



Brexit and Settlement Negotiations

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It remains to be seen how, following the UK general election, the UK's Brexit negotiations with the EU will unfold over the next couple of years. However, if the initial exchanges are anything to go by, it will be a bumpy ride! Obviously, the complexity and wider implications of Brexit far exceed even the most high value employment dispute, but (whatever your view on the approach taken by Theresa May and Jean-Claude Juncker so far or the potential way a new UK Prime Minister might approach the negotiations) there are parallels to be drawn between the Brexit process and settling employment disputes in terms of how to approach difficult negotiations.

- 1. Agreement requires compromise.** Deals only get done if both sides are prepared to move from what they ideally want. Simply demanding what you want or creating too many 'red line' issues will limit the prospects of reaching agreement. Unless each side feels that they have 'won' something from the negotiations, a deal will not be achieved.
- 2. Understand who has the bargaining power.** If you are in a much stronger financial position and/or will be less affected by ongoing litigation (even if it ultimately ends in defeat), use your position to pressurise your opponent to accept less than they want. Equally, if you are in the weaker position, recognise this and don't get too hung upon the merits of your position.
- 3. Don't overplay your hand.** If you are likely to lose or you are weak in certain areas, unless you have dominant bargaining power (see 2 above) it is generally best to recognise this and settle early/concede some points. The longer a dispute goes on, parties become more entrenched, more time and money is wasted and it can be harder to reach agreement. Of course, you must present your position as forcefully as possible whilst negotiating, but your position must remain credible.