

## The Risks of Direct Communication with Opposing Solicitors

We know how long, expensive and frustrating dispute cases can be. If you're currently dealing with a matter like this, you may be tempted to try and speed things up and cut costs by communicating directly with the solicitors acting for the opposing party.

Unfortunately, doing this can be very risky. Not only could it put the success of your case on the line, it could also contravene your agreement with your solicitor.

Because of this, we strongly advise against direct communications with the legal team of the opposing party without prior consultation with us.

### What is the legal position here?

If you are considering cutting your solicitor out of any communications – whether in an attempt to keep costs down or for any other reason – you should always be honest with them about these plans. Not doing so would contravene your legal obligations as a client under the Legal Services Act 2007, and could lead to your professional relationship being renegotiated or even terminated.

Your legal representatives are obligated to act in your best interests, but they can only do so if they are fully apprised of the situation. Any communications that have gone on with the opposing party without their knowledge could significantly affect their ability to do their job.

There may be situations where you believe that direct communication with the opposing party really is necessary. If this is the case, you will be legally obligated to inform your legal representatives about this ahead of time.

Your solicitor may advise you against doing this, or they may advise you on how best to approach the matter. Either way, if you choose to go ahead with this strategy, your solicitor will need to make certain that you have been apprised of all possible outcomes.

### What are the risks?

There are significant risks involved in communicating with the legal representatives of the opposing party without your solicitor's involvement.

The main concern is that of you inadvertently prejudicing your case by disclosing privileged information. The protection of certain information is a key part of maintaining a strong legal position, and disclosing something too early could weaken your chances of a favourable outcome.

When you communicate without the guidance of your solicitor, you also leave yourself open to misunderstanding legal principles or misinterpreting the applicability of laws. These misunderstandings can easily lead to you making decisions that are not in your best interest or do not align with the strategic direction of your case, no matter how well-intentioned you might've been.

Unfortunately, there is also a risk that the legal representatives of the opposing party might take advantage of your lack of legal knowledge. They might manipulate your inexperience in order to encourage you to share information you shouldn't, or to agree to something when you haven't been fully appraised of the legal implications of it.

At times like this, it might help to remember why you chose to appoint a solicitor in the first place. Not only will their expertise and experience be of great value to you, they also work to diffuse high emotions in complex situations. Engaging in communications yourself could do the opposite and inflame the situation even further. It could also potentially put you at risk of misconduct.

If an issue like one of the ones discussed above was to happen, you would almost certainly need your solicitor to step in to control the damage. This kind of legal intervention can be very time-consuming, and would likely end up being more expensive than it would have been to simply let your solicitor handle everything in the first place.

There is also a significant risk that any mistakes could permanently hamper your chances of achieving the outcome you're hoping for.

## What if you really need to keep costs down?

As shown above, cutting your solicitor out of communications can ultimately result in higher legal costs rather than lower ones. If you wish to work in this way despite this risk, you will need to discuss this with your solicitor.

Your legal representatives are committed to acting in your best interests and maintaining the integrity of your legal position. By choosing to communicate directly with representatives of the opposing party, you would be changing the dynamics of this professional relationship. With this in mind, your solicitor would likely need to reevaluate the nature of their agreement with you.

This may well involve terminating any existing full-service retainer agreement in order to shift to an agreement to provide legal advice on an issue-by-issue basis.

In practice, this would mean:

- Your solicitor would take on a legal advisory role rather than a comprehensive management role.
- They would no longer manage all aspects of the matter on your behalf.
- Their new role would incorporate advising you on legal risks and liabilities, and how you might be able to take steps to mitigate any risks yourself.

Though this form of legal support can sometimes result in lower fees, it's important to understand that it has a much more reduced scope than a traditional full-service retainer.

When legal advice is sought only when you perceive it as necessary rather than as part of a comprehensive strategy, it tends to only address immediate issues rather than considering the broader, long-term implications. This can result in a lack of overall coherence in your legal strategy, and might mean that aspects that turn out to be critical could be overlooked.

## Is this the right approach for you?

While it's understandable to consider possible cost-saving tactics, it's crucial to understand that cutting your solicitor out of communications can often result in the opposite.

Not only can unforeseen complications and subsequent corrective action result in greater expense, it can also increase the time it takes to handle a matter and significantly risk your chances of success.

Alternatively, comprehensive and continuous legal oversight offers a more strategic approach, can result in fewer unexpected costs and maximises the chance of a favourable outcome.

## 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.

Our reassuring legal experts specialise in:

- Wills
- Contentious probate and Will disputes
- Trusts and tax planning
- Estates and probate
- Powers of Attorney
- Court of Protection applications
- Missing persons law

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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