

Achieving fast, innovative and cost-effective dispute resolution for businesses

Amrik Kandola – Mediator

“ Given the personalities involved, it was hard work, but you kept the mediation process moving forward and we got the deal done – thank you. ”

Partner, Law firm

OVERVIEW

Amrik Kandola has 30 years of experience in commercial, construction and engineering dispute resolution. Working with clients ranging from SMEs to FTSE 100 companies, he has experience of scores of mediations across a wide range of commercial sectors. In private practice, he conducted cases in the Courts, in Arbitration and Adjudication. He was recognised year on year by Chambers and Legal 500 directories as a ‘Leading Lawyer’ for dispute resolution in the construction & engineering industry. He came out of private practice in October 2016 and Amrik now practises as a full-time commercial mediator. He mediates on a broad range of commercial and civil matters using his extensive commercial and construction disputes background to help parties reach commercial and pragmatic solutions. Amrik is down to earth, inquisitive, collaborative and proactive in style and he works hard to help the parties communicate, feel engaged and empowered to settle their dispute. He is also an assessor/trainer on the RICS Facilitative & Evaluation Mediation Certificate course.

STYLE AND APPROACH

Amrik has a proven ability to gain the confidence and trust of others. His down to earth and engaging approach allows him to develop rapport quickly and effectively.

Amrik is a highly effective listener. He aims to create an environment where the parties feel comfortable and willing to discuss and debate the issues of the case without being judgemental. If there are technical points, difficult issues or questions of law, Amrik is

objectively inquisitive in exploring these with the parties. Where emotional and inter-personal issues are part of the background to a dispute, Amrik is naturally sensitive and empathetic.

Amrik will keep the parties proactively engaged throughout the mediation. He will manage pace to suit the parties needs and concerns.

Overall, Amrik is an energetic, enthusiastic and collaborative mediator who will work tirelessly with the parties to help them unlock options to settle their dispute.

EXPERTISE

- Construction & Engineering
- Professional Negligence
- Energy & Natural Resources
- Property
- Manufacturing/Distribution
- Finance/IT/Data Protection

EXPERIENCE

Construction & Engineering

- New Care Home Development: acting as co-Mediator on a 3-party dispute relating to the development of new social care facilities under a framework contract between a local authority, the framework developer and building contractor. Significant delays and disruption arose during the programme for construction resulting in significant financial claims between the parties. Complex issues of law and contractual interpretation were in play and the parties were facing significant risks and costs if the matter had proceeded to a full arbitration hearing.
- Distribution Warehouse: claim relating to the concrete floor installed at a large distribution warehouse. The key issue related to the way the concrete was poured in sections in combination with the installation of reinforced steel bars causing air pockets to be formed. Post completion, the floor began to deteriorate rapidly under use. Claims arose for defects in the design and/or construction of the floor slab. Substantial remedial works had to be undertaken causing significant loss of use of the warehouse and consequential loss and expense to the warehouse operator in excess of £5m.
- Commercial Roofing Dispute: acting as the Mediator in connection with a large new build property. The principal issues in dispute were the quality of roofing works carried out by the contractor and the extent to which the works required remedial action and payment claims from the contractor.
- London Hotel Development: The redevelopment of a landmark building in central London into a hotel. Various claims including delay and disruption in completion, the imposition of liquidated damages for delay, the performance of the specialist M&E for hot water heating and maintaining levels of ambient temperature and defects correction. The project was backed by complex funding arrangements which also led to warranty claims under the funding agreements (£10m+).
- New University Campus: acting on a series of claims and disputes for defects, delays and disruption for the construction of a new city centre university campus. These works were time critical to meet the new academic year. The resulting financial claims ran into several £millions.
- Transport Project: acting as the Mediator in a civil engineering project for a new bypass. Disputes arose relating to the classification of waste material excavated and its subsequent disposal off-site. The resulting payments disputes were valued at circa £300k.
- Mixed Use Development; acting for the developer on a landmark redevelopment of a former industrial building into a mixed use (offices, retail, leisure and residential) development. Claims in relation to the design, construction and post completion maintenance of the development arose over several years. Claims related to the

performance of the design team and contractors at various points over the life of the project giving rise to numerous adjudications, mediations and complex negotiations throughout (£10m+).

Professional Negligence

- Mediating a claim against an architect alleging negligent advice in the selection, appointment, and subsequent project management of a building contractor for the design and construction of a new build residential property.
- Mediating a claim for alleged negligence in the provision of legal advice leading to non-payment of fees and associated cross claims.
- A claim against a solicitor for failing to advise on the terms of enforceability of a clause for Liquidated Damages to be recoverable in the event of delay to a building project. In particular, the need for the damages specified to be a genuine pre-estimate of loss and the adequacy of steps taken with the client to determine this.
- A claim against a civil engineer for the negligent design of foundations and failure to provide for measures to prevent risk of foundation movement.
- A claim against a civil engineer for the negligent design of foundations and failing to take account of the effect of removal of tress on the performance of the foundations.
- A claim against an architect for the negligent design of a hotel and failure to achieve a 4-star accreditation.
- A claim against a quantity surveyor for failing to properly project the costs of a development and over valuation of interim.

Energy & Natural Resources

- Combined Cycle Power Plant (CCHG): £multi-million claims relating to the construction of a new power plant and delay/disruption claims and the imposition of very substantial liquidated damages. (£20m+).
- Power Plant: the installation of several HRSG stacks required hundreds of metres of lagged pipework to be installed to an agreed specification. (£multi-millions)
- Energy Terminal: a complex and high value dispute relating to the installation of new infrastructure to transfer excess heat from an adjacent power plant to a neighbouring LNG facility.
- Wind Turbine (on shore): claim for payment of fees for the design and development of several wind turbines across various sites. Disputes as to the calculation of fees related to the future development/disposal value of the turbine assets.
- Wind Turbines: defect claims including failure to achieve specified performance standards and quality defects in the construction/installation of turbines.
- Biomass Project: advising on a dispute in relate to a waste to energy plant. Claims

related to the design and construction of the facility (delay and disruption) and its ability to achieve the performance standards specified in the contract documents.

- High Pressure Gas Pipeline Works: a very high value claim related to the design, construction and commissioning of a 75-mile high pressure gas pipeline traversing varied terrain including rivers, bridges, roads and miles of rural landscape.
- Gas Pipeline fracture claim: this claim arose from a high-pressure pipeline which failed under commissioning testing.
- Sewer Requisitioning: acting in claim relating to the request from a developer to a water utility to provide connection services for new sewers for a housing development. Disputes arose as to how the costs for providing the works should be calculated and where the connections points should be.
- Water Infrastructure: acting in various claims for the design, construction and commissioning of infrastructure works for the water network including e.g. sewage treatment works, pumping stations and water pipelines.
- Water Pollution: compensation claims arising from illegal discharge into a water resource.

Property

- Agency Fee Dispute: acting as the Mediator on a dispute relating to agency fees for work carried out by a commercial agent to locate and negotiate terms for new office space for a commercial entity.
- Rent Arrears Dispute: acting as Mediator on a claim by a Landlord for rent arrears on a commercial property and financial claims arising out of forfeiture proceedings
- Defective Premises: acting as the Mediator on a claim for defective flooring installed by a building contractor in a residential property extension project.
- Basement Extension Project: acting as Mediator on a claim for defective works, incomplete works and delays to a project to build a basement extension to a large property in a city location.
- Extension and Landscaping Project: acting as the Mediator on a dispute relating to defective and incomplete buildings works and external landscaping works
- Renovation Project: acting as the Mediator in relation to a complete residential renovation project which included the construction of a new garden roofed garage and associated external works. The extent to which the works met planning requirements and the need for revised planning consent to be obtained were key issues in the case as well as the financial disputes caused by quality issues generally and delays to the works
- Subsidence (vertical): at a large residential development site foundation movement caused above ground cracking to houses. The movement was caused by rehydration

of highly shrinkable clay soil following site clearance works which also included the removal of dense pockets of high-water demand trees and large shrubs. The matter required an analysis of the extent of compliance with NHBC standards and the extent to which the developer, contractor and design team had discharged their respective contractual obligations. In addition, several claims arose from the homeowners affected.

- Asbestos/Defects: redevelopment of an old hospital site and claims relating to large amounts of asbestos encountered during the investigation works and subsequent defects in the refurbishment. Liability for the asbestos hinged on whether the asbestos ought to have been anticipated and costed for from the site information which was available pre-contract.
- High Rise Residential: acting on claims related to the conversion of two high rise buildings into housing stock. Acting on claims in relation to water ingress, ongoing maintenance liability and defects correction liability.

Manufacturing/Distribution

- Manufacturing Machinery/Production Line: acting as Mediator on a claim relating to a newly supplied and installed manufacturing production line. The contract required the production line to complete a manufacturing process within a certain timescale to achieve a specific set of quality and production capacity KPIs. A dispute arose as to the extent to which these KPIs could be met and the costs of carrying out remedial work to achieve compliance (£3m+).
- Product Supply Agreement: acting as the Mediator on a dispute concerning an agreement for the supply of specialist products and the extent to which minimum purchase thresholds had been achieved over the term of the agreement.
- Distribution Warehouse: a claim arose at a new £multi-million site in which complex IT systems and software were designed and installed for automated picking processes. The software did not achieve the accuracy and speeds stipulated in the performance standards under the contract leading to substantial cost overruns and compensation claims.

Finance/IT/Data Protection

- Personal Guarantee: a claim for enforcement against multiple co-guarantors after failure to obtain refinancing. Issues arose as to the terms of the guarantee and the extent to which the bank had conducted enough due diligence on the personal circumstances of the guarantors.
- Performance Bond: claim to enforce the terms of a performance bond following the insolvency of main contractor and significant works remaining outstanding.
- Financial Services outsourcing: acting as the Mediator on a dispute in respect of

outsourced financial management services including billing, timesheet and credit control functions and the extent to which the parties met their respective obligations and liability for errors and service failures.

- Breach of Privacy: Mediator on a claim brought by a party against a public entity for unauthorised disclosure of confidential data and consequential claim for damages and restitution.

PROFESSIONAL QUALIFICATIONS

- LLB Law
- LLM European & International Trade Law

CAREER HISTORY

- 1991 - 1993 Evershed, Wells & Hind, trainee.
- 1993 - 2002 Eversheds, solicitor/associate.
- 2002 - 2016 Eversheds, Partner (inc Board Member (2011-14), Head of Construction & Engineering (Mids & Wales), Head of Energy Infrastructure Sector Group, Head of Water Sector Group, Graduate Recruitment Partner).
- 2003 - 2012, Governor, Sixth Form College, Solihull.

ACCREDITATION

- CEDR 2000.
- RICS (Facilitative and Evaluative Mediation) 2019.

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