

The Vagaries Of A Dispute

You can spend a fortune in time and money chasing a dispute via a solicitor and most cases wouldn't make it to court anyway, writes Don Waterworth, The Installer's Technical Expert. The best solution is to understand the dispute – and to negotiate a way out of it with most of the bill being paid.

How many of you readers, asks Don Waterworth, The Installer's Technical Expert, when faced with a consumer that won't pay have thought 'I will instruct my solicitor to get this money for me'?

Now, how many of you have taken this step and thought 'that was an expensive waste of time'? I would envisage most people would think the latter.

They're in it for the money

The simple fact is that solicitors are not trained in resolving disputes. Yes they are well versed in Civil Court procedures and are very good at writing letters at £90.00 each, however as to resolving your dispute i.e. getting you paid, as quickly and cheaply as possible, they do not function on this level.

If you go to your solicitor saying that a consumer owes you say, £8,000.00 and you want him/her to chase up the consumer and get them to pay, of course you would say that there is nothing wrong with the job. The consumer would simply not pay.

In this instance, the solicitor would take your instruction and write to the consumer. Do not assume that this letter will work

magic and get you paid. Even though you are happy with the job that you have completed fitting windows and doors, the consumer is not.

At this juncture the dispute can go one of many ways, none of which will be to your benefit. For example, the consumer could:

Obtain an expert report – now you could be in trouble as an inexperienced surveyor may compile a report whilst generally having no idea of what the installation should be like.

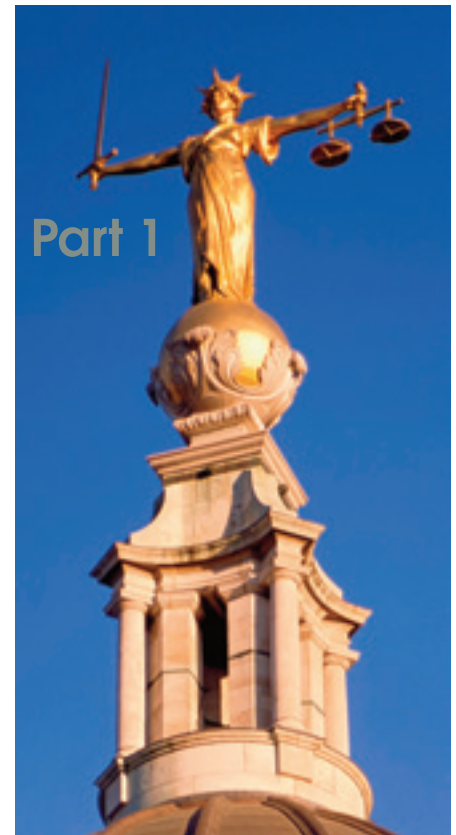
The consumer has legal expenses cover and instigates this cover, meaning that they have now have something very similar to legal aid.

The consumer does nothing and ignores the solicitor's letter. It is very difficult when people do not respond and it will cost you more money for your solicitor to write again and again.

The consumer communicates with your solicitor setting out the reasons why they have not paid. Your solicitor will respond again...with more costs for you.

Costs more than the claim is worth

And on and on it can go, I often advise my clients that a dispute is like a game of chess as there



are so many moves that can be made. You may have also noted that you are owed £8,000.00, this is under the £10,000.00 limit for small claims which means that neither party will be awarded costs and costs can easily be more than the claim. For those of you in the know, the Pre-Action Protocols are not normally invoked for small claims.

The best way forward

So, if you are owed money by a consumer sit down with them; find out what their concerns are; be honest; ask yourself if the concerns are reasonable; and do a deal even if you may need to give a small discount. Negotiation is always the best way forward. **■ Don.**

This article is by our technical writer – Principal Surveyor Don Waterworth of hanleyamosstewart.co.uk

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