

# Costs of litigation

**It is always important to consider the possible cost of bringing a legal action. Regardless of how strong or weak your argument may be in law, you will want to strike a balance between what the case may cost and what you stand to gain or lose. Your decision may have a bearing on the way you want us to handle your case.**

## The basics

Legal costs are made up of three elements: our fees + any disbursements (expenses we have paid on your behalf) + VAT. Remember also to factor in the other side's costs.

## Solicitor's fees

Our fees are based on the amount of time spent working on a case. Hourly rates vary, depending on the skills and experience of the lawyer who is handling your case. We will quote you an hourly rate at the outset.

Effectively, the meter is running all the time we are working on your case. Our work is recorded in 6-minute units which will be charged to your account. This includes time spent considering and preparing documents, in meetings, writing letters, emails or faxes, and on the phone.

## Disbursements

These are sums we have to pay to progress your case, for example court fees, payments for company searches or fees for expert witnesses. We will discuss these with you in advance. We usually ask for a sum on account at the start of the case to cover disbursements. If further sums have to be paid, we will bill you at the time.

## VAT

You should note that VAT will be added to our own fees and any barrister's fees. In some cases VAT may also be added to disbursements.

## Estimating the cost

It is impossible to predict how long a dispute will last. For this reason, it is impractical to try and give an accurate assessment of the costs at the start.

We will provide estimates at the outset and will revise these as the case progresses if you would like us to do so. It is important that you are aware of likely future costs as well as those incurred to date.

## Spreading the cost

If the case drags on, there is always the risk of a large bill to pay at the end. We therefore advise spreading the cost.

There are two ways of doing this: we can send interim bills at intervals (eg every few months) detailing work done to that point. Alternatively we can ask you for payments on account from time to time to cover costs as they are incurred. We will be happy to discuss these options with you.

## Limiting the cost

If you like, you can put a ceiling on our costs. You might, for example, instruct us not to go over a certain amount without referring back to you.

## Who pays the bill?

The general rule is that the loser must pay the winner's legal costs but this is not automatic – it is up to the court to decide whether to make an order or not. If you win, we will do our best to recover all your costs but in reality you may only get back about 75%–85%. The court will consider all the circumstances including the parties' conduct when deciding on the appropriate costs order. In other words, even if you are successful, you may have to pay some of the costs out of your own pocket.

One word of warning: if your opponent has a legal funding certificate it is unlikely that you will get an order for costs against him even if you win the case.

If the case is settled out of court, or before proceedings are issued, each side usually agrees to pay its own costs.

If you lose, you normally have to pay your opponent's legal costs as well as your own. The court has some discretion over this and in some circumstances they might not order you to pay. However, it is wise to assume you will have to pay the other side's costs which will probably be similar in size to your own.

## Enforcing payment of costs

If you win your case, a detailed bill will be sent to your opponent showing the amount you are asking him to pay. He must pay everything on the bill providing it was reasonable for the work to be done and the amount claimed for that work is reasonable.

Usually, the other side will make an offer of less than the sum you are claiming. If the offer isn't acceptable, then the bill goes before the court in mini-proceedings called 'detailed assessment'. Once the court reaches a decision, you will have an official court order that can be enforced in various ways. If it becomes necessary to chase payment, we can advise further on these.

If you lose, this procedure works the other way round.

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