

of the Institute of Chartered Accountants in England and Wales and also a Fellow of the Association of Chartered Certified Accountants from which he holds an insolvency licence under the Insolvency Act 1986 and has been taking insolvency appointments in his own name since 1976. He has also trained as a mediator with the Chartered Institute of Arbitrators and is an Associate of the Institute.

With over 36 years of professional grounding, insolvency experience and international finance and business, Mr Leopard is able to bring considerable expertise to assist in the services we provide.

The practice has operated since 1973 having operated from Alderney in the Channel Islands since 1988. It is now conducted by Alderney Offshore Ltd, an Alderney company, trading as Adrian Leopard & Company.

Appointment as a mediator can be accepted in any part of England and Wales in any form of commercial mediation and we will travel to wherever you would like the mediation to be held.

Information provided to the practice is completely secure and subject to the normal duty of confidentiality and as the company operates from Alderney, VAT is not chargeable on its fees, of particular interest to individuals who are not VAT registered or where the dispute is outside their business and to bankruptcy estates in circumstances where input tax is irrecoverable.

Our standard terms and conditions apply to all work carried out and advice provided and a copy is available on request.

If you would like to discuss any case where you think a mediation may assist to resolve matters, please telephone Adrian Leopard on 08449-4-08449 or send an e mail.

More extensive details of the firm's services can be found on our web site at <http://www.leopard-insolvency.co.uk>

Alderney Offshore Limited
trading as Adrian Leopard & Company
P O Box 27, Alderney, Channel Islands GY9 3AS
Telephone: 08449-4-08449 fax 0845-468-3903
E mail: central@leopard-insolvency.co.uk

Adrian Leopard & Company
*Chartered Accountants, Licensed Insolvency Practitioners
& Mediators*

Mediation in Insolvency

Insolvency practitioners and their lawyers will know all too well that many of the disputes in insolvency become bogged down in the legal process which increases legal costs, protracts the matters considerably and often end with less than the desired result for all parties.

Parties who become involved in litigation with insolvency practitioners are, frequently for them, in uncharted territory facing an action they do not really understand. Very often they instruct solicitors who are not experienced in insolvency matters and this can serve to compound the difficulties. Costs roll on needlessly and there is seldom what can be described as a "satisfactory outcome". This can arise out of respondents being poorly advised and a general lack of communication between the parties because of something of a "head in the sand" approach.

As insolvency practitioners of many years experience, Adrian Leopard & Co have seen both sides of the coin.

Insolvency practitioners find that their realisations are heavily eaten into by huge costs, not only from their advisers and agents but also in terms of their own time which may often prove irrecoverable. The ultimate losers are the creditors for whom they act and whose dividends are considerably less than they might be, sometimes even eradicated altogether. Sometimes the insolvency practitioners themselves can be losers if the costs rise to in excess of the asset value.

For opposing parties, often bankrupts and their families, litigation can be a traumatic process, very often involving personal issues such as the home they live in, claims against relatives and matters affecting their personal life. More often, too, there are cases arising against insolvency practitioners, for example over costs or where a bankrupt is dissatisfied with the way his trustee has acted, with a perception that justice can be a long way away.

Mediation can help

What is mediation?

Mediation is a voluntary non-adversarial process whereby parties to a dispute come together in a confidential and without prejudice environment with a view to finding a settlement to their dispute. The process is managed by a mediator who will usually be an experienced professional person who has had special training in the art

And an art it is because confidence in the independence of the mediator is completely fundamental. If confidence and trust break down the mediator will no longer be able to continue effective management of the process.

What are the advantages of mediation?

Quick

Voluntary

Inexpensive

Non-adversarial

85% average success rate

Brings about an agreed solution

The mediator is completely neutral and unbiased

Involves the parties and not just their legal advisers

Can enable relationships between parties to be maintained

The solution may be something not in fact achievable through the court

It concentrates the mind and precipitates the need to deal with the dispute

In the event of failure the process is wholly confidential and without prejudice

Some people think that mediation is a process whereby the parties to a dispute assemble in a building in different rooms and the mediator continually goes back and forward between the rooms with offers until the parties somehow meet in the middle or alternatively he “browbeats the parties into submission”.

This is not the case!

The point about mediation is that it enables parties to a dispute to approach their dispute from a realistic point of view, learning about their own strengths and weaknesses as well as their own real needs and those of their opponents. By establishing those needs and undergoing a process known as “reality testing” a mediator is able to guide the parties towards a position where they can effectively create their own settlement; theirs and not his.

A simple example is afforded by the case of two women of ancient times who had a dispute over an orange. Unfortunately for them mediation was not available so instead they went before the chief magistrate. Both women claimed the orange which had fallen off a cart into the street. The magistrate scratched his head and concluded he had no idea so decided that the orange should be cut in half and that each woman should have one of those halves. It seemed the fair way to deal with it.

This they did. The first woman peeled her half, threw the peel away and ate the fleshy centre.

The second woman peeled her half, threw away the centre and used the peel to make marmalade.

Now, if there had been a mediator.....

Is a specialist mediator necessary?

Any trained commercial mediator will be capable of bringing about the resolution of a dispute. However, the advantages of a mediator with a specialist qualification such as, in this instance, an insolvency licence and extensive experience is that he will be able to process the fact finding exercise much more quickly because of a detailed understanding of the relevant issues. His experience will also enable him to ensure that the reality testing of the parties is relevant and that they have a real understanding of their dispute and what a court imposed decision may bring about. **Remember—mediation is about stopping further court action and costs.**

This means that lengthy and expensive legal proceedings can usually be avoided. In fact statistically, some 80-85% of mediations settle on the day and many more settle within a reasonable time thereafter because the parties have come to realise what the dispute is about and are able to find a suitable solution.

Let us sound a note of caution. A party to a dispute who unreasonably refuses to participate in mediation could be penalised by the court on costs even if he wins his case. [Dunnett v Railtrack plc 2002]

Who are Adrian Leopard & Co?

Who are Adrian Leopard & Company and why are we right for this solution?

Adrian Leopard, the principal of the firm, qualified as a chartered accountant in 1973 and has been operating in insolvency during all of his professional life. He is a Fellow