

Procedure in the County Courts can be confusing. In this information sheet we hope to clarify the procedure so that you can understand how your case will be dealt with by a Civil Court.

Basic Procedure

There are five basic steps in each claim that is made in the County Court. These are:

- The submission of pleadings – the Claimant will send details of their claim to the Court and to the Defendant, the Defendant will then send their Defence to the Claimant and the Court.
- The exchange of documents relevant to the case - each party will prepare a list of documents and exchange it with the other party. The parties will then be entitled to see copies of the other party's documents.
- Witness statements - both parties will have to exchange written statements from their witnesses of fact upon whom they intend to rely on in Court.
- Obtaining expert evidence - this is not always necessary and will depend on what the issues in the case are.
- Final hearing – the parties will attend Court for a Judge to make a decision on the claim.

Different tracks

Whilst the above five steps are a basic description of how every case proceeds, in order to manage Court time the Court has three different tracks upon which cases are run. Which track your case will be allocated to will depend on the value and complexity of the claim.

Small Claims Track

Claims which are of a monetary value of less than £5,000 will be allocated to the small claims track. The small claims track will also apply to claims for personal injuries where the claim for damages is less than £1,000, and finally in a claim for disrepair of residential rented premises where the estimated costs of the repairs is less than £1,000.

If your claim is allocated to the small claims track then after you have issued the claim the Defendant will have 14 days to acknowledge the claim and 28 days to file a Defence. Once the Defence is filed the Court will fix a date for the final hearing and give directions to be followed up until that hearing. These will usually include dates for the exchange of list of documents, exchange of witness statements and for submission of any expert evidence.

The hearing of a small claim is informal and so long as the correct notice is given to the Court a party does not have to attend the final hearing if they have submitted a statement of case and any relevant evidence.

In the small claims track the Court has limited power to make costs orders against a party, therefore if you lose your case it is unlikely that you will be ordered to pay the winning party's costs but equally if you win a case it is unlikely that you will receive any costs that you have had to pay. The Court will allow a successful party to recover any Court fees that they have paid, but otherwise it is only if a party behaves unreasonably that the Court is likely to award costs.

The Fast Track

At present this applies to cases where the monetary value is between £5,000 and £25,000, where the trial is likely to last no longer than one day and in which expert evidence at trial will be limited to one expert per party.

In this track the submission of the Claim Form and the time for the Defendant to serve their Defence is the same as in the small claims track. Once the Defence has been filed the Court may arrange for a hearing to set the directions to progress the matter to trial or, again, may just issue written directions.

In the directions the Court should set a date for trial which should be no more than 30 weeks after the directions are given. Again, the Court will give directions setting the time that disclosure of documents, exchange of witness statements and service of expert evidence should take place.

Prior to the trial the Court will send a Pre-trial check list for the parties to state whether the directions have been complied with and whether any further directions are needed. The Court may also consider holding a further interim hearing to deal with any outstanding issues before the final hearing. The Court rules suggest that the Court should set directions for a fast track case as follows:

- Exchange of documents
4 weeks after directions are given
- Exchange of Witness Statements
10 weeks after directions are given
- Exchange of Expert's Reports
14 weeks after directions are given
- Filing of completed Pre-Trial Checklist
22 weeks after directions are given
- Hearing
30 weeks after directions are given



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The general rule in these cases is that the losing party will be ordered to pay the successful party's costs. However there are certain caps on the costs that you can recover. For example there is a limit on the amount that you can reclaim for the costs of having a Barrister or Solicitor attend and represent you at the final hearing.

The Multi Track

The Multi Track is a normal track for any claim for which the Small Claims Track or the Fast Track is not the normal track. As such it usually applies to claims which are worth more than £25,000, are likely to take longer than one day to hear or involve a complex issue of law.

The procedure and time limits for filing a Claim form and a Defence are the same as both the Small Claims track and the Fast Track. The Court will then usually list a Case Management Conference so that the issues in the case can be identified and directions made. The Court will attempt at the case management conference to list a trial window in which the matter will be heard. Again, the Court will then make directions for the exchange of witness evidence, list of documents and expert evidence. The Court will then usually list a pre-trial hearing to see what progress has been made and to ensure that the matter is ready for trial.

Again, in the Multi Track it is usual that a losing party has to pay the winning parties costs. Unlike the Fast Track however there are no automatic caps on the costs that the losing party can be ordered to pay. The Court will assess the bill and determine the amount that that party should pay. This is usually less than the overall costs that the winner has to pay their solicitor.

Negotiations and Settlement

Throughout the proceedings and even before proceedings are issued the parties are expected to try and negotiate and reach agreement over the dispute. There are pre-action protocols set by the court which the parties are expected to follow. These include giving notice to the opponent of your claim prior to issue and giving them an opportunity to respond. Negotiation is greatly encouraged by the Court and a party can be penalised in costs if they have unreasonably refused to negotiate.



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