



# Your guide to legal disputes

And how to resolve them



**Welcome to this guide on legal disputes, produced by the Dispute Resolution team at Attwaters Solicitors. We are a respected regional law firm with offices across the South East of England.**

Legal disputes take a multitude of forms and can be complex to resolve. The respective parties can feel very strongly about their position and be unwilling to negotiate. When this happens, it can be very difficult to find a mutually acceptable solution without professional legal intervention.

This guide is designed to introduce those who are experiencing a legal dispute to some of the most common forms of dispute resolution, including informal negotiation, litigation (i.e., court proceedings) and alternative dispute resolution.

It does not, and is not intended to, constitute professional legal advice. If you are currently engaged in a legal dispute, we would strongly encourage you to instruct a lawyer for more tailored support.



## In this guide

- A quick introduction to legal disputes
- Resolving a dispute: your first steps
- Alternative dispute resolution
- Litigation
- Our top 10 tips for amicable dispute resolution.

# A quick introduction to legal disputes

In an ideal world, siblings would always agree on the terms of their parents' Wills. Neighbours would always be completely happy for you to build an extension. Landlords would always abide by their responsibilities and tenants would always pay their rent on the dot.

Unfortunately, we don't live in an ideal world and sometimes disputes are simply unavoidable.

In this section, we'll give a brief overview of the main types of disputes we deal with at Attwaters Solicitors and the forms they might take.

## Contentious probate

Also known as 'Will disputes', contentious probate cases revolve around a disagreement surrounding the terms of a Will. For example:

- Somebody believes that the deceased made the Will under duress or did not have the mental capacity to know what they were signing.
- Somebody claims they were left out of the Will unfairly or did not receive as much as they were entitled to.
- Somebody believes the Will has been forged.
- The Will's executor is not fulfilling their role or failing to administer the estate.

## Landlord and tenant disputes

The legislation governing relationships between landlords and tenants can be technical and confusing; it's therefore not surprising that disputes can arise. For example:

- A tenant believes that their landlord is evicting them unlawfully.
- A landlord believes that a tenant has damaged their property in breach of their tenancy agreement.
- A tenant believes their landlord is harassing them or entering their property illegally.
- Your tenant is not paying their rent.

## Settlement agreements

A settlement agreement is a legal agreement between you (an employee) and your employer to settle an employment dispute without going before an employment tribunal. We can help you find the best way forward, helping you resolve your claim fairly, with as minimal additional hostility as possible. For example:

- Reviewing your settlement agreement
- Providing specialist legal advice on the terms of your settlement agreement and supporting you in negotiations with your employer
- Offering further enforcement support should you experience any issues with receiving your payment.

## Professional negligence

A professional negligence claim may arise if somebody feels a service provider has fallen short of the standards expected of them. For example:

- You believe your financial adviser gave you poor advice that resulted in missed tax savings.
- A surveyor you instructed on your house purchase failed to notice a key structural issue with the property.
- A solicitor you instructed missed a key deadline when dealing with your case, resulting in a poorer than expected outcome.

## Property disputes

Property disputes often revolve around the ownership of a property or the right to access it. For example:

- Your neighbour believes that the boundary between your properties is wrong and that a part of your front garden is legally theirs.
- You have split up with your partner and they are claiming they own a larger percentage of your property than you believe is correct.
- People keep walking across your property because they believe there is a right of way that entitles them to do so.

## Debt recovery

If you are owed money by another individual or a business, or owe money to somebody else, you may need legal support. For example:

- You believe you were charged too much for goods or services and the seller is refusing to refund you.
- You lent money to a friend or relative and they are refusing to pay you back.
- You owe money but the amount you're being asked to pay is incorrect.
- Somebody mistakenly believes you owe them money.

# Resolving a dispute: your first steps



## 1. Negotiation

Whatever the topic of your dispute, your best bet (at least initially) is to try to negotiate with the opposing party.

Rather than going in all guns blazing, do some research on the topic of your dispute first. For example, if you are engaged in a boundary dispute with a neighbour, see if you can dig out any building plans or other documents from when you initially purchased your property that may show where the legal boundaries of your property lie. Or, if you believe your landlord is not fulfilling their responsibilities towards you, take a look at your lease agreement to see if you can find terms that back up your argument.

As the term negotiation suggests, you should enter into discussions with an open mind and be willing to listen to what the other party has to say. It may be that you can reach an acceptable compromise that enables you to resolve the dispute without having to resort to more formal legal methods.

At the first sign of acrimony, however, or if negotiations break down, it's vital to involve a legal professional as soon as possible.



## 2. Formal bodies

The next step in certain disputes may be to approach a public body or ombudsman whose job it is to investigate and resolve complaints.

For example, your local council may be able to help you with a noise dispute against your neighbour, or a planning dispute with somebody whose proposed extension will block light to your garden.

An independent ombudsman may also be able to resolve a dispute with or complaint against a business or organisation – for example, you can approach the Financial Ombudsman Service if you feel that you have received negligent advice from your financial adviser.

However, getting a resolution for your complaint from a public body can be a painfully slow process, which drags out the stress, expense and acrimony for all concerned. Whilst you may save money on solicitors fees, the likelihood is that you might end up losing money anyway – and sacrificing your emotional wellbeing – the longer your dispute rumbles on.



## 3. Instruct a solicitor

Depending on the situation and the stance of the other party, it is usually advisable to instruct a solicitor as soon as a dispute arises – especially if the other party shows signs of hostility or is unwilling to enter into a reasoned discussion.

If initial negotiations break down, taking early legal advice can help you avoid a stressful, protracted and hostile dispute and arrive at an arrangement that both parties can live with.

# Alternative dispute resolution (ADR)

With the English court systems under immense pressure due to spiralling backlogs and a host of other systemic issues, obtaining a resolution to disputes through litigation is becoming increasingly unattractive to many individuals.

Alternative dispute resolution (ADR) is an umbrella term referring to a range of dispute resolution methods that can help resolve disputes outside of the courts. We will provide an overview of some of the four main types of dispute resolution on this page

## Mediation

During the mediation process, the disputing parties enter into discussions facilitated by a specially trained mediator whose job it is to help you find the best solution to the problem.

A mediator cannot offer legal advice or make a decision as to the best solution for your circumstances. They may make suggestions or intervene if discussions become too hostile, but they are mainly there to empower the parties to reach their own decision as to what a mutually acceptable arrangement might look like.



## Negotiation

Negotiation is the simplest type of alternative dispute resolution, involving the two parties coming together to discuss their dispute (with or without the support of their solicitors) with a view to arriving at a mutually acceptable agreement.

Whilst negotiation can help keep things civil, it is not legally binding and there is no mediator or facilitator involved to help keep your discussions on track.



## Alternative dispute resolution

## Conciliation

Conciliation is a process similar to mediation, although it tends to be reserved for more specific legal disputes rather than general disagreements.

While a mediator is primarily there to facilitate discussions so the two sides can come up with a solution on their own, a conciliator will be more active in the conversation and make suggestions as to the solution they feel would be most appropriate in the circumstances.



## Arbitration

Arbitration is the process that is most similar to going to court. An independent arbitrator will act like a judge, listening arguments from both sides at a hearing before handing down their decision.

Whilst any outcomes arising from the other three ADR methods must be formalised through a legally binding agreement, the decision handed down by an arbitrator is binding straight away.



## How do I know which ADR method to choose?

Every dispute is different, meaning that the ADR approach that will be most appropriate for you will depend on the disagreement you are having. The best way to understand which method of ADR will be best for you is to consult with a solicitor with ADR experience, who will be able to assess your case and make an informed recommendation as to what might work for your particular dispute.

# Litigation

**Very few people actively want to take a matter to court, as it can be a lengthy, stressful and expensive process. However, if all attempts at alternative dispute resolution have broken down, there are times where litigation is simply unavoidable.**

The specifics of the litigation process will be completely on the topic of the dispute, but the litigation process will usually follow a series of general steps:

## 1. Pre-action protocols

You will usually have to comply with certain requirements before you can take a case to court. These are called 'pre-action protocols'. This usually involves sending a letter to the opposing party called a Letter Before Claim (LBC) setting out a summary of the facts, the nature of your claim and the compensation you are seeking. The opposing party will have a certain period during which to respond before you can proceed to court.

## 2. Issuing a claim

You will have to file a claim form with the county court or High Court (depending on the dispute) and serve it on the opposing party. Again, the opposing party will be given the opportunity to respond. They may move to dismiss the claim or they may mount a defence for the claim.

You will have to pay a fee to issue a claim, which will vary according to the topic of the dispute and the monetary compensation you are seeking.

## 3. Case management

Once all the relevant documents have been served, the case will enter into an administrative phase. You will be given a list of things to prepare (called 'directions') for the trial, including when to submit witness statements and documentary evidence and whether or not expert witnesses will be required.

Both parties will also be instructed to develop a cost budget, setting out costs incurred to date and estimated future costs.

## 4. Allocation to track

Your case will be allocated to one of three 'tracks' – small, fast or multi.

The small claims court deals with low-value cases (usually up to £10,000).

The fast track option is usually for simpler cases with a value of no more than £25,000.

The multi track approach deals with everything else.

## 5. Disclosure

At this point, you will be required to disclose any documentation and files relating to your case – even if they damage your case (this doesn't include communications with your lawyers). If you have witness statements or expert evidence, you will also need to disclose this.

## 6. Trial

At trial, your claim will be presented by a barrister with experience in the area of your dispute and your arguments will be heard by a judge. The seniority of the judge and the length of the trial will depend on the type of dispute you are engaged in.

## 7. Judgment

The judge will hand down their decision and prepare this judgment in the form of an official, legally binding court order.

The court order will contain instructions pertaining to any further actions that must be taken, for example the payment of compensation or the recovery of legal expenses.

**Litigation is expensive and time-consuming and obtaining a resolution to your dispute may take months or even years. Instructing a solicitor to support you with your dispute is the best way of ensuring a mutually acceptable solution without having to resort to litigation.**

# Our top 10 tips for amicable dispute resolution



## 1. Communicate openly

Open and honest communication with the opposing party – whether it's with or without the support of a solicitor – is vital when it comes to resolving disputes amicably. Maintaining an open line of communication will help the parties avoid misunderstandings, clarify the vital issues that need to be resolved, and create an environment where both sides feel able to express their point of view without recrimination.

## 2. Be willing to compromise

If you go into a dispute all guns blazing with a 'my way or the highway' approach, chances are that your dispute will escalate quickly.

If you go into that same dispute with a willingness to listen and an adaptable approach, you may find that the solution you arrive at isn't a million miles away from what you were initially hoping for – and you have retained an amicable relationship with the other party to boot.

## 3. Find some common ground

As the name suggests, disputes revolve around an issue you don't agree on. However, you may not disagree on every single aspect. Finding some common ground can help you approach the dispute with a more positive mindset, so you can build on what you do agree on and find an acceptable solution.

## 4. Keep calm

During a dispute, emotions can run high and it's not uncommon for people to say things they don't mean when they are angry.

If that happens, staying calm and walking away until you are ready to resume negotiations, or try out an alternative method of dispute resolution, can help prevent things from getting out of control. There's nothing to be gained from having a shouting match – and everything to be gained from a calm and considered approach.

## 5. Think long term

Whilst your dispute might seem all-consuming now, try to think of the long-term impact as well as the short-term result you are looking for.

For example, clients engaged in a Will dispute may be happy with the short-term outcome of inheriting more money or possessions – but it's come at the expense of their family relationships. Or, if you're engaged in a boundary dispute with a neighbour, remind yourself that you will have to continue living next to this neighbour in the months and years to come before doing anything that might be considered rash!

# Our top 10 tips

## 6. Be open to a range of approaches

If there is hostility between the parties in a dispute, the concept of mediation or conciliation – i.e., sitting in a room with the opposing party, albeit in the presence of a professional facilitator – may feel uncomfortable or intimidating. However, in comparison with the expense and drawn-out nature of the litigation process, alternative dispute resolution is likely to end up being less stressful and costly in the long-term, so it is absolutely worth considering.

## 7. Document everything

Legal cases are fought and won on hard evidence, so keep a record of any communication you and the other party may have had during the course of your dispute. That includes notes dropped through letterboxes or left on windscreens, emails and text messages you have exchanged, and even recordings of telephone conversations (most smartphones will have some form of call recording functionality).

## 8. Stick to the facts

Emotions may run high during a dispute – but emotion has no place when it comes to building a solid legal case. Gathering your evidence as per the step above, and sticking with the facts, will give you a much firmer foundation for your case and help you present a considered and logical argument.



## 9. Make it legally binding

Many of the alternative dispute resolution methods outlined in this guide do not culminate in a legally binding judgment. If you settle a dispute through negotiation, mediation or conciliation, you will have to work with your solicitor to draw up a binding agreement to ensure that nobody can go back on their word.

This step does not apply if you have settled your dispute through arbitration or litigation.

## 10. Know when you need help

We've spoken a lot in this guide about the benefits of instructing a solicitor when a dispute arises.

Although we would like to think most people would act reasonably and be open to negotiation when a disagreement occurs, the reality unfortunately is that legal disputes can get very nasty, very quickly. Knowing when to step back and get a professional involved is vital to avoid things escalating.

Being able to communicate with the opposing party through your solicitor can make the process much less stressful and emotionally challenging, as well as greatly increasing your chances of clearing up the matter quickly so you can move on with your life.

## About Attwaters Solicitors

The Dispute Resolution team at Attwaters Solicitors has spent decades supporting individuals and businesses across Hertfordshire, Essex, London and the wider South East of England to resolve disputes with the minimum amount of expense and acrimony. Our Head of Dispute Resolution, Leanne Philp, and our experienced Associate

Prabhi Ghura, both come highly recommended by The Legal 500, one of the world's most respected guides to the legal profession.

*"Leanne Philp is absolutely outstanding. Her work is very professional and she ensures that she meets all relevant deadlines."* – The Legal 500, 2024

### Where we are

■ Hertford ■ Ware ■ Loughton ■ Harlow (by appointment only) ■ London (by appointment only)

0330 221 8855 | enquiries@attwaters.co.uk

[www.attwaters.co.uk](http://www.attwaters.co.uk)

Attwaters Solicitors LLP (trading as "Attwaters" and "Attwaters Solicitors") is a limited liability partnership, registered in England and Wales, with registered number OC451709 whose registered office is at 72 – 74 Fore Street, Hertford, SG14 1BY. Authorised and regulated by the Solicitors Regulation Authority. SRA ID 8007943. A list of members' names is available for inspection at the above office.