



E-dispute resolution, World War C and the ongoing resolution of maritime disputes.

Mediation has particular advantages where there are relationships to preserve and this tends to be the case with longer term supply contracts, charter-parties, contracts of affreightment, ship repair and shipbuilding contracts. However, even where the relationship is not a major factor the speed, economy and left-field solutions which Mediation offers make it a good candidate for the resolution of all maritime disputes.

Online or e-dispute resolution has long been a beneficial option for resolving business disagreements, even before the spread of COVID-19. With the current disruption and bans on travel and meetings in many countries, using remote mediation means that companies still have a way to solve problems and move their businesses on.

How e-dispute resolution works

There are different platforms which can be used for meetings and hearings. Zoom is a widely trusted option, allowing as many parties as necessary to see and hear each other and to share documents, either via computer or other smart device.

The mediator will be in control of the set-up of all Zoom meetings and can control who attends each meeting and ensure that no Zoom recording is made. They will also use the platform to speak confidentially to any co-mediator or observer who may be involved.

The mediator can also arrange for meetings for parties who may want to converse privately between each other, without the mediator being present. This is particularly relevant while many people are working from home. It is done by adding different caucus sessions, for clients alone, lawyers alone or experts alone, whatever mix may be judged optimum to move the process forward.

The beauty of a system such as Zoom is that the mediator, as the host, can set up as many different breakout rooms as may be necessary to ensure that these caucus sessions are every bit as confidential as they would be at a live hearing.

Pitfalls

A mediator will normally assess body language and other indicators of attitude and openness to negotiation when conducting a face-to-face meeting. When meetings take place via video link, this becomes harder, so it is important to engage someone who is experienced in understanding other cues. This could include asking questions that require lengthier replies and taking into account response times, pauses and tone of voice.

It will be necessary for those joining the process to have reliable wi-fi and power, otherwise there is a risk of interruption to meetings and it could be difficult to maintain a useful exchange.

What are the advantages of e-dispute resolution?

In the midst of World War C, the fact is that there is no realistic alternative. Physical meetings cannot take place and conducting a hearing by phone is certainly less satisfactory.

However, looking to the future, once the coronavirus is behind us it will still make sense to use e-dispute resolution in some cases. Where extensive travel might otherwise be needed, for example, if the claimant charterer is in the USA, the defendant shipowner is in China and the mediator is in London, then an online meeting will save time, expense and the environment.

It is also better for productivity. Although a mediator is busy throughout a hearing, while a caucus is in progress, other parties may have very little to do.

If a meeting is conducted online, there is the opportunity to deal with other pressing matters while waiting.

Post-World War C there will no doubt be some return to physical hearings', but the experience of e-dispute resolution gained during lockdown may lead many to use it as their mediation method of choice.

At Lux Mediation, we offer a range of different Dispute Resolution Services, designed to deal with all types and stages of disputes. We are experienced in and understand the subtleties of online mediation. Our mediators have extensive credentials and experience in areas including maritime, international, EU and general commercial and civil law.

If you would like to explore further whether online dispute resolution can help you to resolve a dispute or you have any questions about the process, please call Lux-Mediation on 07876 232305 or email mediation@lux-mediation.com