

Nipping shareholders disputes in the bud



This article has been reviewed and is up to date as of 10 June, 2020.

One clear way to improve your position in a [shareholders dispute](#) is to act early and act fast. It is often the case that lawyers are called in too late, when early intervention could have made a real difference.

The more cynical reader of this blog might say – “well you would say that, you are a lawyer looking for business”. Nevertheless, there are real advantages in thinking ahead and a relatively modest investment in a lawyer’s time may pay dividends later.

There are two classic points at which some advice can be of great value.

First, when you are first setting up a company or perhaps bringing new people on board. There is no better time to set out some ground rules and get a shareholders agreement in place. A well drafted shareholders agreement could mean that you don’t need to go near a litigation lawyer if things go pear shaped because there is a mechanism in place to deal with it.

Second, as soon as you suspect that a significant dispute might be in the offing. I am not suggesting that you should get in a litigation lawyer in full rottweiler mode to send out aggressive letters, instead what is generally needed is some background advice about tactics and strategy.

Minority shareholders or 50/50 shareholders often give away their bargaining power too quickly and too easily. By the time they realise that the other shareholder(s) have taken effective control of the company it is sometimes too late. You are already fighting a rearguard action.



It is a cliché that possession is nine tenths of the law but what makes it a cliché is its underlying truth. Physical control of any company is key. Lose that and you are fighting with one hand tied behind your back. Some advice on your options at early stage can be vital.

Of the two stages – the best value for money is generally the shareholders agreement. The cost is generally a known quantity and can be shared amongst the shareholders or even picked up by the company.

By the time you have got to the second stage, advice on a party's position in a potential dispute, there is usually quite a lot of baggage that has to be analysed, documents to review and evidence to be considered. Useful advice at this stage is therefore unlikely to be cheap, but if it can help avoid the costs of full blown litigation then ultimately it will still look like real value for money.

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