

# Small Claims Track



**Before proceedings are commenced, parties should examine whether the amount that may be recovered justifies the expense of taking any action.**

**This guide will provide information on what cases can be processed through the small claims track, and guidance on the recovery of costs.**



## **The Small Claims Track**

The Small Claims Track is a simplified and less formal procedural system designed to deal with lower value claims. It is often a quicker and cheaper alternative as there is no need for pre-hearing preparation of the case and it is possible, and often advisable, for litigants to represent themselves.

### **Claims usually allocated to the small claims track**

- Claims with a financial value less than £10,000.
- Personal injury claims with a financial value less than £10,000 where the sum claimed for pain, suffering and loss of amenity is not more than £1,000.
- Claims by residential tenants for landlords to carry out repairs or works where the works are estimated to cost no more than £1,000 and the financial value of any other claims is not more than £1,000.
- Harassment claims.
- Unlawful eviction claims.

Claims for a sum which is less than £5,000 will be allocated for arbitration in front of a district judge. Claims for a sum which is for more than £5,000 will be held in open court. The decision of allocation is at the discretion of the court. A claim allocated to the small claims track should be issued in the County Court, at a County Court hearing centre. A fee is payable on issue which will depend on the value of the claim.

### **Disclosure**

In the small claims track, parties must only disclose documents on which they intend to rely. If you think the other side is in possession of a document that supports your case, you can write to them first requesting inspection and if they do not oblige, you can apply for a special direction that they disclose it to court.

The standard rules on disclosure do not apply in small claims. The definition of 'document' is not considered to include anything other than a hard copy. If you need it to include electronic documents or evidence, you must specify this and request a special direction.

## Evidence

The court may give directions regarding:

- Issues on which it requires evidence;
- The nature of the evidence required; and
- The way in which the evidence is to be presented.

Usual provisions dealing with expert evidence do not apply to small claims and expert evidence must be restricted to what is really needed to resolve the dispute.

## Interim Remedies

Interim injunctions are available in small claims.

There is a free mediation service available for small claims if all parties indicate on their directions questionnaire that they agree to mediation.

## The Hearing

Small claims are generally held in public and may be held in court, but in practice are in the judge's room. They are informal and judges have flexibility about how they deal with matters to ensure that the hearing is fair.

Strict rules of evidence do not apply, the court need not take evidence on oath and the court may limit cross-examination.

## Recovery of Costs

Only limited costs are recoverable on claims and in the small claims track.

The following costs are recoverable:

- Fixed solicitors costs of up to £260 where proceedings include a claim for an injunction or an order for specific performance;
- Court fees;
- Certain travel and accommodation expenses incurred attending hearings;

- Fixed sums for loss of earnings/holiday entitlement as a consequence of attending hearings (limited to a maximum of £90 per person per day);
- Fixed sums for expert's fees (£750 for each expert)

## Conduct Based Costs

The court may also award:

- Such further costs as the court may assess by the summary procedure and order to be paid by the party who has behaved unreasonably.
- Note that a party's rejection of an offer in settlement will not itself constitute unreasonable behaviour but the court may take it into consideration when it is applying the unreasonableness test.
- Failure to comply with the directions given by the court may result in the case being adjourned and in the party at fault having to pay costs.

Costs incurred before a claim has been allocated to the small claims track will be recoverable on the small claims basis, to a very limited extent.

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