

What Do You Need to Know Before You Decide to Pursue Litigation?

If you're considering going down the path of litigation, you will need to make sure you have carefully weighed up all aspects of the situation. Though there can obviously be significant benefits should the matter be decided in your favour, the outcome is never guaranteed.

The process of taking legal action against an individual, group of individuals or an organisation can be long and draining. By signing up to do so, you could be committing months – if not years – of your life to the matter. Everyone is different, and only you can decide whether the possibility of success is worth what it might take to get there.

If you decide to go ahead, we will, of course, be right by your side throughout the process. However, we believe it's vital to be fully aware of all the possible risks and downsides before you make your decision.

Litigation is expensive

The cost of bringing a litigious matter can add up very quickly. It can also be very difficult to predict. Though we will keep you up to date with costs at relevant junctures of your matter, it's not possible for us to say from the outset what the likely cost of taking legal action will be overall.

Should you win your matter, the court could rule that a proportion of your legal costs be covered by the other party. However, it's equally likely that you could be ordered to cover the cost of the other party's legal fees as well as your own. This could leave you facing extremely high legal costs.

Even if you do win your case, you could still be left facing significant costs. This could be because:

1. The judge does not order the other party to cover your legal costs.
2. The other party might only cover 60-75% of your legal costs.
3. Your legal costs might outstrip any settlement you were awarded.
4. You are awarded a smaller settlement than you hoped for.
5. Your settlement might be granted with caveats (for example, in a matter relating to an inheritance claim, you might be awarded ownership of a property from an estate subject to a life interest clause, which would mean you could not benefit from the full use of that property until the death of another individual).

Litigation takes a long time

Just as we cannot predict the cost of litigation, we also can't tell you how long it will take. If a matter goes to court, it could be up to a year or longer before you can hope for any sort of resolution.

Even when we do our part to ensure all deadlines are met and everything is completed and filed promptly, there may still be significant delays. The time scales here are often reliant on third parties, such as the solicitors of other parties and the court itself. Extra time can also be required in order to gather relevant documents such as medical records, Will files and witness statements.

Litigation is stressful

Legal action can be hugely emotionally draining, and the personal cost of this should not be underestimated. Living with this level of tension and uncertainty for months or years at a time can be incredibly difficult. You will need to think carefully about whether you are willing and able to commit to this, and whether any possible gains would really be worth the stress.

It can also have a huge and potentially irreversible impact on relationships. Many of the litigious matters that we deal with are as a result of disagreements about wills or probate. Issues such as these between members of an extended family can be incredibly difficult to resolve on a personal level once the courts have been involved.

Litigation can be invasive

Unfortunately, none of us have control over what might be brought to the attention of the court by other parties. This means that you will need to consider any correspondence or words that were exchanged with other parties before litigation, and what impact they might have should they be brought before the court.

All parties involved in the litigation process will need to adhere to the Civil Procedure Rules, as well as strict conduct guidelines. If you do not follow these rules, this could have an impact on the success of your matter and associated costs.

Litigation is risky

Ultimately, one of the major downsides of pursuing litigation is that doing so could leave you in a worse position than you started.

Our job as your solicitors is to do everything we can to prepare your case. As part of this, we will always be open and honest with you about what we believe your chances of success to be. However, though we do our best to equip ourselves for all possible eventualities, there may well be developments no one could have seen coming.

There is no way around this: you will simply have to decide whether or not you are prepared to take on this level of risk.

If you do decide to go ahead with litigation...

You'll need to be prepared to:

1. Be fully transparent with us and ensure we are fully briefed on your matter.
2. Respond to requests promptly.
3. Be open to advice you might not want to hear.
4. Accept that sometimes there will be bad news.

How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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