HOW TO MANAGE A BUSINESS DISPUTE

KNOW YOUR LEGAL POSITION

The first step is to understand your legal position:
• Gather all relevant documents related to the dispute, including contracts, invoices, bank statements and correspondence.
• Review any relevant contracts and clauses.
• Examine laws, regulations or codes of conduct.
• Talk to a lawyer for advice on your legal position, guidance on strategy and dispute resolution options.

COMMUNICATE CAREFULLY

Effective communication is essential to resolving a commercial dispute.
1. Call the other party to clarify any misunderstandings.
2. Write to the other party, setting out your position. Be clear about whether you are responding to or initiating a claim against them.

Resolving a dispute early on can avoid lengthy legal battles, saving valuable time, money and resources. Early solutions can help to:
• preserve business relationships;
• prevent reputational damage; and
• maintain goodwill between parties.

MEDIATE AND NEGOTIATE

Prioritise efforts to reach a commercial resolution, such as through alternative dispute resolution (ADR) methods, including:
• Mediation – where an independent mediator facilitates discussions between both parties to identify common ground and work toward a solution.
• Arbitration – where parties choose an arbitrator who will hear arguments from both sides and make a binding determination on your dispute.

A lawyer can assist with exploring appropriate options for your dispute. Your commercial contract may also specify the preferred option to take should a dispute arise. Keep an open mind about settlement options, even if they compromise your position, such as accepting payment of a debt in instalments.

LITIGATION

Going to court is costly and should be a last resort. Further, the judge’s decision will be final and legally binding. Also, be aware that:
• if your business receives formal documents requiring a response within a specified time, seek legal advice immediately; or
• if you have been served with a court claim or plan to initiate one, a solicitor can help to assess your prospects and discuss the cost of court proceedings.

TERMINATION CLAUSE

This outlines how either party can end the agreement and any penalties that may apply. Participants should be able to terminate without costs. To protect your business, you can draft this clause to allow your business to terminate agreements due to staff safety concerns or insufficient participant funding.

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