

TOP 10

**things for
clients to
note when
commencing
a claim in
the BVI**



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1

There are **specific pre-action protocols for certain claims, including claims for a specified sum of money**. Where there is no approved pre-action protocol, the BVI court would still expect that the parties act reasonably and promptly in exchanging information and documents which are relevant to the claim (and to generally try to avoid litigation).

2

A (prospective) **claimant should consider whether there is sufficient legal basis to start a claim**. They should also consider if it is possible that the (prospective) defendant has a counterclaim.

3

Litigation can be costly. There will be filing fees with the BVI court together with legal and other costs. Even if the court orders the defendant to reimburse you if you win the case, this is usually only a portion of the fees and expenses. If you lose the case, you will normally be ordered to pay the legal costs to the winning party.

4

Litigation can also be time consuming. Court cases can take months or if not years before the case is heard and judgment is handed down.

5

There are relevant **limitation periods (i.e. deadlines) for bringing a claim** in the BVI. For example, for breach contract, it is 6 years from the date on which the cause of action accrued.

Court action should generally be the last resort. A (prospective) claimant should consider if there is an alternative to litigating (such as mediation).

A (prospective) **claimant needs to consider what remedies they wish to obtain** and whether this can be achieved through legal proceedings.

Are there assets which judgment can be enforced against? Even if you win the case and obtain a court judgment which awards you all the sums which you have claimed, there is no guarantee that you will be able to recover all the sums that have been awarded by the BVI court. Before legal action is commenced, it is important to consider whether the (prospective) defendant is likely to be able to pay in the event that you win the case.

Does the matter require multilingual lawyers or lawyers in jurisdictions outside of the BVI?

If **privacy in the litigation is a concern** for a (prospective) claimant (and they are not able to obtain a privacy order), it may be advisable (if possible) to avoid litigating the claim in the BVI as the jurisdiction has principles of open justice.



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For further discussion about starting or defending a litigation claim in the BVI, please contact:

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This publication is not intended to be a substitute for specific legal advice or a legal opinion. If you require further advice relating to the matters discussed, please contact us. We would be delighted to assist.



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