

## Professional Negligence

### Obtaining Advice

We all rely on the professional advice we are given and feel understandably disappointed when a professional has let us down. Claims against professionals are increasingly prevalent.

Whether your claim is against a surveyor, solicitor, accountant, IT provider or another professional, we can help you through the sometimes complex area of pursuing a professional whose advice or assistance falls below a reasonable standard.

### Do I have a Claim?

#### Duty of Care

The professional must owe you a duty of care. This is often easy to prove where there is a contract between you and the professional.

#### Breach of that Duty

A professional will be in breach of their duty to you where they fail to exercise reasonable care and skill. Their advice or assistance will be judged against the standard of a reasonably competent professional in their field.

#### Loss as a result of that breach

Lastly we must show that you have suffered a financial loss as a result of the breach of duty. You have a duty to mitigate any losses.

#### Time Limits

The time limit for bringing most professional negligence claims is 6 years, though shorter and longer periods may apply.

### The Process

It is important to obtain legal advice early on in any dispute. It may be possible to prevent matters from escalating further and protect your position.

We will initially meet with you to advise you on prospects for success and make sure your complaint is taken seriously. We will discuss your concerns about the professional advice or assistance you have received, what expert evidence may be needed, funding options, tactics and most importantly your aims.

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## Continued

The court have a specific pre action protocol detailing the steps that should usually be undertaken before court proceedings are commenced. This is available at [http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot\\_neg](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_neg).

The time limits can be lengthened or shortened depending on the nature of dispute and the evidence available. The usual process is as follows:

### Preliminary Notice of Claim

Depending on the nature of the claim and area of the professional's expertise, detailed investigations are often necessary before full details of the dispute can be set out. The preliminary notice of claim provides a brief outline of the grievance against the professional and states that their insurer should be notified. This step is often missed out where there is sufficient information to send the letter of claim straight away.

### Letter of Claim

This sets out in detail the basis of the claim against the professional with supporting disclosure and evidence. The letter must also detail what sum of money or other remedy is sought.

The professional should provide acknowledgement, but not a full response, within 21 days.

### Professional's Letter of Response

The protocol provides the professional 3 months from the letter of claim to investigate and provide a detailed response. This should set out whether the claim is accepted or not.

### Alternative Dispute Resolution

In appropriate cases, the parties are expected to spend a further 3 month period negotiating or trying to settle the dispute by alternative means. Please see our leaflet on [Settling a Dispute](#) for more details.

### Issue Proceedings at Court

Should the professional deny the claim or negotiations prove fruitless, the dispute will have to be resolved by the court. Please see our leaflet on [Court Claims](#) for more detail.

For more advice contact Matthew Knight on 01722 410664 or email [matthew.knight@sampsoncoward.co.uk](mailto:matthew.knight@sampsoncoward.co.uk)