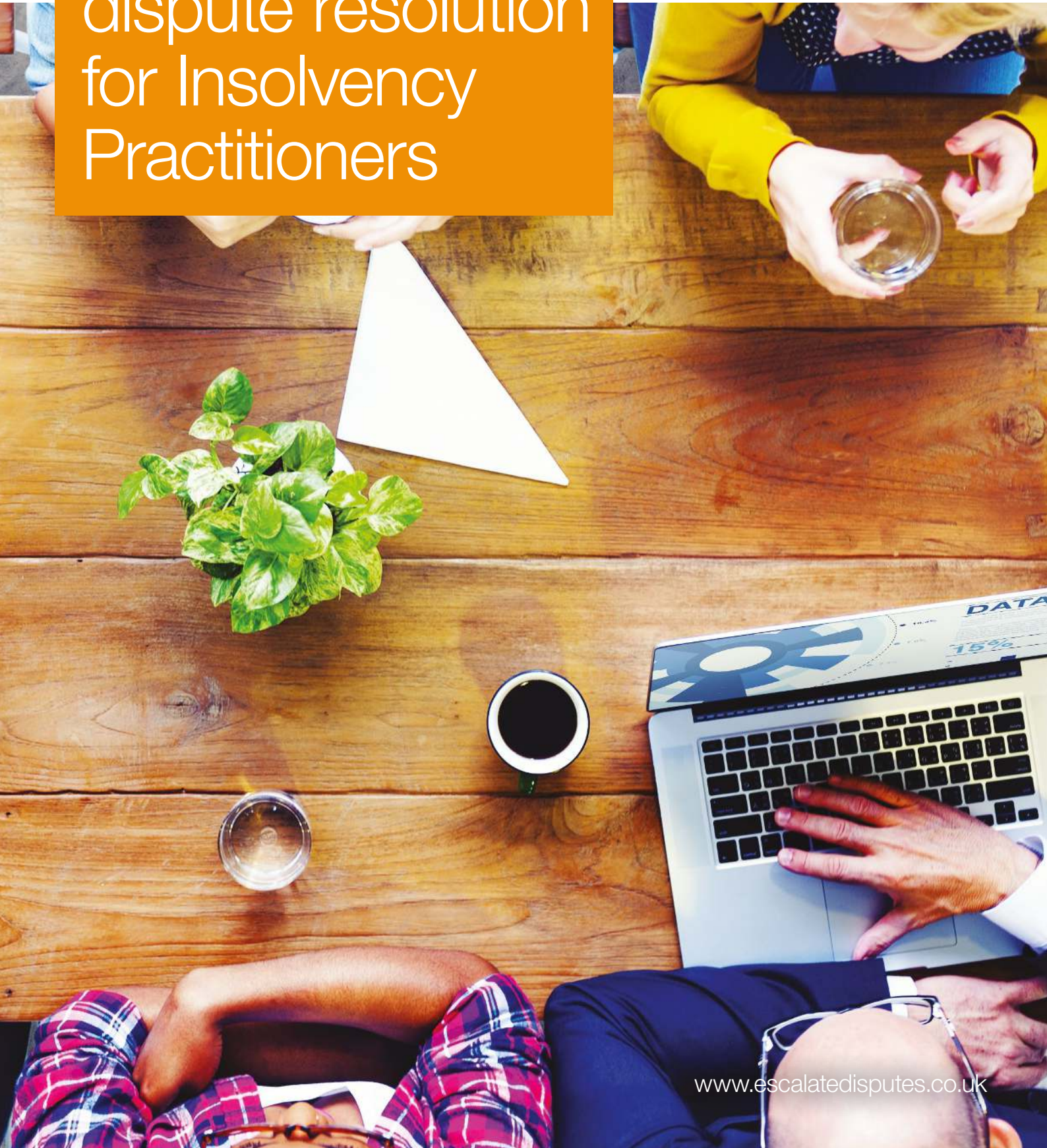


A new wave of
dispute resolution
for Insolvency
Practitioners



Our difference

At Escalate,
it's all about you.

We'll provide you with a fully indemnified, cashflow-centric, hassle-free solution that enables you to stay in control and meet your Insolvency Act obligations.

“ My business represents over 5,000 small creative businesses. They are crying out for this sort of service and for the legal and financial profession to work differently to deliver it. This is a good example of firms thinking outside the box to deliver something a client actually needs.”

Judging panel, The Lawyer Awards

A smarter way to resolve insolvency disputes

Since the Jackson changes, pursuing an insolvency claim has become costly, lengthy and risky to undertake.

It's not difficult to see why. Debt collection agencies are unable to help you once the claim becomes contested. So you hire a lawyer - but they'll typically bill you based on the amount of time they spend working for you. Given that the average litigation case within an insolvency 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 - from your own office account if there are no funds in the estate. 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 it's become more difficult for Insolvency Practitioners to pursue a claim and many decide reluctantly to write-off good claims because of the risk.

That's why Escalate was created - a smarter way to resolve insolvency disputes that prioritises the returns available for creditors by focusing on a quick settlement, supporting your cash position, minimising risk and streamlining processes.

Escalate takes a completely fresh approach. Once an initial review has been completed, Escalate utilises a two-stage process: a period of intensive negotiation through our specialist Escalate partners targeting a rapid settlement; and then, if necessary, litigation using specialist legal teams that are funded all the way to the High Court. We manage the entire process and all of the professionals involved in it, so you don't have to.

By looking at the process from your perspective, we're transforming how Insolvency Practitioners are managing insolvency disputes. There are no restrictions on the types of cases we tackle and, importantly, we can revisit potential claims 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. We've produced this guide to explain how effective resolution of claims works.

Contact us or read on to learn how Escalate can help you deliver for the creditors you represent.

Why use Escalate

- **No financial risk** – you only pay if we recover on your behalf; we provide a full indemnity for legal costs and any adverse cost risk in progressing claims
- **Supporting your cashflow** - we agree at the start a fixed fee of 30% of the amount recovered and there are no upfront costs. We offer a cashflow funding line, including up-front advances for costs incurred and a bespoke Escalate Insolvency funding facility
- **'One stop shop' solution** - Escalate is a turnkey offering that manages all of the stakeholders in the litigation process (funder, insurer, solicitor and debt collector) so the process is streamlined and there is a single case approval assessment for all elements
- **Retention of a 'say' in the outcome** – you remain the main beneficiary of any award, despite Escalate assuming all of the cost and risk
- **Faster settlements** – all parties are incentivised to find a quick, commercial solution and interests are aligned



How we work

It's become more difficult for Insolvency Practitioners to pursue claims in an insolvency because of high upfront costs, long delays and considerable uncertainty - but there is now another way.

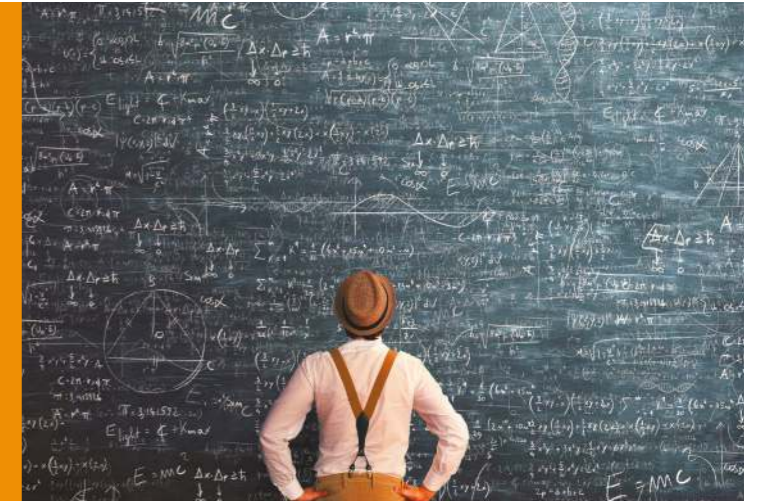
Escalate was created by looking at each of the steps of the traditional insolvency dispute resolution process and finding ways of improving them. The result is a completely new approach that focuses on making recoveries and reducing risk.

How does the traditional dispute resolution process work in an insolvency? And how does Escalate compare with it?



Help with managing insolvency disputes




Providing a straightforward, contingent insolvency dispute solution that removes all financial risk, including upfront costs.



Traditional recovery process

- 1** An unpaid invoice is processed either in-house at cost or using a traditional debt collection agency that is **unable to progress contested litigation to a conclusion.**
- 2** Disputed claims (or antecedent transaction claims) are taken on by via lawyer, perhaps on a **conditional fee arrangement at two-times cost.**
- 3** **Funding and insurance costs are expensive.** Their case reviews may take time to reach a conclusion; often the claims are rejected anyway by one or the other.
- 4** Certain funders offer to take an assignment - but this involves a loss of any say in the claim and **reduces the recoveries available.**
- 5** The **inevitable delays** prevent Insolvency Practitioners from closing out estates in a timely manner.
- 6** Actual recovery is generally **50% or less.**

What this means for Insolvency Practitioners

-  **Costs are uncapped** and some fees may need to be paid upfront
-  **Recovery is not certain**; and you may need to pay the defendant's costs if the case is lost
-  **The process can take 18 months** on average and requires significant management attention and time

The Escalate process

- 1** The Insolvency Practitioner engages Escalate via a rolling annual engagement or a case-by-case agreement. In return, **Escalate will manage the entire process** and all of the professionals involved in it.
- 2** Claims are **reviewed rapidly and for free.** The likelihood of recovery is discussed and a merits-based action plan agreed.
- 3** A contingent fixed cost of 30% is agreed at the start, and is **payable only out of recoveries made.**
- 4** A working capital **funding line is supplied** and up-front advances are made to assist cashflow where needed.
- 5** Full indemnity is given to the Insolvency Practitioner so **all cost and risk is removed.**

What this means for Insolvency Practitioners

-  **No financial risk** – you only pay if we recover on your behalf; adverse cost protection is included
-  **Supporting your cashflow** - we agree a fixed fee of 30% of the amount recovered; our cashflow funding line provides up-front advances
-  **'One stop shop' solution** – we manage everyone involved to streamline the process
-  **Retention of a 'say' in the outcome** – you remain the main beneficiary of any award, despite Escalate assuming all of the cost and risk
-  **Faster settlements** – we're all incentivised to find a quick, commercial solution

Case study

A flooring company had purchased products from a well-known supplier of cementitious materials. The product was defective, which resulted in the customers' floors failing after a short period. The company was faced with significant claims from many of its clients and the prospect of insolvency, through no fault of its own. It wanted to recover the value of those claims and its other losses from the supplier.

The problem

The client did not have the financial resources to be able to pursue such a significant claim against a large multi-national company – and the defendant knew this. It attempted to delay the process and force the claimant to incur further costs so it had no option but to drop the claim or settle it quickly. An inability to recover a substantial value in the claim would have immediately resulted in insolvency, as would the cost of pursuing such a claim.

How Escalate helped

Once engaged, we quickly moved to issue and serve proceedings. The supplier continued to delay, but we gave a very simple message – the more you delay, the more it will cost you. The claimant, meanwhile, had no financial risk going forward, and it was able to focus on running its business again.

Outcome

We made a substantial recovery for the client through a settlement shortly before trial. This resulted in the client avoiding an insolvency process.

“ Escalate is a truly game changing product and has enabled us as a mere minnow to swim with sharks and hold them to account. You have given us a chance to carve out a future that would have otherwise been very difficult and would have no doubt meant the end of our business.”

Statement of Insolvency Practice 2 Investigations

We understand the duties that you're required to undertake under the Statement of Insolvency Practice (SIP2).

Escalate can help you with these duties: either by offering advice on the SIP2 report or by preparing the report itself. We can also then pursue the recovery of any potential claims or monies owed.

We will help you investigate what assets can be realised and what other recoveries can be made.

Our service begins with an analytical review, that helps to determine if there is a prima facie case for further investigation into any aspect of the company's affairs. This follow-up activity could include inviting creditors to bring to the Insolvency Practitioner's attention any matters that may require investigation; conducting a preliminary review of the books, records and minutes for the last six months in order to identify any unusual or exceptional transactions; and identifying any payments from the company records and bank statements that require detailed investigation.

Escalate, a smarter way to resolve insolvency disputes. We prioritise your cash flow by focussing on a quick settlement, removing upfront costs and minimising risk.

We can then help you to recover any sums owed to the company, including overdrawn directors loan accounts, unlawful loans, VAT refunds, debtor monies and transactions at an undervalue.



Frequently asked questions

How do you differ from a traditional debt collection agency?



A debt collection agency is typically unable to complete any cases that become contested. By contrast, Escalate provides a complete end-to-end service. We begin by targeting a rapid settlement using a team of experienced dealmakers to negotiate on your behalf. Unlike traditional solutions, we're also fully funded to take your case all the way to the High Court if necessary, with any potential adverse costs covered too. This not only enables us to employ a broader range of negotiating strategies but also considerably strengthens our bargaining position to maximise the likelihood of you getting the money back for your creditors.

Why don't you go straight to litigation?



We work with our highly skilled and experienced Escalate partners, who follow a pre-agreed protocol that incentivises the defendant to settle quickly. Our experience shows that this approach is likely to secure a better deal for our Insolvency Practitioners clients.

What's the benefit of signing the rolling annual engagement with Escalate?

Our rolling annual contract is designed to streamline the process for Insolvency Professionals by enabling you to submit an unlimited number of claims over the next 12 months, without you having to re-register every time. There is no charge for signing up with us (you only pay if and when we get you your money back) and we don't expect you to make a minimum number of claims. We also offer the option of case-by-case referral.



How do you differ from a lawyer working on a 'no win no fee' basis?

Even if you can find a lawyer to act for you on a 'no win no fee' basis, you'll still have to pay upfront 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.

By contrast, Escalate brings together all of the professional advisers needed to resolve your case, and protect your financial risk in one seamless service. Escalate is unique and there is no similar service that prioritises your Insolvency Act obligations by focussing on a quick settlement, removing upfront costs and minimising risk.

Do you provide up-front funding?

We offer our Insolvency Professional clients a cashflow funding line, including up-front advances for costs incurred and a bespoke Escalate Insolvency funding facility.

What types of cases can you pursue?

There are no restrictions on the types of disputes Escalate can tackle for Insolvency Practitioners – bad debt, contractual, negligence, IP infringement.

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 you to start to recover monies from those estates that you could not previously pursue, providing an unexpected injection into the estate if successful.

What happens if I lose my case?

In a traditional dispute, 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. If your case is unsuccessful, you won't be required to pay the defendant's costs either because of Escalate's adverse cost protection.

What are the costs of resolving a dispute?

Escalate charges a fixed fee of 30% of the amount recovered, ensuring you will receive at least 70% of the damages received. 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. And remember that you don't pay unless there is a successful outcome.

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 one 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

An award winning insolvency dispute resolution platform

Escalate, the ground-breaking insolvency dispute resolution process, was named 'Innovation of the Year' at the British Accountancy Awards and Modern Law Awards, 'Best Collaboration Initiative' at the Lawyer Awards, awarded 'Excellence in Business Development' at the Law Society Excellence Awards, the 'Legal Services Innovation Award' at the British Legal Awards and 'NextGen Banking, Finance, & Business Services'

company at the Management Today NextGen Awards. We were also shortlisted for 'New Business of the Year' at the Lloyds Bank National Business Awards, making us one of the ten most promising scale-up businesses in the UK.

By removing financial risk and hassle, providing transparency on process and pricing, and ensuring that the claimant remains the main beneficiary on settlement, Escalate gives Insolvency Practitioners an opportunity to resolve their disputes in a way that helps rather than hinders their cash flow and the return to creditors.



“ I think the idea and execution is genius. I like the fact that it's aimed at creating access to justice and that brainpower has been used to identify the key component parts and the build back up again to deliver the solution. I can see why clients would love it.”

Judging panel, The Lawyer Awards

“ The first time we looked at this entry we knew it would be a winner. The judges particularly liked the collaboration and scalability and value for clients. ”

Judging panel, The Law Society Excellence Awards



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