



INFORMATION LEAFLET

Relator Action

What does 'Relator' mean?

When a member of the public (this can include local authorities or companies) wishes to enforce a right which belongs to the public as a whole rather than a right which has an exclusively private character (which can be asserted by individuals), they can ask the Attorney General to allow legal proceedings to be brought to assert that public right. These proceedings are known as a "relator action".

Ordinarily to enforce a right an individual must be able to show they are individually affected to obtain standing to bring forward legal proceedings to enforce the right. The Attorney General in his role as Guardian of the Rule of Law, may confer standing upon an individual or body to take proceedings. In such circumstances proceedings are taken in the name of the Attorney General at the instance of the person or body upon whom the Attorney confers relator status.

In practice, once the Attorney has conferred relator status upon an individual or body, he takes no direct part in the proceedings.

How does a relator action work?

If the Attorney General is approached by an individual to see whether relator proceedings can be brought he will give careful consideration to the issues, including whether such an action is in the public interest. Any such request will be considered on a case by case basis.

If the Attorney General consents to relator proceedings being issued he will not usually conduct the case. Rather it will be for the person who has asked that the proceedings be issued to have their own lawyers progress the matter.

However, the Attorney General must have sight and must approve of all pleadings (court documents) issued in the case, be consulted on discovery and furthermore must be consulted on significant developments in the case. Importantly the proceedings cannot be settled without his authority.

The Attorney will not be liable for any costs of the proceedings

What might constitute a public right?

Unfortunately there is no single legal definition of what constitutes a public right.

However it is well established that the rights for the protection of which the Attorney General intervenes must be the rights of the community in general, and not the rights of a limited portion of the community, especially when the limited portion in question has representatives who can bring the action.

Some examples of what established public rights are:-

1. Public Nuisance

Public Nuisance concerns situations where a number of people are affected by the nuisance and it is not confined to interference with enjoyment of the property. Public Nuisance is a crime to be prosecuted by the Police or other public authority, it would be inappropriate for large numbers of individuals to have to sue through the civil courts. Public Nuisance was defined in Attorney General v PYA Quarries Ltd (1957) as an activity '*which materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects*'. A nuisance will generally be deemed to affect a class of people, if its affects are so wide as to make it unreasonable to expect a single individual to take action against it, it is not necessary to show that every member of the class has been affected so long as a representative cross section has been.

2. The public right to sue a local authority for breach of their obligations

In the case of Barrs and Ors v Bethell and Ors (1981) it was held that a ratepayer required the consent of the Attorney General to sue a local authority or its members for breach of their obligations (in this case with regard to their fiduciary duty to ratepayers) unless he could show either an interference with some private right of his or an interference with a public right from which he had suffered damage particular to himself.

3. Public rights that are conferred by statute

Some public rights are conferred by statute. In the case of Attorney-General (on the relation of Hornchurch Urban District Council) v Bastow at the hearing of the relator action it was held that the court had jurisdiction to grant an injunction where the Attorney General was suing for the purpose of enforcing a public right, although that right was conferred by statute that prescribed remedies for its infringement.

In addition to cases where the Attorney is asserting a public right, in exceptional circumstances, use can be made of the relator action to secure obedience to the law as highlighted in the case of Harris [1961] 1 Q.B 74

“It is now firmly established that where an individual or public body persistently breaks the law, and where there is no person or sufficient sanction to prevent the breaches, these courts in an action by the Attorney General may lend their aid to secure the obedience to the law. They may do so whether the breaches may be an invasion of public rights of property or merely an invasion of the community’s general right to have the laws of the land obeyed...the Attorney General represents the community, which has a larger and wider interest in seeing that the laws are obeyed and order maintained.”

What practical steps do I take to bring a relator action?

In order to obtain the Attorney General’s consent to bring the action, the individual who wishes that proceedings be brought, this person is known as “the relator”, the relator must send to the Attorney General the documents listed below:

- (1) A copy of the Writ and Statement of Claim, with a certificate of counsel annexed thereto
- (2) A second copy of the Writ and Statement of Claim, which if the Attorney General consents to the proceedings being brought he will sign and returned to the relator’s solicitor
- (3) A certificate of the solicitor that the relator is a proper person (or corporate body) to be a relator and is competent to answer the costs of the proposed action
- (4) These formal court documents would be drafted by the relator’s own solicitors and counsel.

If the Attorney General gives his consent to the proceedings being brought he will sign the Writ which must be issued as the original Writ.

While this Information Leaflet has been prepared primarily for the assistance of legal advisers it is hoped all readers will find it of assistance. However if any further clarification is required please contact the Office of the Attorney General for Northern Ireland.