

# Decision Trees

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**The prospect of litigation is daunting for clients, with a multitude of decisions to be taken and the risk of unexpected costs.**

At DWF, we use Decision Trees to provide our clients with clear and concise advice on the options, costs and outcomes of disputes. Our aim is help clients make tough decisions and introduce certainty, during uncertain times.

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## Why do you need a decision tree?

- To advise the client's Board of Directors on options, costs and outcomes of litigation
- To persuade a mediator and opponent of the rational of your position
- To set realistic financial expectations for settlement negotiations
- To provide an audit trail for an agreed settlement figure
- To act as a route map, helping those new to litigation to understand the hurdles and timelines involved

## Our team

DWF Forensic is a team of qualified forensic accountants and investigators, with 'Big Four' accounting expertise and decades of relevant experience. Over the years, we have assisted clients with the quantification or challenge of losses arising from litigation related to breach of contract; defamation; breach of warranty; copyright infringement and insurance related claims.

We work alongside our lawyers, providing a truly multi-disciplinary and privilege-protected service.

## How does a decision tree work?

At DWF, we use decision trees to provide a diagrammatical representation of the financial outcomes of various options available in a dispute scenario. They are a powerful tool that we use to help our clients make difficult choices in litigation.

Working collaboratively with all key stakeholders, which often includes several members of our client's management team, counsel and the legal team, we create decision trees that capture the likely costs and probable outcomes of various legal strategies, on a single page. By calculating the weighted average expected outcomes, our clients are able make risk based decisions in support of their objectives.

Decision trees are invaluable at any stage of a dispute and in particular to help with strategy and planning at the start of a case or before and during mediations and settlement negotiations.

The decision tree example on the following page was produced for a client facing a contractual dispute with its supplier. It summarises our advice on the strategic options available and the associated financial outcomes.

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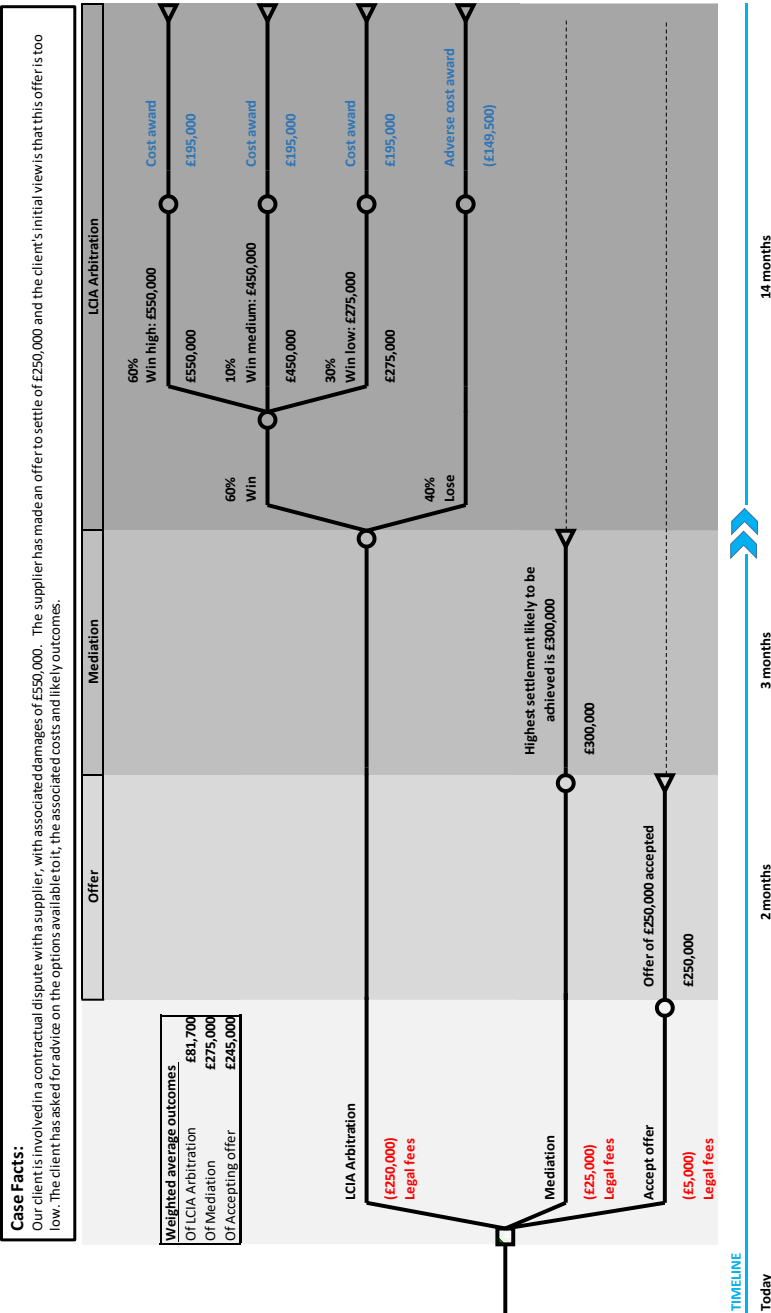
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# Potential LCIA Arbitration - dispute with supplier

## Decision Tree



**Assumptions:**  
1. The weighted average is the "expected value" of each option. This can be used to compare and evaluate alternatives. The option with the highest expected value is the most favourable.  
2. We have assumed that the successful party at Arbitration will recover 65% of its legal costs.

**Analysis and Conclusion:**  
The legal team assessed the likely costs and outcomes based upon their current knowledge of the case and evidence disclosed so far. The decision tree demonstrates that the highest weighted average expected outcome is achieved by rejecting the offer and proceeding to mediation, where the team believe a better settlement can be achieved. Therefore, from a purely financial perspective we would advise our client to reject the offer and seek to mediate. In the box to the right, we set out other commercial considerations that the client may wish to review before taking a decision.

**Other commercial considerations:**  
There may be other factors to consider (positive or negative) with the strategic options set out above, including:  
**Issues with accepting the offer/mediation**  
 - Accepting early settlement could set a precedent of being a "soft touch"  
 - Mediation process means having to reveal the Claimant's position  
 - Accepting the offer will resolve the matter immediately, save management time and might preserve the sub-contractor relationship  
**Issues with proceeding to arbitration:**  
 - Significant diversion of management time versus settlement  
 - Irrevocable damage to existing subcontractor relationships  
 - Litigation risk associated with arbitration outcomes  
 - Claimant staff might be required to attend hearings  
 - Potential for a Pyrrhic victory