

Dispute Resolution Law Fact Sheet

What is dispute resolution?

As the name suggests, lawyers in this area assist clients to resolve disputes. Whereas criminal litigation lawyers deal with criminal actions, dispute resolution lawyers (or civil litigators) assist with civil disputes. Broadly speaking, civil disputes are disputes where the parties seek money damages or specific performance as a remedy, rather than criminal sanctions.

Disputes can be resolved through the courts or using a form of alternative dispute resolution (ADR), such as:

- Arbitration - where the parties agree for an independent third party to consider the facts and make a binding decision.
- Mediation – where an independent third party acts as a go-between to help the parties resolve the matter between themselves.

Key topics covered by this area of law

Civil litigation is an incredibly broad practice area, but some of the types of disputes covered are:

- Civil Fraud
- Commercial and Contract Disputes
- Shareholder and Boardroom Disputes
- Reputation and Media – involving issues of harassment, defamation and privacy e.g. assisting clients who have had private information published online without their consent
- Wills, Trusts and Inheritance Disputes
- Insolvency
- Professional Negligence
- Property Litigation

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What does dispute resolution involve?

A dispute resolution solicitor will need to consider the legal issues surrounding a set of facts to determine whether a client looking to bring a claim against another party has a valid cause of action (claim) or whether a client threatened with action should look to settle or fight any claim. They will then gather evidence in support of their client's position and develop a case strategy.

Solicitors will correspond with the other party, or their legal representative, to seek to achieve a satisfactory result for their client without resulting to court proceedings.

If court proceedings are required, a solicitor will deal with issuing or responding to a claim and support the client through the court process, drafting documentation and preparing court bundles. Solicitors may also instruct a barrister to advise on a point of law or to represent the client at court.

Solicitors will also assist clients with ADR, e.g. appointing and briefing mediators, or helping to negotiate a settlement with the other side.

What skills does a dispute resolution lawyer need?

The work can be very unpredictable and fast-paced, with tight deadlines and the need to adapt a case strategy quickly in light of new information. Solicitors working in dispute resolution need to be adaptable and work well under pressure.

Court work also involves strict deadlines and good organisation. Time management skills are important to ensure that deadlines are not missed.

Other vital skills include: strong communication and legal research skills, good attention to detail and the ability to review a large number of documents and extract the relevant information.

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Assessing a potential claim

There are various factors that a dispute resolution lawyer needs to take into account when assessing the merits of a potential claim, for example:

- Strength of any cause of action – the first step will be to gather all the documents and facts, identify any potential cause of action, and make an assessment on the likely prospect of success based on the applicable law
- Limitation issues – a legal action must usually be brought within a specific period of time or they risk losing the right to pursue any claim. The length of time varies depending on the cause of action. For example, a breach of contract claim must usually be brought within 6 years of the date of breach, whereas a claim for defamation must usually be brought within 1 year from the time of publication. There are some circumstances in which it is possible to argue that the usual limitation period does not apply.
- Jurisdictional issues – where a defendant is based outside the UK this can add practical complications, particularly with regards to service and enforcement. It is important to research the potential ramifications thoroughly before embarking on any cause of action.
- Financial considerations – can the client afford to litigate and can the defendant afford to pay, even if successful.
- What does the client want? It is important that a client's expectations are discussed and maintained from the first meeting. Is legal action going to get them the desired result? Are there any alternatives to issuing a formal claim which might be more suitable?