

# Dispute management services

Promoting a timely, cost effective and acceptable resolution to disputes

**Given the complex nature of the construction process, with a variety of organisations involved, often with conflicting interests, it is not surprising that along the way disputes between two or more parties arise. How these disputes are resolved varies greatly, as does the time and cost involved in reaching a final resolution.**

Mott MacDonald provides a comprehensive portfolio of dispute management services for the construction industry, based on many years experience in this field and in construction law.

## Scope and approach

There are two main approaches to resolving disputes:

- Alternative dispute resolution, where the parties to a dispute attempt to achieve a resolution without recourse to the courts
- Litigation, where the parties to a dispute have failed to reach a resolution without recourse to the courts

The courts increasingly encourage parties involved in a dispute to reach a resolution without recourse to formal litigation, which is both time consuming and costly, often with an unpredictable outcome.

Mott MacDonald provides independent services for both forms of dispute management, helping the parties involved to achieve a resolution. We also provide advice directly to clients who are party to a dispute. Our professional advisors recommend the most appropriate way forward based on the precise nature of the dispute, with every effort made to avoid resorting to formal litigation.

When working directly for a client to assess the most appropriate course of action, our approach is as follows:

- Talking with our client to fully understand the nature of the dispute and the redress that the client is looking to achieve, or the redress that another party is looking to achieve from the client
- Reviewing the governing construction contract, along with supporting documentation and correspondence, establishing the cases validity
- Providing a formal evaluation on the strength of the case
- Recommending a course of action, and indication of costs and timescales

[www.contractadvisory.mottmac.com](http://www.contractadvisory.mottmac.com)

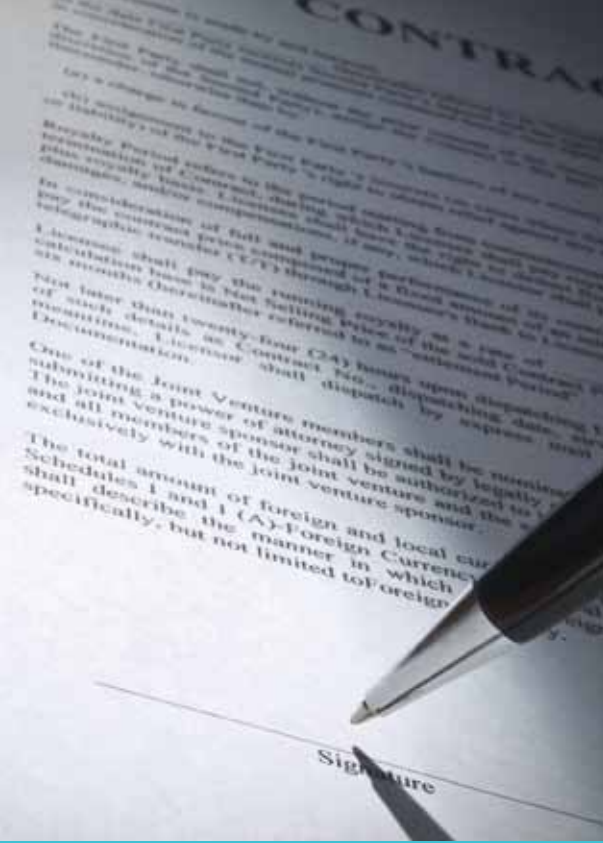
## Dispute management services

- Alternative dispute resolution – mediation, conciliation, adjudication and arbitration
- Independent services – mediation, conciliation, adjudication, arbitration and expert witness
- Formal dispute resolution – litigation support
- Support services – programme delay analysis, forensic research and claims/claims defence preparation



**The objective of our service is to provide a timely, cost effective and acceptable resolution to disputes involving our clients.**

  
**Mott MacDonald**



**We focus on helping clients maximise, through their contracts, the efficiency and bottom line performance of their business to ensure their projects are implemented to an agreed cost and scope.**

#### Contact us

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Once agreement on the best course of action has been reached, one or more of the following processes will be expedited on behalf of the client.

- **Mediation** This has emerged as an increasingly used form of dispute resolution, involving a neutral third party working to facilitate effective negotiations to enable a mutually acceptable settlement.

With our experience in mediation we help the parties explore options, measuring the strengths and weaknesses of their respective cases. Mediation can save a great deal of time and cost in resolving a dispute and can also help the parties to re-establish trust and prevent damage to ongoing relationships.

- **Conciliation** This is similar to mediation, but the emphasis is on establishing trust, with a view to helping, the parties to a dispute, build an ongoing working relationship.
- **Adjudication** This is a quick and relatively inexpensive way of resolving a dispute, whereby we act as an impartial third party to decide the issues between the parties.

We can provide assistance to our clients throughout the adjudication process with a view to ensuring a successful outcome. The process should be completed within five weeks from the point that a notification is issued.

The adjudicator's decision is normally upheld by the courts and so it is important to ensure that all the relevant facts are put in front of the adjudicator.

Adjudication does not necessarily achieve final settlement of a dispute because either of the parties has the right to have the same dispute heard afresh in court. However, experience shows that the majority of adjudication decisions are accepted by the parties as the final result.

- **Arbitration** Mott MacDonald is experienced in acting as arbitrator, or assisting clients through the process. As an alternative to court based litigation, arbitration is used in commercial and construction disputes where the technical expertise on the part of the decision maker is important.

Arbitration is confidential, flexible, offers a timely resolution process and utilises arbitrators with appropriate technical skills relating to the dispute.

- **Litigation support** On occasions, alternative dispute resolution procedures are not successful in resolving disputes, resulting with the parties resorting to formal litigation through the courts. Mott MacDonald provides litigation support services for both formal litigation and alternative dispute resolution as follows:

- Programme delay analysis
- Forensic research
- Preparation of statements of claim and statements of defence
- Paralegal support

- **Expert witness** We can provide an expert witness service for the courts or in support of a client who is a party to the dispute. Mott MacDonald maintains a centre of excellence for expert witness services, with access to some of the world's leading technical experts.

We can provide expert opinion to any form of tribunal in relation to specific technical aspects of the dispute.