



The small claims track in the civil courts

If your dispute has gone to court

About this leaflet

This leaflet is for people involved in a dispute that has gone to court and the claim has been allocated to the small-claims track. It explains:

- what happens at court;
- the route the case may follow; and
- what happens after a case has been heard.

Important information about this leaflet

This leaflet is only a guide. You may want to get independent legal advice before making decisions based on this leaflet.

If you need this leaflet in another format, for example, in large print, please contact your local court.

What are the different routes a case can follow?

The route that a case follows is decided by the judge and is based on the value of the claim and how complicated the case is. It affects everything from how a case should be prepared to the length of the hearing, and even the type of judge.

There are three routes, called tracks (small-claims track, fast track and multi-track).

Small-claims track – This is generally for lower value and less complicated claims with a value of up to £10,000 (although there are some exceptions).

Fast track – This is for claims with a value of between £10,000 and £25,000.

Multi-track – This is for very complicated claims with a value of £25,000 or more.

This leaflet only deals with the small-claims track. For more information about the fast and multi-tracks, read our EX305 leaflet fast and multi-track claims in civil courts.

Where can I get legal advice?

You may qualify for legal aid. For more information, visit www.gov.uk/legal-aid.

You may also get free legal advice from a law centre or a citizens advice bureau at www.adviceguide.org.uk.

What happens first?

When a claim is defended, court staff will send you a 'notice of provisional allocation to track' based on the value of the claim. The notice will tell you which directions questionnaire you must fill in. The directions questionnaire will help a judge decide whether the track the claim is provisionally allocated to is correct. A judge will decide what route a claim should follow. Because of this, you should fill in the form very carefully. Please read the notes for guidance on the form before you start to fill it in.

Always make sure that the claim number is on the top of the form. Please fill in the personal information section fully and include all of your contact details such as mobile phone number and email address, as this will allow the court office to contact you quickly if they need to.

Sending the directions questionnaire back to the court

You should contact the other side involved in the dispute to discuss the information you are going to provide in the form before returning it to the court.

You must return the form to the court by the date given, or the court may impose a penalty. Even if the other side will not co-operate, you should not let this delay you in filling in the directions questionnaire and returning it to the court. Please check carefully the address of the court you should return the form to.

Do I have to discuss the form with the other side?

The judge will expect you and the other side involved in the case (or your legal representative) to co-operate with each other when filling in the form. Both sides should make sure that they have contacted each other to discuss filling in the directions questionnaire.

The court might expect you have to discussed, and where possible agreed, the following.

- Whether the case can be settled or not.
- Which is the most appropriate track for the claim.
- How long you think the hearing will last.
- If possible, how long you think you will need to prepare your case and the arrangements for exchanging evidence.

Can we settle the case and avoid a hearing?

The small-claims mediation service

Under the Civil Procedure Rules both sides should make every effort to settle their case and at this stage you should still think about whether you and the other side can settle your dispute without going to a hearing.

You may try to settle the claim either by direct discussion or negotiation with the other side or by mediation. If you can reach a settlement, you may enter into a binding agreement which can be enforced if the terms of the agreement were to be broken.

If the claim is settled at this stage, you can avoid further court fees, costs and time involved in preparing and going to a hearing. You may use any mediation provider.

The directions questionnaire asks whether you would like the court to arrange a mediation appointment to help you to settle the dispute. Mediation is a way of sorting out disputes without a court hearing. It is a voluntary process that, with the help of an impartial mediator, helps you to reach an agreement that is acceptable to both sides.

The small-claims mediation service is provided by the court free of charge. If you want to use this service to help you settle your dispute, you should say so on the directions questionnaire.

During mediation, you and the other side involved in the dispute make the decisions about settlement, and if you can't agree, you can still have a court hearing. You can find out more information from our *EX730 leaflet – Small-claims telephone mediation service*

What happens when the court receives the directions questionnaire?

When the court receives the filled-in directions questionnaire from both sides, the judge will look at the information that has been provided. The judge will then decide how the case should move forward by considering which route it should follow. The judge will take account of what has been said in the claim, defence and directions questionnaires and will look specifically at the amount in dispute, the timetable and the evidence needed. All these things will help the judge to decide whether the case should be allocated to the small-claims track, the fast track or the multi-track.

What if the judge wants more information?

Sometimes, the judge may ask for more information before they can reach a decision on allocation. You may receive a court order asking you to send more information to the court in writing. If this happens, the court will send you a form called an Order for Further Information (allocation), which will explain what other information the judge needs. The form will also tell you the deadline for sending the information to the court.

Or you may be asked to come to a hearing to tell the judge more in person. This is called an allocation hearing. If the judge decides to hold an allocation hearing, you and the other side involved will be sent a notice of hearing, which will set out the time, date and place of the hearing.

In many cases the judge will be able to decide the route the case will follow based on the information provided by both sides in the claim, defence and directions questionnaires, so there will be no need for an allocation hearing.

How will I know which track the claim has been allocated to?

Once the judge has decided, the court will send you and the other side a notice of allocation. This sets out which track the claim has been allocated to and what the court expects you to do next. The steps you both need to take are known as 'directions'.

In addition you must pay to the court the hearing fee or file an application for Help with Fees by the date given in the order.

Failure to pay the fee or make the appropriate application for Help with Fees will result in the claim/counterclaim being **struck out with immediate effect without further order and the hearing removed from the list.**

If your claim has been struck out, it will no longer exist. A new claim must be filed together with the appropriate fee or application for help with fees.

The hearing will be vacated, unless a counterclaim survives the claim being struck out.

The hearing fee is **non refundable**. If parties settle before the hearing fee is due, the hearing fee will not be payable.

What happens when my case is allocated to the small-claims track?

The notice of allocation will tell you what you have to do to prepare for the final hearing. These instructions are called 'directions'. They may include:

- instructions to send a supporting document to the court and to the other side, and when you need to do this by;
- permission to use an expert at the hearing;
- information about mediation if either you or the other side has asked for mediation, or the judge thinks the case is suitable for mediation;
- information about the date and place of the hearing and how long the judge thinks it will take; and
- hearing fee required.

If you are the person making a claim you will need to pay a hearing fee. If you do not pay the hearing fee by the due date, the court may not hold the hearing. For more information on fees, the combined leaflet and form *EX160A Court and Tribunal fees – Do I have to pay them?* which is available from hmctsformfinder.gov.uk or from the court.

Preliminary hearings

In some situations, a judge might not set the final hearing date at the allocation stage. Instead the judge might decide to hold a preliminary hearing. This usually only happens if:

- the case requires special or unusual steps to be taken that the judge wants to explain to you personally;
- the judge feels that either side has no real prospect of winning the case and wants to close the case as quickly as possible to save everyone time and money;
- the person who has made the claim does not show any reasonable grounds for bringing the claim, or the defendant's case does not show any reasonable grounds for defending it.

Your notice of allocation or listing hearing will tell you if you need to go to a preliminary hearing.

Will there always be a hearing?

No. If the judge wants to deal with your case without a hearing, you will be sent a notice of allocation to the small-claims track (no hearing). The notice will tell you that the judge thinks that your case can be dealt with without a hearing, using only written evidence. The notice will ask you to tell the court if you object, and will give you a date by which you must reply. If you or the other side objects, your case may be dealt with at a hearing. If you do not reply by the date given, the judge may treat your lack of reply as permission to do this.

Do I have to go to the hearing?

No. If you don't want to go to the hearing, you can ask the court to deal with the claim in your absence. You must write a letter to the court, giving the claim number, the date of the hearing and the reason why you will not be attending. You should also ask the court to make a decision on the case in your absence using any written evidence you have provided. The letter must arrive at court no later than seven days before the hearing date.

You should also send a copy of the letter to the other side in the dispute.

What if the hearing date is inconvenient?

If you want to go to the hearing but the date is inconvenient, you can apply to the court to set a later date. You may have to pay a fee to apply to change the date.

What should I do to prepare for the hearing?

To prepare for the hearing, you should make sure you do everything you are told to do in the notice of allocation to the small-claims track.

If you have been told to send documents to the other side involved in the dispute and to the court, do not send the originals of these documents. Send copies, but bring the originals with you to the hearing.

Remember, you will only have a limited amount of time to put your case to the judge. Make sure that any documents you want to refer to are in the right order. It is also a good idea to write down the things you want to say. If you do this, you will be less likely to forget something that is important and more likely to explain things in the right order.

If a witness or an expert is giving evidence for you at the hearing, make sure they know where the court is and when the hearing will start. Arrange to meet them at the court some time before the hearing is due to start.

You might find it useful to read our leaflet *EX342 – Coming to a court hearing? Some things you should know*. Your witness, if you have one, might want to read the leaflet *EX341 – I have been asked to be a witness – what do I do?* See page 11 for details on how to access our range of leaflets.

Can I ask someone else to speak for me at the hearing?

Yes. If you do not have a legal representative, you can take someone with you to speak for you. This person is called a 'lay representative' and can be anyone you choose, such as a husband or wife, a relative, a friend or an adviser. Your lay representative cannot go to the hearing without you, unless you have permission from the court.

Advice agencies cannot generally provide a representative to help you at hearings. If you are thinking of asking an agency, contact them as soon as you know your hearing date. They will tell you whether or not they can help. Some representatives may want to be paid for helping you at the hearing and you must make sure you know exactly how much this will be. You will have to pay for a representative, even if you win the case.

Remember, representatives who charge for helping you may not belong to a professional organisation. This means that if you are not satisfied with their help, there is nobody you can complain to.

Can I use an expert to help me prove my claim?

If you want to use an expert, you need the court's permission. Because of this, you should say so in the directions questionnaire. You must say what the expert's evidence will deal with and whether you would like the expert to give evidence in a written report, by speaking at the hearing, or both. If at all possible, both sides in the dispute should use the same expert as this will save you costs.

Your notice of allocation will tell you if you have been given permission to use an expert. It will also tell you when you should send a copy of the expert's report to the court and to the other side involved in the dispute.

Where will the hearing take place?

Small-claims hearings can be held in a courtroom or often in the judge's room (sometimes called the judge's chambers) with you sitting around a table. The hearings are generally less formal and held in public. This means that members of the public can go and hear the case.

A judge might agree to hear your case in private, where no members of the public can sit in. They may do this if:

- both sides have agreed to this;
- the hearing takes place on site, for example a home or a business premises because the claim relates to work done there;
- publicity would defeat the object of the hearing;
- the interests of a child or a protected person need to be considered;
- it includes confidential information; or
- the court considers that it is necessary in the interests of justice. The hearing is normally recorded.

What will happen at the hearing?

The judge will speak first, to check who you are and whether you are the claimant or the defendant. When responding to the judge, you should address a male judge as 'Sir' and a female judge as 'Madam'.

The judge will then invite you to be seated. The judge may then explain how the hearing will be carried out. This may vary from case to case. The judge may ask the claimant to speak first to set out any reason or evidence to support their claim. Then the defendant will be given an opportunity to ask the claimant about the statement and the evidence. Each side will then be given an opportunity to ask other questions.

At the end of the hearing, the judge will tell you the decision the court has reached (the judgment) and give brief reasons for it.

What happens after the hearing?

After the hearing, you and the other side involved in the dispute will be sent a copy of the judgment. It will set out the judge's decision and any order for costs that was made. If the claim was for an amount of money, the order will include the arrangement for payment.

If you told the court that you would not be going to the hearing, you will also get brief reasons for the decision.

If the other side has been ordered to pay you money, but does not pay, you should remember that the court will not take any action unless you ask it to. This is called 'enforcing your judgment'. You may have to pay a fee for this. For more information on enforcement, read our leaflet *EX321 – I have a judgment but the defendant hasn't paid – what can I do?* See page 11 for details on our range of leaflets.

Can I appeal against the decision?

If you lose your case and you want to appeal against the judge's decision, you will need to get permission to do so. If the decision was made without a hearing or the decision was made in your absence because you gave notice asking the court to deal with the claim in your absence. Application for permission to appeal can be made in your appeal notice. If you went to the hearing at which the decision was made, you can ask the judge for permission at the end of the hearing.

You must have proper reasons and cannot appeal just because you think the judge's decision is wrong.

If you decide you want to appeal, you must act quickly as the time within which you must issue your appeal is limited.

For more information on making an appeal, read our leaflet *EX340 – I want to appeal – what should I do?* See page 11 for details on how to access our range of leaflets.

What if I wasn't at the hearing?

If you were neither at nor represented at the hearing, and did not ask the court to deal with the matter in your absence, you may apply for judgment made at that hearing to be set aside and the case re-heard. You must make the application within 14 days of receiving the judgment. If you want to make an application for the judgment to be set aside, you should ask the court for an application notice. You may have to pay a fee.

After you have sent an application notice, the court will tell you when you must come to court for the hearing of the application before a judge.

The judge will only hear a case again if:

- you have a good reason for not going to the hearing, or
- you have a reasonable prospect of being successful at a rehearing.

If the judge agrees to hear the case again, the court will fix a new hearing date for the case.

If the claim is straightforward, the judge may decide to deal with the case immediately after the hearing of the application.

Court fees and what do I do if I can't pay them?

You may have to pay a fee. You will have to pay court fees at the time you file any document or begin any process which involves a fee, unless we say otherwise.

Courts accept payment by cash or cheque, which should be made payable to 'HM Courts & Tribunals Service (HMCTS)'. If you pay by cheque and it bounces, the court will take steps to recover the money. Non-payment will result in your case being stayed or even struck out. You can pay by debit or credit card if you use either of the online services (Money Claim Online or Possession Claim Online).

You will find a list of court fees in the leaflet *EX50 Civil and family court fees* or court staff will be able to let you know the amount you have to pay.

You can apply for help with court and tribunal fees online at www.gov.uk/help-with-court-fees or through the 'EX160 Apply for help with fees' form and 'EX160A – How to apply for help with fees' guidance.

You will have to make a separate application each time you have to pay a court fee.

How a dispute might progress to court

The diagram below shows how a dispute claim can progress through court. This leaflet covers the part of the process that is highlighted.



Being in a dispute

A dispute is when someone is involved in a disagreement with another person or organisation, for example over money owed.

Finding an alternative to court

The court says that you must try to settle the dispute using ways other than going to court. These are generally cheaper and faster. If an alternative way is successful, you leave the process here.

Starting the court process

The court process starts when a claim is made through the courts. The claim can then either be defended or admitted.

The claim is defended

If the claim is defended or if you or the other side cannot agree on the money owed, the dispute will go to court.

Or

The claim is admitted

If the claim is admitted, the person it was made against should pay what is owed. The dispute then ends and you leave the process here.

Small-claims track

Claims for £10,000 or less are likely to be dealt with by the small-claims track. These cases will usually last less than six months.

Or

Fast or multi-track

Claims for more than £10,000 are likely to be dealt with by the fast or multi-track. These cases can be complicated and so can take longer than six months to complete.

Appealing against a court decision

If you or the other side disagree with the judge's decision, you can appeal. You must have proper grounds (reasons) and permission from the judge to make an appeal.

Do I need legal advice?

You can get free legal information and advice from various organisations. Remember, court staff are not able to give legal advice about your case.

Where can I get more information?

For general information about solving legal disputes, visit www.gov.uk

For advice on court procedures, to get the forms you need or for help filling them in, speak to the court staff. But remember, they cannot give you legal advice. For example, they cannot tell you if you have a good claim or who you should be claiming from.

You may qualify for legal aid. For more information visit www.gov.uk/legal-aid

You may also get free legal advice from a law centre or a citizens advice bureau at www.adviceguide.org.uk

To read our other leaflets in this series, visit hmctsformsfinder.justice.gov.uk

For information on consumer issues, contact Consumer Direct on 08454 04 05 06 or visit www.consumerdirect.gov.uk

For issues relating to water, contact the Consumer Council for Water on 0121 345 1000 or 0845 039 2837 (this will redirect you to your local committee) or by email to enquiries@ccwater.org.uk

For issues relating to landline telephones, mobile phones and the internet, contact Ofcom on 020 7981 3040 or you can send an email to Ofcom through their website at www.ofcom.org

For issues relating to gas and electricity, contact Ofgem on 020 7901 7295 or by email to consumeraffairs@ofgem.gov.uk

For information on how to contact Ombudsman services, contact the British and Irish Ombudsman Association on 020 8894 9272 or by email to secretary@bioa.org.uk

For contact details of all our courts, visit courtribunalfinder.service.gov.uk

What extra help is available if I have a disability?

If you need this leaflet in another format, for example in large print, please contact your local court for help. You can find contact details for all our courts online at courttribunalfinder.service.gov.uk

If you have a disability that makes going to court or communicating difficult, please contact the court concerned and they will be able to help you. You can find contact details for all our courts online at courttribunalfinder.service.gov.uk

We at HM Courts & Tribunals Service are an agency of the Ministry of Justice. We are responsible for the dealing with the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland. We provide a fair, efficient and effective justice system delivered by an independent judiciary.

We aim to make sure that everyone can receive timely access to justice according to their different needs, whether as victims or witnesses of crime, defendants accused of crimes, consumers in debt, children at risk of harm, businesses involved in commercial disputes or as individuals asserting their employment rights or challenging the decisions of government bodies.

For more information, see www.justice.gov.uk/about/hmcts