

Professional Negligence Claims: How to Sue a Solicitor

If you believe you've been the victim of professional negligence due to poor advice or treatment by a solicitor, you could be entitled to claim damages.

Professional negligence claims against solicitors can be complicated to pursue, so it's important to seek expert advice to ensure that you're making the strongest case possible.

For those considering making professional negligence claims against solicitors, the litigation team at Wilson Browne explains how to sue a solicitor.

What Happens If My Solicitor Gives the Wrong Advice?

The law can be complicated. Our legal rights and obligations are often complex, and laws in the UK can be confusing and open to interpretation. But that's why we seek the advice of experts and professionals who are qualified to work in the legal industry. When we hire a lawyer or contract a solicitor to work on a legal case, we expect them to provide a high-quality service, and we expect to be able to trust the legal advice they provide us.

So what happens if that trust fails? What happens if a professional, qualified solicitor provides the wrong advice? And more importantly, what happens if incorrect legal advice leads to a wrongful conviction, financial loss or any other damage on the part of their client?

We should all be able to trust our solicitors to provide correct legal advice, but sometimes things can go wrong. This is where the concept of professional negligence comes into play. If a solicitor has failed to provide you with the correct legal counsel, if they've deliberately withheld information or failed to attend a hearing – amongst many other things – then they may be guilty of professional negligence.

If you've suffered damages as a result of wrong advice, you might be able to make a claim for compensation as a result of professional negligence. Professional negligence claims against solicitors can be challenging to pursue, and you'll need the help of a [professional negligence specialist](#) to ensure you have the correct evidence and are within the time limitations.

Can I Sue My Solicitor for Negligence?

Professional negligence claims can only be made against a person deemed to be acting in a professional capacity. This is someone who is highly skilled, trained or qualified to offer advice and counsel in a particular role.

For the purpose of professional negligence, a solicitor is considered to be a professional. As such, they can be sued for negligence. But while [UK law does allow a solicitor](#) to be sued for negligence, there are specific requirements and caveats that have to be met.

These requirements can be complicated, so we recommend speaking to a professional negligence specialist to help you pursue a claim. The most important requirements are that you hired or contracted the solicitor in a professional capacity, and as a result of their negligence you can prove that you suffered personal damages or financial loss.

The legal limitations for making a professional negligence claim vary, but are generally split into three distinct timeframes. These are:

- **The primary limitation period:** Initial claims must be made within six years of the negligence occurring.
- **The secondary limitation period:** If evidence arises after this six-year period, then you have a further three years within which to make a claim from the date of knowledge.
- **The 'longstop' limitation period:** Any claim for professional negligence must be made within the 'longstop' time limit of 15 years. If professional negligence occurred more than 15 years ago, you can't sue your solicitor for damages.

Again, the limitations and requirements attached to them can be difficult to interpret, but we can advise before pursuing professional negligence claims against solicitors.

What Is Negligence from a Solicitor?

We've determined that you can sue your solicitor for professional negligence provided you employed them; suffered damages as a result of their negligence and you're within certain time limitation periods. But what counts as negligence from a solicitor?

Professional negligence is commonly defined as having occurred when a person you've employed in a professional capacity has failed to fulfil their duties or responsibilities. A solicitor may have broken their contract, there may have been a breach of trust, or they may have failed in their duty of care towards you, their client.

There are a variety of different real-world examples in which professional negligence may have occurred. Common examples of solicitors acting negligently include:

- Incorrect legal advice may have been provided, causing a client to sustain financial loss or damages
- Your solicitor may have failed to investigate important evidence in relation to your case
- A solicitor may have withheld important information or failed to supply correct information to the courts
- Your solicitor may have failed to follow court orders or directives
- A solicitor may have lied or been untruthful

There are many more ways in which a solicitor may have acted negligently, but there's an important distinction between professional negligence and simply receiving poor service.

The law says that your solicitor should provide a service using "*reasonable care and skill*". This means the service provided should not fall below the average standard in the legal profession.

It's also important to remember that no professional negligence claims against solicitors can be made unless you've suffered monetary loss as a result of that negligence. If you're unsure, speak to a legal advisor for more information.

How Do You Prove Professional Negligence?

To make a successful claim in court, you have to prove that professional negligence has occurred. You'll also need to be able to prove that you've suffered financial loss or damages as a result of that negligence.

A legal team would need access to as much documentation and written records as possible to have the highest chance of winning the case in court. You can obtain a copy of your file from the solicitor you instructed to act on your behalf and this is often a good starting point. You'll need to prove that you employed the solicitor in a professional capacity, possibly by producing signed contracts or signed statements of work. Very often when you instruct a solicitor you will be provided with an Engagement Letter setting out what the solicitor has been instructed to do and how much it will cost.

While this first step can be easy to establish, it can be more challenging to prove that a duty of care was breached. It will need to be made clear in court that the actions of the solicitor led to them breaching their duty of care towards you, and you'll need evidence of their actions to prove this. It will also need to be shown in court that the solicitor acted negligently and that they didn't simply make a reasonable mistake that any other professional could have made.

Finally, you – the client – also need to prove that professional negligence led to a loss on your part. Again, this can be challenging to uphold in court, as it needs to be directly established that the loss sustained by you was a direct consequence of the negligent actions of the solicitor.

If it's possible for all three elements to be proven in court, then you'll have a high chance of making successful professional negligence claims against solicitors.

How Long Does a Professional Negligence Claim Take?

Pursuing professional negligence claims against solicitors can take time, and it could take up to 12 months before your case first appears in court. The exact length of time a case takes to be completed depends on a number of factors, including the complexity of the case, the availability of lawyers and available space in courts. We will always work to try to

settle your case and this process is ongoing and will take place alongside any court proceedings.

Because there are time limitations on professional negligence claims, it's always important to pursue a case as soon as you realise negligence has occurred. A defendant is likely to slow down proceedings, particularly if a case is brought about close to a limitation date.

Law Firms are required to have Professional Indemnity Insurance. This means that you can be certain, even if the law firm cannot pay you, that there will be insurance in place to settle your claim.

What Is the Court for Professional Negligence?

It's common for a professional negligence claim to be brought in the UK's Civil Courts. We can advise you on the appropriate court depending on the type of case and the location.

We should note that it's common practice for legal costs to be paid for by the losing party, so it's important to consider this before making a claim. We can discuss with you obtaining insurance to protect you from worrying about the other side's legal costs and other ways of funding your claim.

Contact Wilson Browne for Advice on Professional Negligence Claims against Solicitors

Wilson Browne offers an initial free half an hour consultation to speak with you about your claim. The aim of this call is for you to decide if you wish to instruct us and for us to discuss your case and answer any general questions you have.

Wilson Browne employs solicitors that are members of the Professional Negligence Lawyers Association so you can have confidence that we have expertise in this field.

If you decide to instruct us we will set up a file for you and send you out an Engagement Letter confirming what you want us to do and the costs you are likely to incur.

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