



Conversation Brief for Property Clients

Group Litigation/Class Actions



Why group litigation/class actions is an important issue businesses are facing today?

Traditionally more prevalent in the US, we are starting to see a growing trend in the UK, driven by claimant-side law firms actively advertising for claimants, backed by litigation funders. They are arising out of a range of underlying issues often related to the way in which businesses carry out their operational activities. In particular we are seeing claims arising from allegations that the impact which businesses are having on neighbouring occupiers of land- for instance from noise, dust or odour impact- is unacceptable. As ESG continues to grow in prominence, we anticipate increasing numbers of group claims in that regard. Businesses carrying out operations which could have a potential (physical and/or environmental) impact of this sort -whether in terms of their business as usual operations or development schemes are at particular risk. However, some are also benefitting from joining group claims, for example in relation to claims against insurers under business interruption policies as a result of Covid-19.





Top 5 pieces of experience



Acting for manufacturers in defending multi-party claims arising from alleged odour



Acting for a number of land owners facing multi party claims arising from Japanese Knotweed



Acting for a property developer to help settle claims arising from dust pollution as a result of demolition activity



Acting for a number of energy companies in relation to threatened noise nuisance claims from local residents



Acting for a construction company in connection with a group litigation concerning allegations of blacklisting, data protection breaches, defamation and the misuse of private information



Discussion points for General Counsel

- Group claims are increasing and one stream of claim is arising out of a range of issues relating to the way in which businesses carry out their operational activities. In particular we are seeing claims arising from allegations that the impact which businesses are having on neighbouring occupiers of land- for instance from noise, dust or odour impact- is unacceptable.
- Going forward there is also a risk of corporate ESG claims coming under scrutiny for allegations of “green washing”
- Whilst the value of each individual claim may be small the overall sum claimed can be huge when claims are brought en masse. Group claims often attracts greater publicity and reputational risk, particularly where the claims are brought by neighbouring occupiers of land with whom the business is likely to want to maintain positive relations. Any group claim will also carry with it significant additional administrative burdens to deal with- and the risk that unhelpful/reputationally damaging documents might need to be disclosed in the course of the claim. Settlement can also be difficult, particularly at the early stage given the number involved.
- Being alive to potential group claims that could be brought against you, mitigating the risks of such claims arising, and having a well-considered response from the first indication of any claims or issues is key.
- Many claimant groups are well-organised and well-funded, meaning claimants don’t necessarily feel the “pain” of litigation in the same way the business might, but based on our experience there are a number of strategies we can use to make their claims harder to progress.



Questions for Client Partners to use

1. Do you have any experience of dealing with group claims?
2. Do you operate a business which could be the focus of complaint- either in terms of your BAU activities or because of future development plans
3. Have you given any consideration to the areas in which you could be exposed to mass claims. e.g. are you aware that the business have received complaints about disruption caused by its operational activities which might foreshadow a group claim
4. Have you had any issues around breach of environmental permit/complaints to the EA/local authority which might foreshadow a group claim
5. Are you aware that companies' environmental claims are being scrutinised by specialist claimant law firms with a view to potentially bringing claims against them?
6. Do your teams know to think of the bigger picture when seeking to resolve any individual issues, complaints or claims?
7. Are you aware of any local publicity, mail shots or social media activity which might foreshadow a claim
8. Are there any claims you may be interested in pursuing, if other organisations joined in so you could benefit from economies of scale, and potentially litigation funding?



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