

## RAMSKILL MARTIN

### Negotiations and Commercial Settlement of Disputes

#### 1. Introduction

The benefits available to Clients by negotiating commercial settlements has perhaps become more apparent since the early months of 2003. At that time, we had all experienced the inevitable impact of the legalisation and increased complexity of the adjudication process which has probably become something that could be described as 'A Fast Track Arbitration'. That being the case, ramskill martin have sought to provide alternative means of resolving disputes/differences.

#### 2. Negotiation Documentation

Although a formal process may not at this stage be intended to be pursued, a rational and reasonable case will need to be prepared in order to maximise the opportunities of convincing the other party that there is a case to be answered.

That being the case some form of documentation is required.

ramskill martin are able to assist our Clients in preparing its 'position statement' which is essentially a reasonably detailed document setting out our Client's entitlements. Once in possession of the 'position statement', each party and its representatives are able to prepare for negotiations.

#### 3. Negotiations in Practice

In practice, either party may wish to make further submissions in regard to the relevant 'position statement'. At some point, however, (sooner rather than later) the parties will need/be advised to meet in order to bring the negotiation to fruition.

ramskill martin assist our Clients by representing them at the negotiation meeting, including the requisite preparation by those chosen to attend.

The tactics to be employed would be well thought through in some detail. Where appropriate, this would also include details such as the position where individuals will sit during the meeting and the timing of interim breaks.

#### 4. Usage of Documentation

The document produced for the purpose of the negotiation can in the event that negotiations breakdown be utilised and adopted with the requisite amendments for the 'pre-action position statement', which is utilised for the commencement of a more formal process. That being the case, the initial work carried out in order to promote a successful negotiated settlement will not all be lost and wasted. Indeed, many differences are resolved as a direct result from preparing the 'position statements,' which clearly sets out the parties' positions and their evidence.

#### 5. Success Rates

Over the last twelve months, ramskill martin has settled more differences/disputes by negotiation and commercial settlement than by any other means.