



CEDR Accreditation: 1996
CEDR Panel Admission: 1998
CEDR Chambers: 2012

Languages: English
Location: United Kingdom

Graham Massie

"...approachable and down to earth and inspired confidence on all levels."

Client Feedback

Overview

Graham Massie is a qualified accountant and CEDR Director. He is one of the most experienced accountant mediators in Europe, with expertise across a broad range of sectors and dispute types. Graham is particularly well suited to the mediation of complex commercial disputes or where the parties consider his professional accountancy background as being of value to the process.

In addition to his work as a mediator Graham is regularly approached by businesses and public sector organisations to act as an independent chair for strategic discussions and deal-making negotiations.

Professional Background

Graham has worked with CEDR since 1996 and is currently a CEDR Director responsible for global operations and CEDR's international and corporate consultancy services as a member of CEDR's mediation and conflict management training Faculty. Before joining CEDR Graham was a Chartered Accountant with KPMG working in London and the United States.

Expertise

- Banking & Finance
- Charities
- Commercial Contracts
- Deal Mediation
- Education
- Employment & Workplace
- Intellectual Property
- NHS & Healthcare
- Partnership & Shareholder
- Property
- Public Sector
- Sale of Goods & Services
- Tax
- Transportation
- Trusts, Wills & Probate
- Utilities

Dispute Experience

Banking & Finance

- Dispute arising out of the collapse of a holiday tour company and airline. Investors claimed £3 million for alleged misrepresentation that induced them to invest less than a year earlier.
- Dispute between a private moneylender and an individual regarding validity of a personal guarantee of a loan to a family member.
- Dispute between accounting firm and client regarding payment of corporate finance advisory fees under a contingency fee arrangement.
- Dispute between liquidator and former director/shareholder regarding settlement of loan account balance.
- Dispute between accounting firm and retiring partner about alleged breach of covenant.

Charities: £200,000 contract dispute between an educational charity and a funding institution regarding the level of payment for training courses delivered.

Commercial Contracts

- Dispute between two manufacturing companies regarding alleged breach of contract to sell used machinery, leading to £200,000 loss of profits claim.
- £100,000 compensation claim arising from purported termination of a fixed term contract to provide grass cutting and waste disposal services.
- Dispute between an individual farmer and a buying co-operative regarding farmer's liability for equipment hire charges incurred by a sub-contractor allegedly operating with his authority.
- Franchising dispute arising from compensation claim for alleged early termination.
- Dispute over payment of accountant's fees for tax advisory services.
- **Competition:** €20 million+ dispute between two major multinationals regarding the level of compensation payable following an EU anti-competition ruling. Both parties specifically appointed a chartered accountant mediator who could analyse and relay the implications of sensitive commercial data between the parties without disclosing the underlying confidential detail.

Deal Mediation

Graham conducted a three-month project during which he chaired the negotiations between British Sugar plc and the National Farmers Union regarding the commercial arrangements of the UK's sugar beet industry (worth some £250 million pa) over a four year period leading up to the next anticipated EU review of the industry.

The success of this assignment might be gauged from the recent farming media coverage of the resultant settlement. This characterises the position prior to Graham's involvement as "sugar negotiations in disarray", "calls for solidarity ahead of sugar price meeting" and "sugar beet price negotiations remain in deadlock". However, following Graham's appointment in early November 2009, the resultant news coverage in February 2010 reports: "the annual squabbling match between British Sugar and the NFU over sugar beet prices could be a thing of the past".

Graham is currently working with a number of primary care and foundation trusts in the NHS to facilitate the negotiations of their future contracts for the commissioning of acute hospital services. Technically complex, and usually involving large teams of specialist managers and clinicians, these negotiations often involve the interaction of many dozens of individual performance standards, the outcome of which can often have critical implications for the financial position of the trusts involved.

Other Deal Making Assignments

- Family dispute about re-payment of a loan to a business.
- Government-sponsored negotiations between UK dairy farmers and processors regarding the adoption of a voluntary code of practice for the UK milk sector.
- Nominated to act as mediator for any disputes that arise between a major UK Airport Operator and the tenant airlines during contract negotiations.

Education: Professional negligence claim against auditors of further education college.

Employment & Workplace

- Dispute between company and a former director regarding entitlement to recovery of deferred salary. Counterclaim from company in relation to the discharge of the director's guarantee of a £100,000 overdraft facility.
- £1 million workplace stress related claim involving a senior executive in a major international consulting firm.
- \$500,000 claim for commission entitlements by a senior executive formerly employed as a currency and bullion trader.
- Employment dispute arising from complaints about management style of a senior clergyman.

Intellectual Property: Dispute over trademark usage between two co-existing users of a similar business name when one moved into other's area of activities.

NHS & Healthcare

Graham advised the Department of Health on the drafting of the dispute resolution provisions included in the standard NHS contracts since 2007 and is regularly consulted by both commissioners and providers about the application of the contractual mediation and adjudication procedures.

- Mediated numerous disputes between primary care trusts and foundation trusts regarding financial reconciliations and payments for healthcare services provided.
- Facilitated negotiations on the formulation of contract conditions and other operating arrangements for future contracts for acute hospital services.
- Contractual dispute between a Primary Care Trust and a company running a number of GP surgeries.
- Dispute between the Department of Health and specialist main contractors and sub-contractors over the provision of a fleet of specialist emergency vehicles.
- Dispute between local authority and a private contractor regarding payments for social care services to elderly residents.
- Dispute between an NHS clinical commissioning group and a private sector provider regarding a contract for the provision of healthcare services.

- Negotiation between NHS Clinical Commissioning Group and a Foundation Trust about their future contract for Adult Mental Health Services.
- Negotiation between NHS Clinical Commissioning Group and a large hospital about their future contractual arrangements.

Partnership & Shareholder

- Dispute about valuation of shareholding in a leisure services company following a successful claim about unfair prejudice of minority interests.
- Dispute between solicitors about financial settlement following dissolution of partnership.
- Dispute between shareholder-directors regarding wind-up of a property development company.
- £1 million dispute between two brothers about the future strategy and operation of a waste transfer station business, which they had inherited from their father.
- £750,000 business valuation dispute between founder shareholders of a specialist property finance brokerage following their decision to part company.
- £500,000 dispute between company and two former shareholder-directors regarding enforcement of non-compete covenants following termination of employment and shareholder agreements. Also intellectual property issues regarding alleged "passing off" by the directors' new venture.
- £500,000 business valuation dispute between co-founding directors of a TV production company specialising in children's entertainment.
- Shareholder dispute between two doctors about the procedure and division of £300,000 assets of a medical research company following an agreement to cease trading.
- Dispute between partners about division of £400,000 of property assets following break up of property management/rental agency business.
- Dispute between young couple over division of equity in their house following break up of their relationship.
- £1.5 million arising from a claim by the separated wife of the majority shareholder of a family-owned food retail and wholesale business.
- Former partner's claim for entitlement to additional pension funds following an alleged accounting error in a previous settlement.

- Dispute related to the affairs of a two-man partnership of architects, which terminated on the death of one of the partners.
- Dispute between a law firm and a former partner regarding settlement of his capital and current account balances.
- Dispute between former director and new investor regarding share sale and individual redundancy arrangement.
- Shareholder dispute about multinational joint venture in the retail sector.
- Dispute between shareholder-directors regarding wind-up of a property development company.

Property

- £600,000 dispute between a group of tenants and a housing association regarding their individual complaints concerning maintenance of building and various right-to-buy issues.
- Dispute between housing association tenants occupying different floors of a converted house – essentially a noise issue arising from different lifestyles.
- Indemnification claim by property owner against its maintenance company following pay out of compensation for a workplace injury attributable to inadequate maintenance.
- Court of Appeal case arising from dispute about production of service charge accounts by freeholder of a large block of flats.

Public Sector

- Dispute between local education authority and an academy about the placement of a teenager with special educational needs.
- Claim by former prisoner following failure to diagnose serious medical condition.
- Dispute about scope of injunctions obtained by US arms manufacturer to limit activities of large group of anti-war protestors.

Sale of Goods & Services

- Facilitation of negotiations between NHS commissioning body and private sector contractor about terms of ongoing service contract.

- Negotiation between NHS Clinical Commissioning Group and a large hospital about their future contractual arrangements.
- Negotiation between NHS Clinical Commissioning Group and a Foundation Trust about their future contract for Adult Mental Health Services.
- Dispute between energy supplier and operators of large hotel regarding liability and level of charges for past supplies.
- Dispute between NHS England commissioners and Foundation Trust about future arrangements for funding specialist hospital services contract.
- Dispute between NHS Clinical Commissioning Groups and Foundation Trust about future arrangements for funding acute hospital services contract.

Tax: Disputed claim for £100,000 under a tax warranty given in connection with the sale of a hotel. Complex accounting and capital gains tax issues involved.

Transportation: £1 million warranty claim in relation to repairs to power units for high-speed trains.

Trusts, Wills & Probate

- Inheritance matter relating to division of disputed agricultural tenancy rights worth £500,000 between different branches of a family.
- Acrimonious probate dispute arising from differing interpretations of a DIY will.

Utilities: £500,000 dispute between operator of a power station and a customer regarding the correct basis of charging for the supply of electricity.

Other ADR Experience

Having been a member of CEDR's mediator skills training faculty for a number of years, Graham is now also leading our conflict management initiative, helping clients build corporate capability in conflict management, enabling them to self-sufficiently manage their conflict situations and cut the cost of conflict. He is also a faculty member on CEDR's new Certificate in Advanced Negotiation programme.

As former Chief Operating Officer of CEDR (2000-07), Graham is one of the world's foremost experts on the establishment, marketing and operation of ADR centres. In 2008, he advised the Indian Government on the future business strategy of its International Centre for Alternative Dispute Resolution. In 2009, he advised the International Finance Corporation, the private sector arm of The World Bank, on the establishment of an international ADR centre in Bangladesh. He is currently working with the new Civil and Commercial Court of the Qatar Financial Centre on the development of its ADR offer.

He has extensive experience of a wide range of multinational consultancy and has worked internationally on such projects in Bosnia & Herzegovina, Canada, Denmark, Egypt, Finland, France, Germany, India, Kyrgyzstan, Netherlands, Nigeria, Poland, Qatar, Russia, Sweden, Turkey, Ukraine & USA.

Within the UK, he was consultant to the Home Office on the development and operation of the Compact Mediation Scheme for dealing with disputes between government and the voluntary/community sector; consultant to the Department for Education and Skills on the development and operation of a mediation scheme to deal with disputes regarding the admission of children with special educational needs to the new Academies; and recently advised the Department for Transport on the development of its negotiation approaches within its procurement function.

He also acts as an adjudicator for the Independent Complaints Adjudication Service for OFSTED.

Personal Style

Highly numerate, Graham knows how – and when – to get into the details. Equally importantly, he has the experience to help parties focus on the big picture, particularly in those situations where negotiations might otherwise get bogged down in unnecessary detail.

Graham takes a “no nonsense” direct approach with parties, helping them to consider risks and reach workable solutions. At the same time, however, feedback from parties and lawyer representatives frequently comments on his approachable and relaxed style.

Feedback

- *"Very very satisfied. He was excellent actually. At times things strayed but he managed to keep the focus and helped us realise what we would lose if we walked away."*
- *He had a great personality – very calming. Absolutely, I would use him again. Very much so."*
- *"I thought he was very good. He was exactly what I was looking for."*
- *"...he was approachable and down to earth and inspired confidence on all levels. I would certainly come back and I would certainly use him again."*
- *"His accounting background was what we needed and suited the situation."*
- *"My client was most impressed with your patience and guidance in resolving the matter."*
- *"What we really valued was your work in the late bargaining end game – we'd got to a similar stage in previous negotiations but things had then always broken down – this time your involvement made the difference. Without you, it wouldn't have happened."*
- *"He got us through some really sticky moments. If we ever encounter a similar situation in the future we would not hesitate to bat it his way."*
- *"It was a very complicated, lengthy mediation and he managed to get parties to agree which was a huge achievement. Highly competent."*
- *"Had the right expertise and was really good dealing with the parties."*
- *"Took the time to confirm key points with both parties and seek further clarification when required."*

Professional Skills

After qualifying as a Chartered Accountant with a medium-sized city firm, Graham spent ten years with KPMG London where, as Senior Manager, he ran a professional services department of approximately 40 staff responsible for a broad cross-section of clients ranging from major PLCs to small owner-managed businesses.

During this period he also spent two years in the USA, initially as a manager in KPMG's Chicago office and thereafter as seconded finance director to a computer leasing industry client, based in New Jersey.

Upon leaving KPMG, Graham established his own business consultancy and audit practice specialising in helping owner-managed businesses find creative solutions to one-off problems (including systems development, corporate mergers and acquisitions, strategy and planning, and litigation support). During this period, he also worked as an investigating accountant for the Accountants' Joint Disciplinary Scheme, investigating the conduct of individual accountants and firms involved in corporate collapses of major public interest (including Polly Peck and Barings Bank).

In his early years with CEDR, Graham served initially as Finance Director and later as Chief Operating Officer, but he now focuses the vast majority of his time on client services. Graham is also a Board member of the International Dispute Resolution Centre and The Negotiation Competition.

Publications

- The Civil Justice Audit, 2000 (project manager and reviewing editor).
- The Mediator Audits, 2003, 2005, 2007 and 2010, a regular survey of the UK commercial mediation profession.
- The EU Mediation Atlas (co-editor), published by LexisNexis, 2005 - a survey of practice and regulation in each member state within the EU.
- CEDR's "Cutting the Cost of Conflict" surveys, 2006 – 2008 looking at the cost of conflict to British business and attitudes thereto.
- Chapters on conflict management in *Managing Business Risk*, a practical guide to protecting your business, published by Kogan Page (2007, 2008, 2010).