

Radcliffe Chambers <> IDR Law

# What happens when cases reach the Courtroom?



24 October 2023



Hosted by Eleanor Stenson, Partner, IDR Law  
and Tom Dumont KC, Barrister, Radcliffe Chambers

# How/Why do some cases go to Trial?

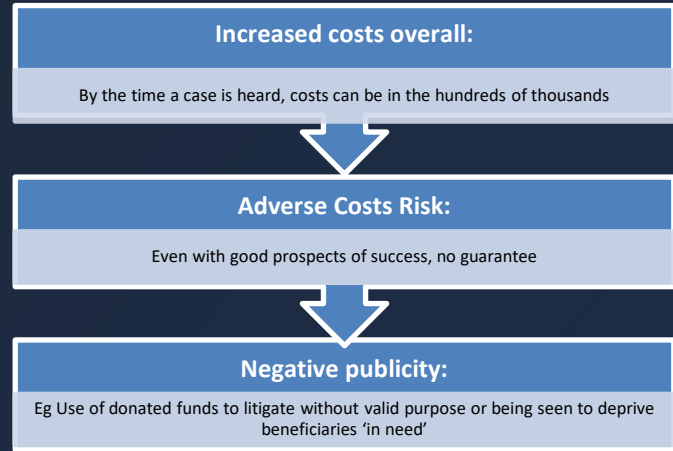
- i) Does the Charity need judicial intervention to determine a point of law?
  - *Re Ratcliffe (regarding the previous decision in Re Benham)*
  - *Illott v Mitson/Blue Cross*
  
- i) There are a number of different claims that can arise in an estate challenge but some are more likely to end up at Trial
  - consideration of fraud/forgery cases

# Difficulties for Charities at Court

Assuming the Charity has undertaken all relevant considerations prior to engaging in the litigation to date, the possibility of a Trial should not be unexpected.

It is crucial to have buy in from the Board not just for pre-action engagement/ADR but also on the budgeted costs to Trial, which can be significant.

Negative publicity is a reality – only pursue the 'right' cases



# Is it too late for Settlement?

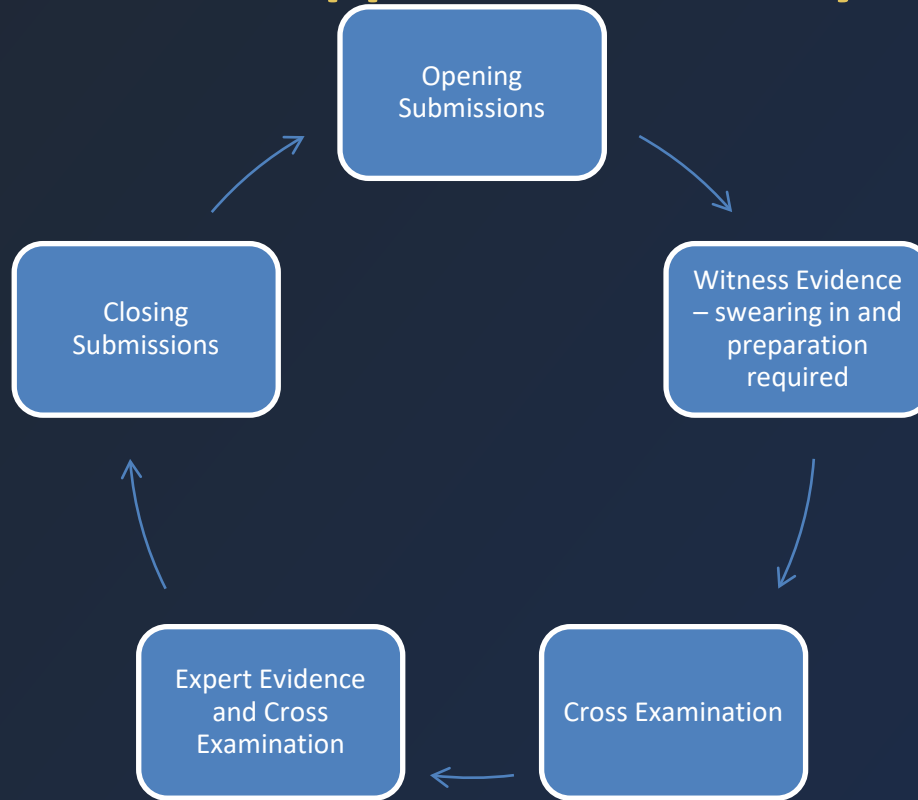
...It is never too late, not even once you have walked up the steps to the Court building!

At this stage there will most likely have been earlier, failed attempts to do so.

Charity trustees must always consider:

- The financial benefit or cost
- Relevant factors such as adverse publicity
- Ensuring that they have appropriate power to settle/implement terms

# What Happens on the Day



# Radcliffe Chambers



# Radcliffe Chambers



# Radcliffe Chambers





# JUDGEMENT

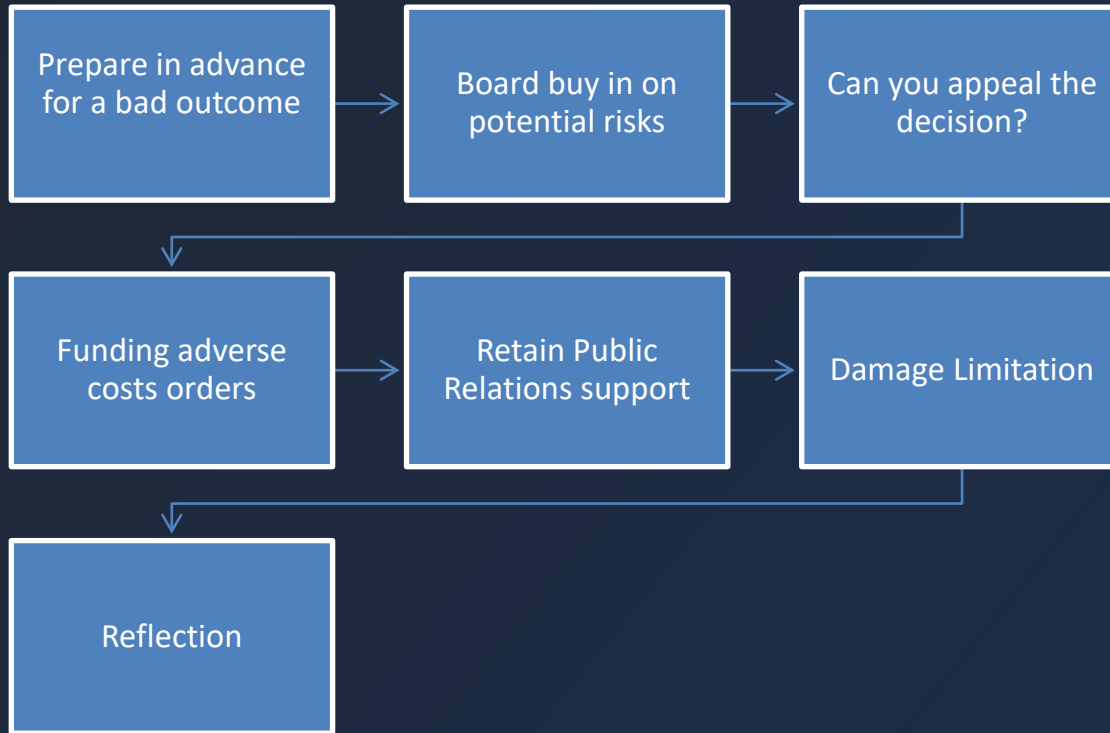


The Court may hand down judgement at trial

Judgement may be reserved and handed down at a later date

Some issues may be subject to an order even if Judgement not yet handed down

# And if the decision goes against you?



# KEY TAKEAWAYS



## Preparation of the case

Early understanding of reg flags which may result in a Trial

Pursue only the right case for the right reasons



## Preparation for Unforeseen Circumstances

Always consider settlement

Be ready for a bad outcome and consequences (media and costs)



## Board Buy In and Governance

Recording decisions made throughout

Mindful of proper discharge of duties

**See:** <https://www.gov.uk/government/publications/charities-and-litigation-a-guide-for-trustees-cc38/charities-and-litigation-a-guide-for-trustees>

**And:** <https://idrlaw.co.uk/the-idr-network/>

**Any Questions?**

the **IDRN** a **free** support and referral tool designed for anyone working in family succession.

The **IDRN** provides speedy access to all of the information needed should a contentious case land on your desk. And, access to all of our upcoming webinars and training.

You can also now access the **IDR Law Claim Checker** specifically aimed at Charity Legacy Officers.

