressures and limits, while clearly marking what may be passed to the other side.
- Negotiate issue by issue and connect every concession to a defined return.
- Assess proposals for certainty, timing and operational consequences as well as their headline cash amount.
- When emotions rise, return to evidence, future requirements and the practical cost of leaving the dispute unresolved.

CHAPTER 8

Turn the agreement into action



A mediation agreement has value only when it produces the promised payment, collection, replacement, documents or clean end to a trading relationship. The hour after agreement is often the point at which preventable ambiguity enters the process. Someone is tired, keen to leave, or

willing to "sort the detail tomorrow". Tomorrow is when memories differ and the dispute can reopen.

Treat the end of the meeting as an implementation handover. Leave with a written record that tells finance, operations and the other business exactly who must do what, by when, to what standard, and what follows if a commitment is missed.

Write the deal before anyone leaves

As soon as broad agreement emerges, stop negotiating new points long enough to write down the terms. Read them aloud, slowly, and ask each attendee with authority to confirm that the wording reflects the deal.

Use numbered clauses. One clause should contain one obligation. Avoid phrases such as "promptly", "a fair amount", "satisfactory condition" or "in due course". They describe goodwill, not a commitment that accounts, warehouse staff or advisers can apply.

For example, replace:

> Supplier A will compensate Customer B and arrange collection soon.

with:

> 1. Supplier A will pay Customer B £8,400 by cleared bank transfer to the account set out in Schedule 1 no later than 4.00 pm on 18 June 2025.
> 2. Customer B will make 120 units available for collection at [address] between 9.00 am and 4.00 pm on 20 June 2025.
> 3. Supplier A will arrange and pay for collection. Title and risk in the units pass to Supplier A when the collection driver signs the collection record.

Record the date, place or online platform, legal names of the businesses, and names and roles of those agreeing the terms. If the agreement is reached through a mediator, ask the mediator to confirm the agreed wording with both sides. The mediator can assist with process, but do not assume they will draft a complete legal settlement for you.

A short heads of terms document may be suitable where only one simple action remains. For a dispute involving several obligations, a release of claims, continuing supply, substantial sums, personal guarantees, employment matters, property, intellectual property, insolvency risk or tax consequences, get the agreement reviewed and formalised by legal advisers. State clearly whether the signed document is intended to be binding immediately or subject to a later formal agreement. Leaving that question unstated creates an avoidable argument.

Turn every promise into an operational instruction

Work through the agreement clause by clause with the people who will carry it out. A useful test is this: could a colleague who did not attend the mediation complete the task correctly from the document alone?

For each payment term, include:

1. The exact amount, including VAT treatment where relevant.
2. The payer, payee, bank details and payment method.
3. The date and time payment must arrive, rather than the date it should be sent.
4. Whether it is one payment or instalments, with the amount and due date of each instalment.
5. What document will be issued, such as a revised invoice, statement, receipt or VAT document.
6. Interest, collection costs or another agreed consequence if payment is late.

For goods, services or corrective action, specify the practical standard. “Replace the faulty goods” leaves too much unanswered. Identify the

product, quantity, specification, location, delivery window, packaging, inspection period, collection arrangements, transport cost and the person entitled to sign acceptance. If an inspection is needed, set out who conducts it, what records they provide, the deadline for raising a defined defect, and what happens if the check is not completed on time.

For documents or information, identify the document precisely, its format, recipient and delivery date. "Provide the accounts" could mean a spreadsheet, management accounts, invoices, bank evidence or statutory filings. Write the actual list.

For a missed commitment, agree a proportionate response in advance. This could include a seven-day cure period, immediate payment of the outstanding instalments, return of goods, resumption of a paused claim, or referral back to the mediator for a one-hour problem-solving call. Check legal advice before relying on a clause that changes rights under the original contract or makes an entire balance immediately due.

Do not use default wording as a threat. Its purpose is to reduce uncertainty if performance slips. It should tell both businesses what must happen to put the problem right and when a more formal remedy becomes available.

Close the relationship questions explicitly

The commercial relationship needs its own terms. Without them, operational staff may continue acting on assumptions that the owners abandoned at mediation.

Decide and record which of the following applies:

- Existing orders continue under named terms, with any revised delivery, payment or quality controls.
- Existing orders continue only until a stated end date.
- No new orders will be accepted after a stated date.
- The relationship ends, with arrangements for return of property, access, stock, data, passwords, branding or customer-facing communications.

Name one contact on each side for implementation queries. Limit that person's role to delivery of the agreement unless both businesses agree otherwise. A finance query should not become a fresh argument about blame.

If confidentiality is needed, define its scope. State what may be disclosed to staff who need to implement the deal, professional advisers, insurers, regulators, funders or where law requires disclosure. Also specify whether the existence of the agreement, its terms, or both are private. A broad confidentiality promise can cause trouble if it prevents ordinary accounting, reporting or compliance activity.

Consider whether a mutual statement is useful. This is most relevant where customers, staff or trade contacts have heard about the conflict. Keep the wording short and factual, for example: "The parties have resolved their commercial differences and will make no further public comment." Agree who may use it, where, and whether neither business will make disparaging statements. Do not promise a public statement unless both sides can control the people who might speak on their behalf.

A full and final release needs particular care. It may prevent later claims arising from known or unknown matters within its scope. The release should identify the parties, claims, period and exclusions, such as obligations created by the new agreement. Obtain legal review before signing a release, especially if the figures are material or the underlying contract may give rights beyond the immediate dispute.

Run a final approval check

Before anyone signs or sends a signed copy, take 15 minutes for a private implementation check. Bring in finance, operations and the authorised decision-maker by phone if they are not in the room.

Ask these questions:

1. Can we make or receive the payments on the stated dates?
2. Can our team complete the delivery, collection, inspection or document task as written?

3. Are bank details, addresses, quantities, VAT treatment and contact details correct?
4. Has someone with the necessary authority approved every commitment, including non-cash terms?
5. Does the document say what we believe it says about continuing trade, confidentiality and claims?
6. Have any court, contractual, insurance or regulatory obligations been dealt with separately?

Do not sign because the commercial outline is acceptable if the operational detail is impossible. A collection arranged for a Saturday may fail because the site is closed. An instalment plan may be pointless if finance needs three days to set up a new payee. Correct these points while the people who can decide are still present.

If a point cannot be resolved, write it down as unresolved. State the precise question, who will provide what information, the deadline, and the date and method for deciding it. Keep the follow-up narrow. For example: "By 12 noon on 21 June, Customer B will provide the serial-number list. By 4.00 pm on 24 June, Supplier A will confirm whether all listed units are covered. The parties will hold a 30-minute call with the mediator on 25 June solely to agree collection quantities."

Avoid wording such as "the parties will cooperate to resolve outstanding matters". It creates an open-ended process and lets a small loose end hold up the whole agreement. Make clear which signed terms take effect immediately and whether the unresolved item affects any of them.

Manage delivery until the file is closed

Within one business day, create an implementation checklist and send the relevant parts to the people responsible. Keep the signed agreement itself in the restricted dispute record, but give staff the instructions they need to perform their tasks.

Use a simple checklist (a spreadsheet works well) that records, for each commitment, the owner, the evidence of completion, the due date, a diary reminder and the current status. For example:

- **Pay £8,400** – *Owner:* Finance manager. *Evidence:* bank confirmation and receipt. *Due:* 18 June, 4.00 pm. *Diary reminder:* 16 June. *Status:* open.
- **Issue revised VAT document** – *Owner:* Accounts assistant. *Evidence:* PDF sent and saved. *Due:* 19 June. *Diary reminder:* 18 June. *Status:* open.
- **Collect 120 units** – *Owner:* Logistics manager. *Evidence:* signed collection record. *Due:* 20 June. *Diary reminder:* 19 June. *Status:* open.
- **Confirm release conditions met** – *Owner:* Director. *Evidence:* written confirmation. *Due:* 24 June. *Diary reminder:* 23 June. *Status:* open.

Set at least two diary entries for significant obligations: one before the deadline to check readiness, and one on the deadline to confirm completion. For instalments, schedule reminders for every date rather than relying on a general monthly review.

When your business completes an obligation, send a concise written confirmation with the supporting record. For instance: "We confirm that £8,400 was transferred today at 10.14 am. Bank confirmation is attached." Ask for acknowledgment where it matters. If the other business completes a task, acknowledge receipt and say whether it satisfies the relevant clause. Silence leaves room for later disagreement.

If performance is late or defective, refer first to the agreed clause. State the shortfall, attach the relevant evidence, and give the cure period or other response set out in the agreement. Escalate only as the document permits and after obtaining advice where the consequence could affect legal rights.

Once every commitment has been completed, send a final closure email. Confirm the date, list the clauses completed, identify any records retained, and state that the implementation file is closed. Keep the signed

agreement, payment evidence, delivery records, correspondence and any release in a secure location with access limited to those who need it. Retain them in line with your document-retention policy and any legal, tax, insurance or regulatory requirement.

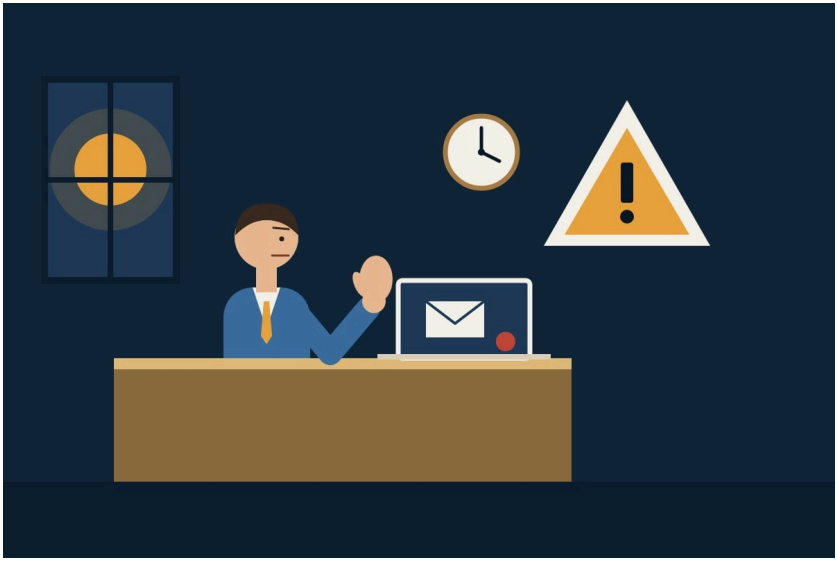
A signed agreement is the beginning of delivery, not the end of the matter. Precise terms, named owners and written completion records give the business a controlled route from dispute to closure. The following chapter examines the errors that can still turn a manageable conflict into a costly crisis.

Key takeaways

- Write and confirm precise terms before the mediation ends whenever possible, rather than relying on a shared recollection of the deal.
- Every obligation needs an owner, a measurable standard, a deadline and evidence that it has been completed.
- Use legal review where the agreement alters contractual rights, releases claims or carries material legal or financial risk.
- Separate any narrow unresolved issue from the terms already agreed, with a fixed information deadline and decision process.
- Track delivery through a dated checklist, confirm completion in writing and retain the agreement with its supporting records securely.

CHAPTER 9

Avoid the mistakes that turn a solvable dispute into a crisis



Most commercial disputes become expensive through a series of avoidable choices: waiting too long, sending a message that invites retaliation, treating a legal argument as the whole answer, or accepting loose promises because everyone wants the meeting to end.

The useful discipline is to spot the choice that is making resolution less likely, then replace it with a controlled action. That protects the business even where the other side remains difficult.

Act before frustration turns into a threat

A formal solicitor's letter, a threatened claim, a debt-collection notice or an allegation made to a customer can make people feel that the dispute has suddenly become serious. Usually, the damaging part happened earlier. Positions hardened while messages went unanswered, small failures accumulated, and each side formed a private account of bad faith.

Do not wait for the other side to use legal language before seeking help. Bring in a mediator, solicitor, accountant, trade body adviser or technical expert when the disagreement has stopped producing practical movement and the issue is affecting cash, delivery, staff time or a valuable relationship. The right help depends on the obstacle. A mediator can restore a workable conversation. An accountant may isolate an argument about reconciliations, margins or calculations. A solicitor may need to protect a deadline or advise on a serious contractual point.

Set a short trigger rule for your business. For example: if two planned conversations have failed to produce an agreed action with a date, the dispute owner must decide within 48 hours whether external input is needed. For a supplier whose failure could stop production, use a faster rule. For a low-value complaint with no operational effect, a lighter response may be enough.

Early help should be based on a defined question. "Can you deal with this for us?" invites open-ended cost and delay. Ask instead:

1. "Can you assess whether our proposed payment hold is contractually safe?"
2. "Can you help us mediate a £14,000 quality and delivery dispute within the next fortnight?"
3. "Can you check whether the other side's claimed remedial cost is supported by its records?"

Give the adviser only the material needed to answer that question at first. Ask for the likely scope, hourly rate or fixed fee, and the result you will receive. A one-hour legal review can prevent an ill-judged email. A half-day mediation can be cheaper than weeks of senior staff trying to force a reply.

Delay can also create a credibility problem. If you tolerate defective work for six weeks, continue to use it, then demand a full refund without explanation, the other side may reasonably ask why the problem was not raised earlier. Raise material concerns promptly and factually, while you decide the wider response.

Write to move the problem, not to win the email

An angry message often feels efficient because it releases pressure. Commercially, it can be costly. Accusations such as "you have lied throughout", "this is a scam" or "you clearly never intended to perform" invite a defence of character rather than a discussion of invoices, goods or dates. They may also be forwarded to insurers, lawyers, senior management or third parties.

Before sending a difficult email, apply a ten-minute delay. Save it as a draft. Then remove conclusions about motive, insults, sarcasm and assertions you cannot prove from the records. Replace them with a short account of the relevant event and a request capable of being answered.

For example, replace:

> Your team has been completely incompetent and has ignored every promise. Pay what you owe immediately or we will make sure everyone knows how you operate.

with:

> Invoice 1847 for £8,400 fell due on 12 March. Our records show no payment or agreed payment date. Please confirm by 16:00 on 21 March whether payment will be made, or provide a dated proposal for resolving the amount in dispute. We are willing to discuss a facilitated meeting if that would help resolve the invoice and the quality issues together.

The second version still applies pressure. It gives a date, identifies the issue and leaves room for a constructive reply.

Keep separate three things that are often muddled in a message: what happened, what you say the contract requires, and what you are prepared to discuss commercially. If the evidence is incomplete, say so plainly: "We are checking the delivery records and will send the documents we rely on by Thursday." That is stronger than overstating a case and having to retreat later.

Never use public complaints, copied-in customers, social-media posts or threats to report the other side as negotiating weapons. There may be legitimate reasons to make a report or protect customers, but those decisions need their own factual and legal basis. Making them part of a demand for money can transform a manageable dispute into a reputational conflict.

Where a message genuinely needs to be firm, ask a colleague who was not involved in the argument to read it before it goes. Their task is simple: underline every sentence that states a fact without a source, predicts the other side's motive, or makes a threat. Revise those sentences before sending.

Separate legal confidence from commercial judgment

Being right matters. A sound contractual position can affect the amount you will accept, the information you require and the urgency of legal advice. It is still only one part of a sensible business response.

A business can have a strong claim and face a poor recovery prospect because the customer is short of cash. It can be entitled to insist on strict performance yet suffer more from a delayed project than from accepting a controlled workaround. It can be confident that a supplier caused a defect while needing that supplier's specialist stock for the next six months.

When a dispute stalls, avoid the sentence "we are right, so they must pay." Replace it with four operational questions:

- What result would improve the business position within the time that matters?
- What would we give up to obtain it?
- What risk do we take if we insist on the full claim?
- Which term matters more than the last £1,000 of the argument?

Suppose a contractor claims £30,000 for completed work and the client claims £12,000 for remedial work. The contractor may believe the client has no valid withholding right. Yet a practical agreement could provide £18,000 paid in seven days, an independent inspection capped at £1,500, and payment of the balance once specified defects are resolved. That outcome may be preferable to receiving nothing while the project, evidence and relationship deteriorate.

Commercial judgment has limits. Do not trade away safety, regulatory duties, insolvency risks, a crucial legal deadline or a term you lack authority to vary. Obtain advice where those issues arise. Outside those boundaries, treat the dispute as a choice between outcomes with different costs and risks, rather than a test of who can repeat their legal position for longest.

Use mediation to test options, not rehearse demands

A mediation fails when a party attends only to deliver the same demand in a different room. "Pay in full" may be a legitimate opening position. Repeating it after the other side identifies a genuine cash constraint, evidence issue or operational obstacle is not negotiation unless there is a route by which the demand could actually be met.

Use a simple test. A position is genuinely conditional if it answers all three questions:

1. What would you do differently if the condition were met?
2. What exactly must the other side provide, by when, and to what standard?
3. What do you offer or concede in return?

If the answer is merely "we will then expect full payment", the position is repetitive. If the answer is "if you provide the inspection photographs by noon tomorrow and arrange collection of the disputed batch by Friday, we will accept £16,000 now and defer the remaining £4,000 until the inspection is complete", there is a proposal to test.

Before the mediation, require your representative to have at least one conditional package that addresses a likely obstacle. During the meeting, put it forward clearly. A package can link money, timing, corrective work, verification, stock return, a revised delivery arrangement or an orderly end to trading. It need not be generous. It must create a possible route from the present impasse to a defined result.

Ask the mediator to challenge refusal constructively. Useful questions include: "What would have to be true for you to move from that position?" "Which part of this proposal is unacceptable?" "Would independent verification change your view?" "If cash is the obstacle, what payment pattern is realistic?" "If trust is the obstacle, what safeguard would allow performance to continue?"

Do not confuse exploring an option with accepting it. You may ask the mediator to test a proposal privately, request figures, or consider a staged arrangement without weakening your legal stance. Equally, do not make token alternatives that you know cannot work, such as a payment plan

that exceeds the other side's stated monthly turnover. A proposal should survive a basic check for affordability, timing and operational reality.

If the other side refuses every alternative, ask for the specific reason to be recorded in your notes. It may reveal that the dispute is actually about one missing document, a personal grievance, an unspoken authority limit or a risk that needs legal action rather than further discussion.

Finish with commitments that can be tracked

Relief at the end of a hard meeting is a poor time to rely on goodwill. The usual failure is not bad intent. It is that nobody leaves with a clear internal task, the first deadline passes, and implementation becomes another argument.

As soon as terms are agreed, turn each commitment into a simple implementation line. Do this for your own business even if a formal agreement has already been signed. Use a spreadsheet or shared task list that records, for each commitment, the owner, due date and time, evidence of completion, reminder dates and what happens if it is missed. For example:

- **Pay £6,000 instalment** – *Owner:* Finance manager. *Due:* 10:00, 4 April. *Evidence:* Bank confirmation sent to named contact. *Reminders:* 28 March, 2 April. *If missed:* Director notified same day; follow agreed cure clause.
- **Collect returned stock** – *Owner:* Operations lead. *Due:* 15:00, 8 April. *Evidence:* Signed collection note and photographs. *Reminders:* 3 April, 7 April. *If missed:* Written notice citing the agreed collection term.

Name one owner for every line. "Finance" and "the warehouse" are departments, not accountable people. The owner should confirm within one business day that they understand the task, have the resources to complete it and know who can approve an unexpected cost.

Set two reminders for any material deadline: one early enough to solve a problem, and one on the due date. For instalments, check bank processing times rather than assuming a payment initiated late in the day

will arrive when promised. For physical work, arrange access, contacts, equipment and acceptance arrangements before the due date.

Keep proof as performance happens. Save payment confirmations, delivery receipts, inspection records, photographs and emails acknowledging completion in the implementation file. Send a brief written confirmation when your side has performed. If the other side has completed a term, acknowledge that too. It reduces scope for later disagreement over whether the obligation was met.

Where performance is late or defective, do not reopen every grievance. Identify the missed commitment, attach the relevant evidence, state the cure period or escalation route already agreed, and give the named contact a practical deadline. Escalate only after that process has been followed, unless the agreement or the circumstances require urgent action.

A dispute becomes a crisis when pressure replaces discipline. Timely help, controlled language, commercially credible options and tracked performance keep the problem in proportion and leave less room for conflict to grow again.

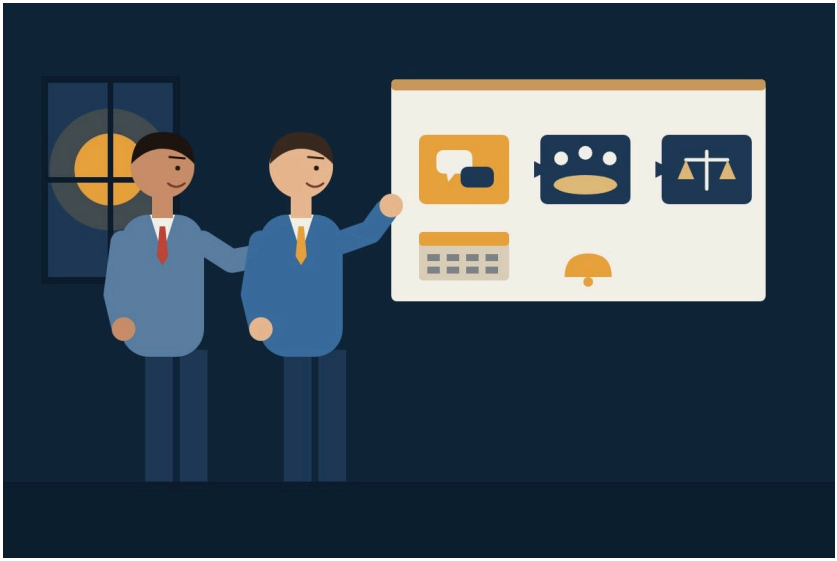
Use these controls at the first sign that frustration is shaping behaviour: pause the message, seek targeted help, test whether there is a real alternative, and assign implementation tasks before memory fades. The final chapter turns those habits into a standing early-resolution system for the business.

Key takeaways

- Seek targeted external help before frustration turns into formal threats or public conflict.
- Send factual messages that request a defined response, and remove accusations that cannot be evidenced.
- At mediation, every serious position should include a condition, a measurable requirement and something offered in return.
- Track every agreed commitment with one owner, a precise due date, proof of completion, reminders and a stated escalation route.

CHAPTER 10

Build an early-resolution system for the next dispute



A resolved dispute can disappear from view as soon as payments arrive, stock is collected or a difficult supplier stops calling. That is understandable, and expensive. The conditions that allowed the problem to build may still be present: an unclear scope, a manager who did not know when to

escalate, invoice chasing that happens too late, or changes agreed informally and never recorded.

A small business does not need a legal department to prevent this. It needs a short, repeatable operating routine that brings concerns to the right person early, captures usable facts and makes outside help easy to obtain when internal conversations stall. Build the routine while the recent dispute is still clear in people's minds.

Write a one-page escalation policy

Put the policy on one page, store it where managers can find it, and include it in induction for anyone who manages customers, suppliers, projects or staff. Its job is to answer three practical questions: what must be reported, who decides what happens, and when the business seeks help.

Use four stages.

1. **Raise a concern.** Any manager or employee who sees a material problem reports it to a named role, usually the operations manager, finance lead or director. Define material with examples relevant to your business. A contractor might report a customer instruction that changes the agreed design. A wholesale business might report repeated short deliveries. A professional-services firm might report a client challenging a fee or refusing a key approval. Require a short factual report on the day the concern becomes clear.
2. **Assess it.** Give one person responsibility for deciding whether the matter is routine, heightened or serious. This person should be senior enough to obtain records and allocate time, but close enough to the work to understand its commercial effect. Set a response standard, such as assessment by the end of the following business day for routine concerns and the same day where supply, cash collection or a client commitment is at risk.
3. **Manage it internally.** State who may agree practical adjustments, spending or commercial concessions at each level. For example, a project manager may approve up to £500 of additional work, a

department head up to £2,500, and anything beyond that goes to a director. The figures will vary, but written limits prevent staff from making promises they cannot keep.

4. **Bring in external support.** Set objective triggers rather than relying on a manager's confidence or personal relationship. External input should be considered when the dispute involves a large proportion of monthly cash receipts, a key customer or supplier, a possible contractual termination, an allegation that could affect reputation, a technical issue the business cannot evaluate, or a deadline that cannot safely be missed. The assessor records the question to be answered, the person asked and the date a decision is required.

Keep the policy operational. It should name job titles and a shared inbox or reporting form, rather than an individual's personal email address. Review the contact details every quarter. If the policy requires director approval for every concern, people will work around it. If it gives nobody responsibility, concerns will sit in private inboxes.

Install a monthly dispute radar

A dispute rarely begins on the day someone uses the word "claim". It often begins in ordinary management information that nobody joins together. Create a 30-minute monthly review, ideally attached to an existing finance or operations meeting. The owner or managing director attends, along with the people responsible for finance, delivery and customer contact.

Use a single dashboard with five headings:

1. **Overdue invoices.** List invoices that have passed agreed payment terms, grouped by customer and age. Add a note where a customer has disputed part of an invoice, requested further documents or made payment conditional on another issue. Finance should flag concentration: three late invoices from the same customer require a different response from three unrelated small debts.

2. **Supplier performance.** Review late deliveries, shortages, quality failures, unapproved substitutions and recurring failures to provide certificates, reports or other required documents. Record whether the issue has affected your own commitments, and whether the supplier has accepted a corrective plan.
3. **Customer complaints.** Look beyond formal complaints. Include repeat queries about the same job, escalating demands for senior contact, requests for refunds, threats to withhold payment and dissatisfaction raised through account managers. A short complaint log should show customer, product or service, date, description, owner and current status.
4. **Contract changes.** List variations in scope, price, timetable, specification, delivery location, volume or responsibilities. Ask one question for each: where is the written agreement? If a change was accepted on a call, confirm it in a concise email that states the revised work, price and timing. This protects both the relationship and the record.
5. **Unresolved operational issues.** Include matters such as repeated access problems, missing customer information, disputed measurements, stock held at a third-party site, incomplete handovers and persistent scheduling failures. These can become a money dispute after several weeks of frustration.

Each item on the dashboard needs a status: monitor, action internally, senior review or external input. It also needs an owner and a date for the next review. Do not turn the meeting into a forum for retelling every difficult conversation. Look for patterns, decide what changes and record the decision.

For a business with fewer than 15 employees, the dashboard may fit on one spreadsheet tab. A larger business may need separate departmental logs feeding one director-level summary. The important discipline is consistency. Review the same indicators every month, even when trading is busy and no dispute appears urgent.

Repair the documents and handovers that created friction

Once the dashboard identifies a recurring source of disagreement, improve the document or handover behind it. Do this one problem at a time. Broad instructions to "communicate better" rarely survive a busy week.

Start with contracts and scopes of work. Take the clause, quotation or specification that caused the most argument and ask what a new reader would need to know to perform it properly. Add measurable detail. If installation is included, identify the site, access arrangements, materials, standard, testing and sign-off. If a service has a fixed monthly fee, identify included hours, exclusions, response times, approvals for extra work and the charge for it. If goods may be rejected, state the inspection window, reporting route and practical procedure for return or replacement.

Then examine payment terms. Make the invoice trigger clear: deposit, milestone, delivery, acceptance or month-end. State who receives invoices, what reference they require and how quickly a genuine query must be raised. Where staged billing suits the work, align instalments with points at which the business has incurred real cost. A £12,000 project might use £3,000 on booking, £4,500 after approved materials are delivered and £4,500 after completion, rather than leaving the full amount exposed at the end.

Improve communication records without creating bureaucracy. Use a standard confirmation email after material calls and site meetings. It can be five lines:

- what was decided;
- what remains open;
- who will provide any information or approval;
- the relevant date or milestone;
- the effect on price, scope or timetable, if any.

Ask the recipient to correct factual errors promptly. Store the confirmation with the relevant job or account, not only in an individual mailbox.

For important variations, use a simple change form that requires the customer's named approver and records price before work begins.

Test the revised documents on one live job. Ask the person who sells, delivers and invoices the work to read them separately. If they cannot explain the same obligation in similar words, simplify it. Have a solicitor review material contract changes where the risk or value warrants it, particularly provisions about liability, termination, intellectual property, payment security or dispute resolution.

Build your response bench before pressure arrives

Finding a mediator, solicitor or technical expert while a dispute is worsening wastes time and encourages poor choices. Maintain a small, reviewed shortlist. It is a contact list with enough information to make a prompt, informed call, not a commitment to use anyone.

Include two or three mediators whose experience fits the business. Record their sectors, typical case values, preferred format, location or online availability, usual fee structure and the name of the person who has checked them. Add advisers for the problems your business is most likely to face: a commercial solicitor, accountant or insolvency practitioner where cash risk is significant, and a technical specialist where quality or valuation questions are common.

Speak to candidates before you need them. A 20-minute introductory call is enough to ask how they work with owner-managed businesses, how quickly they can take an instruction, what information they need at the outset and how fees are quoted. Check for conflicts when a live matter arises, since prior familiarity does not guarantee availability or independence.

Give your managers a short escalation training session twice a year. Use two or three anonymised scenarios from real work. Ask participants to identify the observable facts, the business consequence and the person who needs to know. For example, replace "the customer is being impossi-

ble" with "the customer rejected the revised specification by email at 16:10, and production scheduled for Monday cannot proceed without written approval." This form of reporting allows a decision-maker to act.

Training should also cover the boundary between reporting and arguing. Managers should not diagnose bad faith, promise outcomes or attempt to settle issues beyond their authority. Their role is to flag the problem, preserve the relevant business record and describe the operational impact accurately. A director or appointed owner can then decide whether a conversation, expert review or mediation is appropriate.

Conduct a short post-resolution review

Schedule this review 30 to 60 days after all agreed actions are complete. Earlier can be too close to the conflict; much later, recollections blur and improvements lose priority. Limit the meeting to 45 minutes and include the people who saw the issue develop, plus someone who can approve process changes.

Use a simple sequence.

1. State the event in one sentence: for example, "The customer withheld £8,400 because the approved change to the service timetable was never recorded." Keep this factual.
2. Identify the first missed warning sign. It may be an invoice query that finance treated as routine, a supplier's informal request to substitute materials, a customer complaint repeated by two different staff members, or a change agreed verbally without a record.
3. Identify the control that failed. Was there no reporting route, no written approval requirement, no review of ageing debt, no authority limit or no clear owner?
4. Choose one process change. Assign a person to implement it, set a completion date and decide how you will know it is being used. "Finance will add disputed-invoice status to the monthly report from 1 July" is usable. "We will improve communication" is not.

5. Check the change after 90 days. Look for evidence: completed change forms, fewer repeated queries, faster escalation or clearer records. If the process has created unnecessary delay, revise it rather than leaving staff to ignore it.

Keep a private lessons log showing the issue, first warning sign, change made, owner, implementation date and review result. Over time, this becomes a practical record of where the business loses money or attention, and which controls have actually reduced that risk. It also makes future mediation easier because the business will arrive with clearer records, realistic authority and a disciplined way of making decisions.

A workable early-resolution system makes conflict visible while options are still open. With a clear reporting route, a monthly radar, stronger commercial records, known advisers and a habit of learning from completed cases, the business can deal with disagreements as management work rather than letting them become an unmanaged crisis.

Come back to the numbers at the start of this book. One small business in six is left with its latest dispute unresolved, the typical dispute costs almost as much to resolve as it is worth, and very few businesses ever try mediation. You now know how to avoid becoming one of them: spot the problem early, steady the situation, be clear about what you need, choose the right route and, when talking has stopped working, bring in a mediator sooner rather than later. The cost of an early conversation is small. The cost of silence rarely is.

Key takeaways

- Put reporting, assessment authority and external-support triggers into a one-page escalation policy that managers can use under pressure.
- Review overdue debt, supplier performance, complaints, contract changes and unresolved operational issues every month from one dashboard.
- Use each resolved dispute to improve a specific contract term, payment mechanism, handover or communication record.

- Keep a current shortlist of mediators and advisers, and train managers to report dated facts and commercial impact without blame.
- Hold a 30-to-60-day post-resolution review, identify the first missed sign and assign one measurable process improvement.

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Any mistakes are mine.

David Ashdown

About the author

David Ashdown is a serial businessman, entrepreneur, mentor and accredited mediator. He started his first business while still at school in 1975 and has been running his own businesses ever since, apart from a short period between 1979 and 1986, when he worked in a small estate agency and property management company with considerable autonomy.

Over the past 40 years, he has started, developed and built a number of successful businesses from the ground up. For the past 25 years, David has served as a consultant, adviser and non-executive director to small, medium and large organisations, providing strategic guidance in marketing, development, leadership and management. He is also the founder of DAA Consulting, the 21point5 Group, Cre8 Business and We-Resolve Mediation, dedicated to helping entrepreneurs and established business owners grow and manage their companies more effectively.

His career has spanned multiple industries, from transport and property management to franchising, manufacturing and international services. A career highlight came in 2012, when he played an important role in orchestrating key transportation operations of athletes, dignitaries and staff for the London Organising Committee of the Olympic Games (LOCOG).

As a qualified mediator, David specialises in resolving disputes between shareholders, directors, suppliers and employees, offering business owners a faster, cheaper and more constructive alternative to litigation.

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