

**YORK**

**Address**

Sentinel House  
Peasholme Green  
York  
YO1 7PP

**Tel** 01904 716 000

**Fax** 01904 716 100



**WETHERBY**

**Address**

The Aire Suite  
Brunswick Court  
Victoria Street  
Wetherby  
LS22 6RE

**Tel** 01937 583 210

**Fax** 01937 587 556



# Resolving Disputes

## It's Good to Talk

Litigation & Dispute Resolution Law Update



**Courts and Tribunals exist to make decisions on disputes, but using them is expensive, time-consuming and stressful.**

For many years now it has been expected that parties using Courts and Tribunals do so as a last, not a first, resort.

This is backed up, particularly in the civil courts, by the power of the courts to penalise those who do not make a reasonable attempt to resolve disputes before resorting to litigation.

Traditionally negotiation, either in writing or by telephone or in meetings, has been the way of trying to reach a compromise, or at least reduce the areas which are in dispute. That remains the case.

There are, however, now other options available, such as mediation (a form of negotiation facilitated by a third party) or arbitration (which can be binding or non-binding).

Many protocols – procedures which set out expected behaviour – now exist to provide real guidance as to what parties to a dispute are expected to do before resorting to the courts. These govern many areas of law, from personal injury to professional negligence claims, and from debt recovery to recovering possession of property.

Services for individuals:

- Residential Property
- Wills & Probate
- Contentious Probate
- Tax & Estate Planning
- Family, Matrimonial
- Mediation
- Employment
- Accident & Personal Injury Claims
- Litigation & Dispute Resolution
- Agricultural Law
- Town & Country Planning Law
- Elderly Client Services

Services for businesses:

- Company & Commercial Services
- Commercial Property
- Civil Litigation
- Employment Law
- Debt Collection

Financial Services

Where a protocol relating to a specific type of dispute does not exist, parties are still expected to behave reasonably, with a view to trying to reduce the amount of Court or Tribunal time needed to determine a dispute, and also to reduce the legal costs.

A further procedure is also available to try to encourage settlement of disputes. This is provided for in the Civil Procedure Rules, which apply to cases which are either going through or may go through the courts. Part 36 of these Rules in effect provide for offers to be made which have 'teeth', by putting the party receiving the offer at risk of costs and interest penalties, if they do not do better than the offer following a final court hearing.

Even apart from this, however, Courts have a wide discretion as to what orders are made in relation to the costs of court proceedings. This can mean that, even if you succeed in your claim, you may not recover all of your legal costs and, in some circumstances, you may be ordered to pay some or all of your opponent's legal costs, even if you win.

It is, therefore, always vital to be constructive in trying to reach a settlement of a dispute before it reaches court.

If you need any further persuasion as to the sense of this, you need only look at the current level of court fees!

### **Ware & Kay**

good on paper, even better in person

### **Contact us**

For further advice or to make an appointment, please contact a member of our Litigation & Dispute Resolution Team on York **01904 716000** or Wetherby **01937 583210**.

Alternatively you can email them **law@warekay.co.uk**.