

Dispute Resolution Factsheets

Resolving commercial disputes

- Review what was **agreed**, and how clear the agreement was.
- Clarify how the other party has **failed** to live up to the agreement; consider to what extent you may have contributed.
- Assess the **loss** you have suffered as a result; consider any loss they may claim to have suffered.
- Collate **evidence** (eg written contracts, correspondence and witness statements).
- Try to negotiate an **amicable resolution**; keep evidence of negotiations including copies of letters and notes on conversations.
- Assess the other party's **ability** to pay, for example by running a credit check (including records of outstanding county court judgments).
- Take legal advice unless the dispute is straightforward, represents a relatively small amount and runs no risk of a significant counterclaim.
- Assess whether you have a **strong case** - how clear the legal position and evidence are - and the risks of a counterclaim or losing in court.
- Clarify the **costs and timescales** involved in taking the recommended form of legal action; decide whether it is worth pursuing.
- Consider how far you are prepared to **compromise** either by accepting stage payments or partial payment for a quick resolution.
- Either abandon the claim, or inform the other party in writing of your intention to take **legal action**; follow the appropriate procedure.
- **Track progress** and legal costs as the case proceeds.
- Continue to be prepared to compromise; accept any **reasonable offer** to avoid further delays and disruption and the risk of court action.
- After a successful court case, be prepared to **enforce judgment** to obtain payment.

Cardinal Rules

Do:

- try to negotiate an **amicable resolution**
- assess whether you have a **strong case**
- decide whether you need **legal advice**
- be prepared for a **protracted and costly** process if you pursue legal action
- accept a **reasonable offer** rather than going to court

Don't

- waste time and money pursuing someone who **cannot pay**
- refuse to **compromise**
- ignore the **risks** of losing any legal action