

# Contract Mediation Process



This How to guide on a Contract Mediation Process has been shared by Louise Chase (MCIPS) Head of Procurement at Consortium Procurement (CP).



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## **Contract Mediation Process**

In the following examples Louise Chase (MCIPS) shares the Contract Mediation Process undertaken by Consortium Procurement (part of the Northern Housing Consortium) and the models used in the process to help CIPS members in their organisations.

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The Contracting Authority should manage their contract day to day – attempting to resolve any issues themselves.

If the issue(s) cannot be resolved and all attempts have been made to do this, the Contracting Authority can contact a mediator like CP to escalate.

CP will support with:

1. Reviewing evidence of all attempts to resolve problems as this process should be clearly documented e.g. meeting notes, emails etc.
2. Review contractual obligations – seeking legal advice if necessary.
3. Understanding the desired outcomes of both the Contracting Authority and Supplier e.g. terminate, compromise or amend the contract (in line with PCR2015).
4. Setting the agenda for and facilitating a face to face (or conference call, depending on the situation) mediation meeting to review issues, agree resolution and monitoring timetable. (It is advisable that the Head of Procurement assesses the situation prior to the meeting).
5. Continuing to mediate via email or conference call to review updates of progress as per agreed timescale and outcomes.

If all attempts to resolve the issue(s) are unsuccessful then the contract termination process (using standard template) may need to be undertaken by CP.

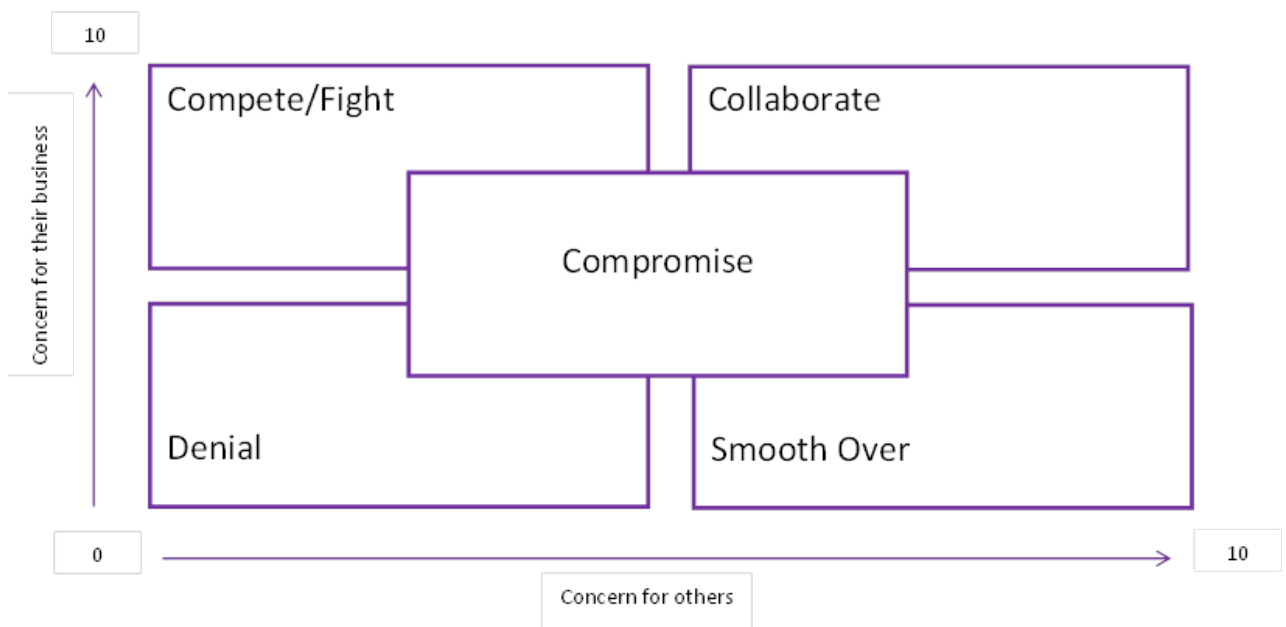
It is advisable to record all interactions centrally – this will help in a contract variation or termination situation. It will also help with lessons learned for future contracts.

Unfortunately due to the nature of dispute situations, there is a conflict between the Contracting Authority and the Supplier, which can often include tension between the two. The most desirable position in a dispute resolution will always be to find a collaborative approach (compromise) that each individual involved feels comfortable with. Main concerns to consider should be (in no particular order):

1. Ensuring the contract is compliant, whether this continues or terminates.
2. That the experience of a poor performing Supplier (or Contracting Authority in the Supplier's case) avoids adversely impacting future opportunities/contracts.
3. That any significant threats to services, surplus or reputation are mitigated.

A helpful way to understand the views of others in a conflict situation is to think about their current state. For example, a Contracting Authority may be under pressure to terminate a contract with a poorly performing supplier from their CEO, especially if the service is critical. The Contracting Authority may wish to terminate but have not allowed the Supplier a reasonable time to improve the situation.

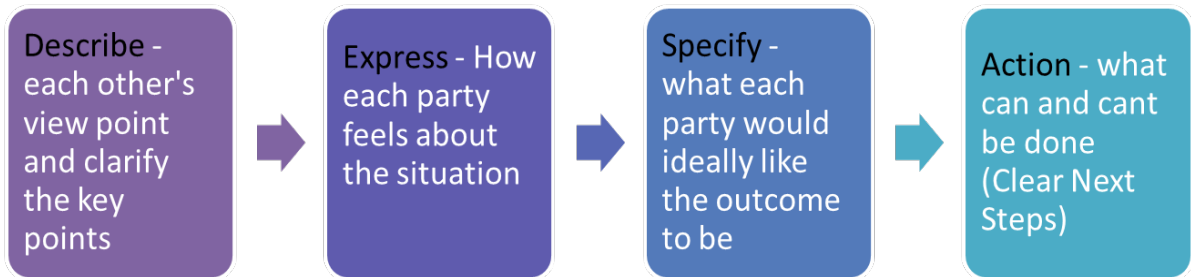
We can use the below to help us identify an individual's motivations/state in a conflict situation.



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## Stages of Discussion during a Conflict Situation



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## Typical Mediation Process

In addition to the above, the format for a mediation meeting is important and can be as follows (please note - not all situations may require this full process).

Resolution requires:

1. A willingness to resolve the situation.
2. Planning of activities and specifying ownership.
3. Checking any agreed actions have been completed.



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**CIPS Group** Easton House, Easton on the Hill, Stamford, Lincolnshire, PE9 3NZ, United Kingdom  
T +44 (0)1780 756777 F +44 (0)1780 751610 E [info@cips.org](mailto:info@cips.org)

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**CIPS Africa** Ground Floor, Building B, 48 Sovereign Drive, Route 21 Corporate Park, Irene X30, Centurion, Pretoria, South Africa  
T +27 (0)12 345 6177 F +27 (0)12 345 3309 E [infosasa@cips.org.za](mailto:infosasa@cips.org.za)

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**CIPS Australasia** Level 8, 520 Collins Street, Melbourne, Victoria 3000, Australia  
T 1300 765 142/+61 (0)3 9629 6000 F 1300 765 143/+61 (0)3 9620 5488 E [info@cipsa.com.au](mailto:info@cipsa.com.au)

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**CIPS Middle East & North Africa** Office 1703, The Fairmont Hotel, Sheikh Zayed Road, PO Box 49042, Dubai, United Arab Emirates  
T +971 (0)4 327 7348 F +971 (0)4 332 5541 E [mena.enquiries@cips.org](mailto:mena.enquiries@cips.org)

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