

Tips on negotiating disputes

[Negotiating successfully](#) is an important business skill, one that can be improved with practice, reflection, training and advice.

Prepare

Every time you negotiate, you have to make choices that affect whether you achieve a successful outcome for your business. The time spent preparing will depend on what is at stake. Allocate more time to prepare for complex or high value negotiations.

Check your facts

Miscommunication is a key contributor to disputes and can escalate into unnecessary and costly conflict. Review any relevant information and documents for what you understand you agreed to, and what the other party may think you have agreed to.

- If you have a written contract, read it carefully and note relevant sections.
- If there is no written contract, review any emails or texts on the subject.

Understand the dispute

[This checklist](#) can help you understand what it is that you're in dispute over and where you stand on the issues.

- Determine if the other party is inclined or obligated to negotiate and what your bargaining position is compared to theirs.
- Consider the advantages of ending the dispute quickly – what is the value to you of a faster settlement?

Authority of the party

When speaking with the other party, make sure you understand the level of authority they have. It is usually best to speak to someone who has the authority to resolve the issue.

Engaging professionally

If the issue is minor, you can call them, and if more complex, a face-to-face meeting may be more successful. Set guidelines for the discussion and ensure that you stick to them throughout the entire process. Writing to the other party can sometimes be helpful; however, as with any communication, written words can be misinterpreted. How you behave and communicate will likely influence the outcome.

Behaviour that assists in negotiation

- Neutral and non-judgemental language
- Being clear about what you are offering and what you need from them
- Understanding their interests and how they compare with your own – what is the reason behind the request or position?
- Showing that you are listening
- Considering their views and suggestions
- Suggesting possible solutions
- Remaining professional, calm and taking some time away from the discussion if you are feeling emotional or frustrated
- Thinking about your business needs, now and into the future, regardless of what might have happened before
- Considering both long-term outcomes as well as any immediate benefits
- Asking questions if you do not understand something
- Focusing on the issues in dispute, not the person

Top tips

- Set goals and gather information for weighing up your options.
- Negotiating and mediating can save everyone time and money.
- Conflict is inevitable, combat is optional.

Behaviour that can make negotiation difficult

- Confusing negotiation with confrontation
- Knee-jerk reactions
- Emotive outbursts
- Name calling and offensive language
- Negative comments about the other party or assigning blame
- Talking or posting about the issue to other businesses or customers (this may erode trust that you'll keep your word)
- Closed body-language (e.g. crossed arms)
- Focusing only on immediate gains
- Ignoring the cost to your business of not reaching an agreement

Breaking the original agreement while in negotiations can be tempting, especially if you believe the other party has breached the agreement. It is **not recommended** to withhold payment or make public allegations during disputes as this may put you in breach of the lease or you may risk legal action against you. You should seek legal advice before withholding payment or commenting publicly (including on social media).

Reflect on your methods

Adults learn through reflection. You can improve your negotiating skills when you reflect on what techniques are working and what approaches have not worked. Reflect on whether current business practices contributed to the dispute. Reviewing some practices may help avoid future disputes.

Reflect on the costs

The time and energy spent in resolving a dispute can be just as significant to a small business as the out-of-pocket costs. Depending on the value in dispute, it may be worth paying a commercial negotiator to act on your behalf or writing off the matter and moving on.

Seeking advice

Consider seeking professional advice from an accountant, financial counsellor, lawyer or business adviser. Friends and family are likely to offer advice that is more personal and emotionally supportive but may not help you to reach a commercial outcome that is best for your business.

Consider mediation

In mediation parties are guided through a process of discussion and negotiation. Mediators are neutral and follow a tried and tested process to structure the conversation allowing each party to have their say and to respond. Mediations can be held virtually using phone or video.

More information

Contact the QSBC by submitting an [online enquiry](#) or calling 1300 312 344.

This information provides general guidance only. It does not constitute legal advice. We recommend you seek Independent legal advice which considers your individual circumstances and applicable laws.