

Small Claims Disputes

What does the term 'small claims' actually mean?

Debt Recovery claims brought for a sum of money less than £5,000, the usual track which applies is the small claims track. The small claims track has relaxed the rules regarding these cases so that the Court forms, Court directions and the hearing are all fairly informal and as user friendly as possible.

Do I need advice?

It is always wise to obtain advice before proceeding with any dispute resolution. However; the practical problem faced is that the expense of paying for the advice is most likely to be irrecoverable from the other party in a small claims case. If you are in any doubt about the merits of the claim seeking advice at the outset could avoid delays, misery and even expense in the long run.

What options do I have if my small claim is defended?

Once a defence is filed at Court, the Court will notify you and order that Allocation Questionnaires be filed within a set time frame. Once received you may want to consider negotiating a settlement with the Defendant to avoid further time and expense before returning the completed questionnaire. If this isn't possible, you should file your Allocation Questionnaire within the allotted time and with a fee payable if applicable (there is no fee for debts under £1500).

What is an Allocation Questionnaire?

The Allocation Questionnaire will aid a Judge in considering whether the small claims track is appropriate, and whether the parties agree to mediation as an alternative to a small claims hearing. It also assists the Judge when issuing the parties with directions to follow and will inform him of any dates where the parties are unable to attend when the matter is set down for a final hearing. An order will be made for the parties to follow and the matter will be dealt with either by mediation or at a small claims hearing.

What is mediation & should I consider this route?

Mediation is an alternative route to pursuing the matter in a small claims hearing. Mediation is free via the Court service and is available where both parties agree. Mediation is a less formal process than a small claims hearing in front of a Judge, there is no need to attend Court as the matter can be dealt with by telephone provided both parties agree; although sometimes there may be a need for a face-to-face meeting. The meeting is confidential, sometimes quicker than a small claims hearing, and can reduce time and cost as well as trying to build up a better relationship with the other party in such cases where you wish to carry on your working relationship with them.

What happens if we can't agree after mediation?

The mediator will not act as a Judge or determine an outcome, so in the event that mediation is unsuccessful, the matter will proceed to a small claims hearing.

Is there a fee for the hearing?

Yes; you are required to bear the cost of the hearing which ranges from £25 to £300 depending on the size of the debt up to £5,000.

Do I need to file documents before the hearing?

The Court order will set out any directions that you must comply with; these directions will appear at the same time as the hearing date is set. You should send copy documents you wish to rely on not less than 14 days before the hearing and bring the original documents with you to the hearing. You may also wish to have a witness who can attend in person or file written evidence to support.

What do I need to prepare for the hearing?

You should make sure you have complied with any directions given and have filed the necessary documents as mentioned above. It is a good idea to make sure that any documents you wish to refer to are in the right order and you may wish to make notes about what you intend to say to support your case. You should also make a note of how much the claim has cost you so far and you should consider how much it has cost you in expenses to attend the hearing. This can be requested at the conclusion of the hearing if you are successful.

What will happen at the hearing?

The Judge will adopt an informal approach and will conduct the hearing as is appropriate. The strict rules relating to evidence will not apply and there is no need to make an "oath" on the evidence which you will give. Cross examination of witnesses is limited and the Judge will make a decision based on the discussion which takes place.

If I win what costs might I be entitled to?

You are entitled to the Court fees paid in issuing the proceedings and in the event that you instructed solicitors to prepare those proceedings, you are entitled to Solicitors Fixed Costs (we can advise you on this). If you have received legal advice in respect of applying for an injunction (an order to prevent someone from doing something) or an order for specific performance (an order to make someone do something) then you may be entitled to recover a maximum of £260 towards those legal costs. You may also be entitled to a sum of not more than £50 per day for you and/or any witnesses who attended the hearing, as well as any additional travelling/overnight expenses.

If I lose can I appeal?

If you lose your case and you wish to appeal, you should ask the Judge for leave to appeal the matter. You must have proper grounds (reasons) for appeal. If you do wish to appeal you must act quickly as there is a time limit in which to do so.

Contact us

Please feel free to contact us if you would like further information on any aspect of our work. Our friendly team is always on hand to help and advise you. We can be contacted directly on:

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