

escalate

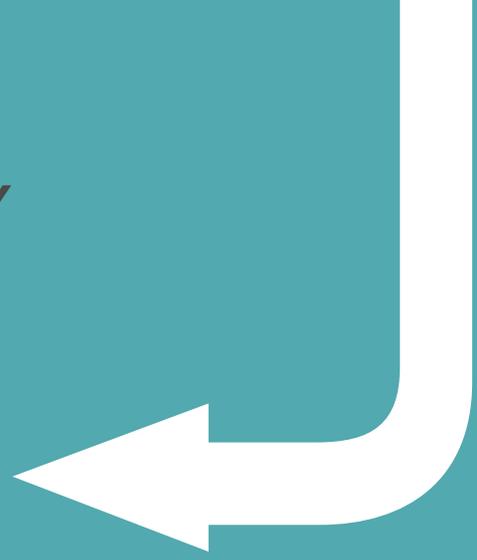
MANAGING COMMERCIAL DISPUTES

A NEW WAVE OF DISPUTE RESOLUTION

THE STRAIGHTFORWARD, CONTINGENT
COMMERCIAL DISPUTE SOLUTION
THAT REMOVES ALL FINANCIAL RISK
INCLUDING UPFRONT COST.

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A SMARTER WAY TO RESOLVE COMMERCIAL DISPUTES



Pursuing a commercial dispute tends to be a costly, lengthy and risky undertaking.

It's not difficult to see why: your lawyers will typically bill you, based on the amount of time they spend working for you. Given that the average litigation case for a small or medium-sized business is around 18 months, it's not uncommon for these bills to spiral to the level of the damages that you're claiming. Even if you can find a lawyer to act for you on a 'no win no fee' basis, you'll still have to pay up front for disbursements such as court fees. And, of course, you could be liable for all or some of the defendant's costs as well as your own if you lose the case. It's hardly surprising, then, that many businesses decide against pursuing a claim and reluctantly write-off what they are owed.

That's why we've created Escalate, a smarter way to resolve commercial disputes that prioritises your cash flow by focussing on a quick settlement, removing upfront costs and minimising risk.

Escalate takes a completely fresh approach. Once an initial review has been completed, Escalate utilises a two-stage process: a period of intensive negotiation with corporate recovery experts targeting a settlement in under three months, and then, if necessary, litigation using specialist legal teams that are funded all the way to the High Court.

By looking at the process from your perspective, we're transforming how businesses manage disputes:

- **No financial risk** – you don't pay out unless we reach a successful settlement
- **No initial outlay** - we pay for all of the up-front costs
- **Rapid results** – we aim to get your money back in just three months; if we can't settle quickly, we have the financial backing to support you all the way to a High Court resolution (including cover for all disbursement costs such as court, barrister and experts' fees).
- **A fixed fee basis** – complete transparency from the start

There are no restrictions on the types of cases we tackle – bad debt, contractual, negligence, IP infringement etc. – and, importantly, we can revisit disputes that are up to three years old.

The Escalate approach gives you an opportunity to resolve disputes in a way that saves you money, time and hassle, and enabling you to get on with running your business.

We've produced this guide to explain how effective dispute resolution works. Contact us or read on to learn how to resolve commercial disputes.



THE DISPUTE RESOLUTION PROCESS

Many businesses don't pursue commercial disputes because of high upfront costs, long delays and considerable uncertainty - but there is now another way. We created Escalate by looking at each of the steps of the traditional dispute resolution process from your perspective and finding ways of improving them. The result is a completely new approach that focuses on your business's cash flow. How does the traditional dispute resolution process work? And how does Escalate compare with it?

TRADITIONAL PROCESS

1

NEGOTIATION



Parties are encouraged by the Courts to attempt to share full details of their claim and negotiate a settlement before beginning legal proceedings. However, there is no fixed time limit for negotiations to conclude and defendants are often incentivised to delay the outcome. Meanwhile your lawyers will typically bill you based on the amount of time they spend working for you, so the longer this period goes on, the more expensive it is for you.

- Little incentive for a quick solution.
- Potential for uncapped, hourly legal fees that you pay regardless of the outcome

2

LITIGATION



You'll typically need to make a considerable upfront payment before you even begin litigation to cover the court fee to issue the claim form, as well as fees for the barrister and any expert witnesses you require. Legal fees, which are often calculated on the basis of the time spent on the case, will then need to be added. It's not uncommon for the total of these bills to spiral to the level of the damages that you're claiming.

- Typical 18 month duration.
- Considerable upfront payments.
- Potential for uncapped, hourly fees that you pay regardless of the outcome.
- You could be liable for the defendant's costs as well as your own if you lose the case.

ESCALATE PROCESS

1

NEGOTIATION



We begin negotiating on your behalf as soon as you engage us, using experienced corporate recovery specialists to encourage the defendant to settle quickly in your favour without the need for litigation. We allow up to a maximum of three months for this negotiation.

- Experienced commercial negotiators.
- Incentives to settle inside three months.
- Fixed fees that you don't pay unless a successful settlement is reached

2

LITIGATION



If the defendant is unwilling to settle in this three month timeframe, we immediately begin preparing for litigation. We'll take care of this process for you, paying the up-front fees and associated costs all the way up to a High Court resolution.

- No upfront court costs. Counsel fees etc
- Fixed fees that you don't pay unless the case is successful.
- You don't pay the defendant's legal costs if you lose

FAQs

WHY DO SO FEW DISPUTES GET RESOLVED?

The combination of high costs (considerable up-front costs and legal bills based on the amount of time your lawyers spend on the case), long delays (a typical case takes 18 months to reach a conclusion) and considerable uncertainty (about the outcome of the case and the total cost of pursuing it) deters many businesses from pursuing a case. Escalate directly addresses all of these issues, removing the barriers that currently prevent businesses from fighting their corner.

WHY DO DISPUTES TAKE SO LONG TO RESOLVE?

Unfortunately, the current system creates and allows bad business behaviour. There tends not be a strong incentive for the defendant to settle quickly in a traditional dispute resolution process; by delaying the outcome for as long as possible, they increase the chances of the claimant giving up or running out of funds. The Escalate process targets a result in less than three months by employing a team of experienced dealmakers to negotiate on your behalf.

WHAT TYPES OF CASES CAN YOU PURSUE?

There are no restrictions on the types of disputes Escalate can tackle – bad debt, contractual, negligence, IP infringement etc. The process is designed for cases involving disputes of £25,000 upwards; however, if your dispute is below this threshold, we will explore your options with you and endeavour to apply the Escalate process where possible.

MY LAWYER HAS OFFERED TO SUPPORT ME ON A 'NO WIN NO FEE' BASIS. IS THAT THE SAME AS ESCALATE?

Even if you can find a lawyer to act for you on a 'no win no fee' basis, you'll still have to pay up front for some costs (such as court, barrister and experts' fees), which can total tens of thousands of pounds and are not recoverable if your case is unsuccessful. You're also likely to have to pay some or all of the defendant's legal fees if you lose your case, unless you take out insurance. And the traditional dispute resolution process typically takes 18 months to resolve; Escalate targets a solution in just three months. The Escalate process has brought together all the different professional advisers needed to resolve your dispute and protect your financial risk into one seamless service. Escalate is unique and there is no similar service that prioritises your cash flow by focussing on a quick settlement, removing upfront costs and minimising risk.

CAN I USE MY EXISTING LAWYERS THROUGH ESCALATE?

We work with a panel of specialist law firms that are regarded as experts in the field of dispute resolution. If your existing lawyers are not on that panel, they can apply to join by contacting us.

WHY DON'T YOU USE LAWYERS DURING THE NEGOTIATION STAGE?

We work with licenced corporate recovery specialists with a track record of rapidly recovering assets on behalf of claimants, in order to encourage the defendant to settle quickly in the client's favour without the need for litigation. They follow a pre-agreed protocol that incentivises the defendant to settle quickly. We believe that this approach is likely to secure a better deal for Escalate clients.

FAQs

WHAT HAPPENS IF I LOSE MY CASE?

In a traditional dispute resolution process, you'll be liable for your own costs plus at least part of the defendant's bills if you lose your case. Escalate removes the financial risk – you don't pay out unless we reach a successful settlement and, if your case is unsuccessful, you won't be required to pay the defendant's costs either because of Escalate's built-in insurance cover.

I HAVE A DISPUTE FROM TWO YEARS AGO THAT I DECIDED NOT TO PURSUE AT THE TIME. CAN I USE ESCALATE?

Yes. We can revisit disputes that are up to three years old, enabling businesses to start to recover monies that were previously written off and providing an unexpected cash flow injection if successful.

I NEED TO MOVE QUICKLY. HOW LONG DOES THE PROCESS TAKE?

Get in touch and we can begin an initial case review straight away. Escalate targets your money back within three months, so the sooner we engage the quicker we can get your dispute resolved.

WHAT ARE THE COSTS OF RESOLVING A DISPUTE?

Escalate charges a fixed fee, agreed when we're engaged, that you don't pay unless there is a successful outcome. Everything is included in this fee, including upfront costs such as court fees and expert witness and barrister fees, so you have complete transparency and certainty from the very start of the process.

If the dispute is settled without the need for litigation, Escalate will charge £12,500 regardless of the size of case. So if we recovered £200,000, the fee would equate to 6.25% of your damages. If we settle in your favour during litigation, we will charge no more than 30% of your recovered damage, ensuring you will receive at least 70% of the damages recovered.

In contrast, we estimate that a £200,000 dispute undertaken through a traditional mechanism would incur costs of over 50% of the recovered amount*. The costs will increase further if you take out insurance to protect yourself against the defendant's costs in the case of an unsuccessful outcome. In these circumstances, it is possible that you could end up with as little as a third of the original value of the claim under a traditional dispute resolution approach.

* Assuming a 70% recovery of damages and 50% recovery of costs from the defendant

WE ARE HERE TO SUPPORT YOU

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