

5 steps to manage conflicts smoothly

Being involved in a legal conflict, whether bringing or defending a claim, can be a daunting experience. Establishing protocols to follow, such as the 5 steps below, will help your organisation to navigate conflicts smoothly.

Step 1: Try to resolve the issue

- Civil litigation can be costly and enduring. Consider whether you have exhausted all other possible means of resolving the issue in dispute:
 - is the loss suffered (or, if you are the subject of a claim, the cost of complying with the claimant's request) sufficient to warrant a potentially costly legal battle?
 - is the relationship beyond repair? (e.g. would a concession on the issue in dispute still mean that the relationship could not continue?)
- If the answer to both of these questions is yes, then it might be time to consider more formal or legal means of resolving the dispute.

Step 2: Seek legal advice

- The next (and most important!) step is to seek legal advice. Engaging solicitors at the outset is likely to result in a more successful and quicker resolution.

Step 3: Consider alternative means of dispute resolution ("ADR")

- Consider whether the dispute could be resolved by negotiation or mediation. Potential benefits may include:
 - a satisfactory outcome for both parties at reduced time and cost;
 - the chance of a continuing relationship between the parties; and
 - depending on the form of ADR, certainty of outcome.

Spotlight on "mediation"

In a mediation, an impartial mediator (often a specially trained lawyer) appointed by both parties facilitates the parties reaching a solution. This is a voluntary and confidential process, and will only be binding on the parties if an agreement is signed.

Step 4: Preserve evidence

- Where litigation is in contemplation, it is essential that steps are taken to preserve all relevant documentation and records. Your solicitors will advise the extent to which this may be necessary, but be mindful that it may include electronic data such as emails and/or text messages.
- It is also important to maintain records of any attempts to resolve the issue. This may help your case should the matter proceed to court.

Step 5: Be mindful of disclosure and privilege

- Remember that any written communication could be presented to the court. The only exception to this is communication with your solicitor which is protected from disclosure due to it being "privileged". Be careful about who you share advice with - sharing it too broadly internally or with third parties may jeopardise its privileged status.

The information in this guide is for information purposes only and should not be relied on as a statement of law or substitute for appropriate advice.

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