

PART 26

CASE MANAGEMENT – PRELIMINARY STAGE

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Scope of this Part

26.1.—(1) This Part provides for—

- (a) the automatic transfer of some defended cases in the High Court;
- (b) the circumstances in which defended cases may be sent from one County Court hearing centre or court office to another; and

(c) the allocation of defended cases to case management tracks and, where applicable, their assignment to a complexity band.

(2) There are four tracks—

- (a) the small claims track;
- (b) the fast track;
- (c) the intermediate track; and
- (d) the multi-track.

(Rule 26.9 sets out the normal scope of each track. Part 27 makes provision for the small claims track. Part 28 makes provision for the fast track and the intermediate track. Part 29 makes provision for the multi-track.)

Automatic transfer in the High Court

26.2.—(1) This rule applies to proceedings in the High Court where—

- (a) the claim is for a specified amount of money;
- (b) the claim was commenced in a court which is not the defendant's home court;
- (c) the claim has not been transferred to another defendant's home court; and
- (d) the defendant is an individual.

(2) This rule does not apply where the claim was commenced in a specialist list^(GL).

(3) Where this rule applies, the court will transfer the proceedings to the defendant's home court when a defence is filed, unless paragraph (4) applies.

(Rule 2.3 defines 'defendant's home court'.)

(4) Where the claimant notifies the court under rule 15.10 or rule 14.5 that they wish the proceedings to continue, the court will transfer the proceedings to the defendant's home court when it receives that notification from the claimant.

(Rule 15.10 deals with a claimant's notice where the defence is that money claimed has been paid)

(Rule 14.5 sets out the procedure where the defendant admits part of a claim for a specified amount of money)

(5) Where—

(a) the claim is against two or more defendants with different home courts;
and

(b) the defendant whose defence is filed first is an individual,

proceedings are to be transferred under this rule to the home court of that defendant.

(6) The time when a claim is automatically transferred under this rule may be varied by a practice direction in respect of claims issued by the Production Centre.

(Rule 7.10 makes provision for the Production Centre.)

Transfer of money claims within the County Court

26.3.—(1) This rule applies where the claim is for an amount of money in the County Court, specified or unspecified.

(2) If at any time a court officer considers that the claim should be referred to a judge for directions, the court officer may send the proceedings to the defendant's home court or the preferred hearing centre or other County Court hearing centre as may be appropriate.

(3) Subject to paragraphs (5) and (6), if the defendant is an individual and the claim is for a specified sum of money, at the relevant time the claim must be sent to the defendant's home court (save that where there are two or more defendants, one or more of whom are individuals, the claim must be sent to the home court of the defendant who first files their defence).

(4) Subject to paragraphs (5) and (6), in any other claim to which this rule applies, the court must, at the relevant time, send the claim to the preferred hearing centre.

(5) Subject to paragraph (6), if, on their directions questionnaire—

(a) a defendant under paragraph (3) has specified a hearing centre other than the defendant's home court; or

- (b) a claimant under paragraph (4) has specified a hearing centre other than the preferred hearing centre,

the claim must be sent to that other hearing centre.

(6) At the relevant time, the claim must be sent to the County Court at Central London if—

- (a) the claim is started at the County Court Business Centre or the County Court Money Claims Centre;
- (b) a court officer provisionally decides, pursuant to rule 26.4, that the track which appears to be most suitable for the claim is the multi-track; and
- (c) either—
 - (i) in respect of a defendant under paragraphs (3) and (5)(a), the home court (or the home court of the defendant who first files their defence) or the hearing centre specified on the directions questionnaire; or
 - (ii) in respect of a claimant under paragraphs (4) and (5)(b), the preferred hearing centre or the hearing centre specified on the directions questionnaire,

is one of the hearing centres listed in Practice Direction 26 at paragraph 19.

(7) The relevant time for the purposes of this rule is when—

- (a) all parties have filed their directions questionnaires;
- (b) any stay ordered by the court or period to attempt settlement through mediation has expired; or
- (c) if the claim falls within Practice Direction 49D—
 - (i) the defence is filed; or
 - (ii) enforcement of a default judgment other than by a warrant of control is requested,

whichever occurs first.

Directions questionnaire

26.4.—(1) Subject to rule 26.8, if a defendant files a defence—

(a) a court officer shall—

(i) provisionally decide the track which appears to be most suitable for the claim; and

(ii) serve on each party a notice of proposed allocation; and

(b) the notice of proposed allocation shall—

(i) specify any matter to be complied with by the date specified in the notice;

(ii) require the parties to file a completed directions questionnaire and serve copies on all other parties;

(ii) state the address of the court or the court office to which the directions questionnaire must be returned;

(iii) inform the parties how to obtain the directions questionnaire; and

(iv) if a case appears suitable for allocation to the fast track, intermediate track or multi-track, require the parties to file proposed directions by the date specified in the notice.

(2) The court shall serve on any unrepresented party the appropriate directions questionnaire.

(3) Where there are two or more defendants and at least one of them files a defence, the court shall serve the notice under paragraph (1)—

(a) when all the defendants have filed a defence; or

(b) when the period for the filing of the last defence has expired,

whichever is the sooner.

(Rule 15.4 specifies the period for filing a defence.)

(4) If proceedings are automatically transferred under rule 26.2 or rule 26.3 the court in which the proceedings have been commenced—

(a) shall serve the notice of proposed allocation before the proceedings are transferred; and

(b) shall not transfer the proceedings until all parties have complied with the notice or the time for doing so has expired.

(5) If rule 15.10 or rule 14.5 applies, the court shall not serve a notice under rule 26.3(1) until the claimant has filed a notice requiring the proceedings to continue.

(6) If a notice is served under paragraph (1)—

(a) each party must file, and serve on all other parties, the documents required by the notice by no later than the date specified in it; and

(b) the date specified must be—

(i) if the notice relates to the small claims track, at least 14 days; or

(ii) if the notice relates to the fast track, intermediate track, or multi-track, at least 28 days,

after the date when it is deemed to be served on the party in question.

(7) The date for complying with a notice served under paragraph (1) may not be varied by agreement between the parties.

(8) The time when the court serves a directions questionnaire under this rule may be varied by a practice direction in respect of claims issued by the Production Centre.

(9) If a claim is a claim to which rule 26.3 applies and a party does not comply with the notice served under paragraph (1) by the date specified—

(a) the court will serve a further notice on that party, requiring them to comply within 7 days; and

(b) if that party fails to comply with the notice served under sub-paragraph (a), the party's statement of case will be struck out without further order of the court.

(10) If a claim is a claim to which rule 26.2 applies and a party does not comply with the notice served under rule paragraph (1) by the date specified, the court may make such order as it considers appropriate, including—

(a) an order for directions;

(b) an order striking out the claim;

- (c) an order striking out the defence and entering judgment; or
- (d) listing the case for a case management conference.

(11) Where a case has been struck out under paragraph (9)(b) or an order has been made under paragraph (10), a party who was in default will, unless the court thinks it unjust to do so, be ordered to pay the costs that the default caused to any other party.

(Rule 7.10 makes provision for the Production Centre.)

(Rules 6.14 and 6.26 specify when a document is deemed to be served.)

Stay to allow for settlement of the case

26.5.—(1) A party may, when filing the completed directions questionnaire, make a written request for the proceedings to be stayed^(GL) while the parties try to settle the case by alternative dispute resolution^(GL) or other means.

(2) If all parties request a stay the proceedings shall be stayed for one month and the court shall notify the parties accordingly.

(3) If the court otherwise considers that such a stay would be appropriate, the court may direct that the proceedings, either in whole or in part, be stayed for one month, or for such other period as it considers appropriate.

(4) The court may extend the stay until such date or for such specified period as it considers appropriate.

(5) Where the court stays the proceedings under this rule, the claimant must tell the court if a settlement is reached.

(6) If the claimant does not tell the court by the end of the period of the stay that a settlement has been reached, the court shall give such directions as to the management of the case as it considers appropriate.

Referral to the Mediation Service

26.6.—(1) This rule applies to claims started in the County Court which would normally be allocated to the small claims track pursuant to rule 26.9.

(2) This rule does not apply to—

- (a) road traffic accident, personal injury or housing disrepair claims; or

(b) any claim in which any party to the proceedings does not agree to referral to the Mediation Service.

(3) In this rule, 'the Mediation Service' means the Small Claims Mediation Service operated by His Majesty's Courts and Tribunals Service.

(4) Where all parties indicate on their directions questionnaire that they agree to mediation, the claim shall be referred to the Mediation Service.

(5) If a claim to which this rule applies is settled, the proceedings will automatically be stayed with permission to apply for—

(a) judgment for the unpaid balance of the outstanding sum of the settlement agreement; or

(b) the claim to be restored for hearing of the full amount claimed,

unless the parties have agreed that the claim is to be discontinued or dismissed.

Allocation and assignment

26.7.—(1) Subject to rule 26.8, the court will allocate the claim to a track and, where applicable, assign it to a complexity band—

(a) when all parties have filed their directions questionnaires; or

(b) when giving directions pursuant to rule 26.4(10),

unless it has stayed the proceedings under rule 26.5.

(2) If the court has stayed^(GL) the proceedings under rule 26.5, it will allocate the claim to a track and, where applicable, assign it to a complexity band at the end of the period of the stay.

(3) If—

(a) a claim is referred to the Mediation Service pursuant to rule 26.6; and

(b) the court has not been notified in writing that a settlement has been agreed,

the claim will be allocated to a track and, where applicable, assigned to a complexity band in accordance with this rule no later than four weeks from the date on which the last directions questionnaire is filed.

(4) Before deciding the track to which to allocate or the complexity band to which to assign proceedings, or deciding whether to give directions for an allocation hearing or an assignment hearing to be fixed, the court may order a party to provide further information about his case.

(5) The court may hold an allocation hearing or an assignment hearing if it thinks it is necessary.

(6) If a party fails to file a directions questionnaire, the court may give any direction it considers appropriate.

(7) When, in a claim to which Section VI or Section VII of Part 45 applies, the court decides the track to which a claim should be allocated or the complexity band to which it should be assigned—

- (a) it shall also consider whether it is in the interests of justice to order that rule 45.5(4) should apply to that claim; and
- (b) when considering whether it is in the interests of justice to make such an order, it shall have regard to whether the claim of each claimant arises from the same or substantially the same facts and gives rise to the same or substantially the same issues.

Proceedings under Practice Direction 27B

26.8.—(1) This rule applies where—

- (a) the parties have followed the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents; and
- (b) proceedings have been started under Practice Direction 27B.

(2) Subject to paragraph (3), where this rule applies, the claim shall be treated as allocated to the small claims track when it is issued and rules 26.4, 26.5 and 26.7 will not apply.

(3) Where in any claim started or continued under Practice Direction 27B—

- (a) the appropriate court form states that—
 - (i) the amount claimed is more than £10,000; or
 - (ii) the claim for personal injury damages is more than £5,000; or
- (b) rule 26.10 applies,

a court officer must refer the claim to a judge for allocation to a track and to give directions.

Scope of each track

26.9.—(1) The small claims track is the normal track for—

- (a) any claim for personal injuries where—
 - (i) the value of the claim is not more than £10,000; and
 - (ii) the value of any claim for damages for personal injuries is not more than—
 - (aa) £5,000 in a claim for personal injuries arising from a road traffic accident, except as provided in sub-paragraph (bb);
 - (bb) £1,000 in a claim for personal injuries arising from a road traffic accident, in any of the circumstances specified in rule 26.10; or
 - (cc) £1,500 in any other claim for personal injuries.
- (b) any claim which includes a claim by a tenant of residential premises against a landlord where—
 - (i) the tenant is seeking an order requiring the landlord to carry out repairs or other work to the premises (whether or not the tenant is also seeking some other remedy);
 - (ii) the cost of the repairs or other work to the premises is estimated to be not more than £1,000; and
 - (iii) the value of any other claim for damages is not more than £1,000; and
- (c) in relation to claims under the Renting Homes (Wales) Act 2016, any claim which includes a claim by a contract-holder of a dwelling against a landlord where—
 - (i) the contract holder is seeking an order requiring the landlord to carry out repairs or other work to the dwelling (whether or not the contract-holder is also seeking some other remedy);
 - (ii) the cost of repairs or other work to the dwelling is estimated to be not more than £1,000; and

(iii) the value of any other claim for damages is not more than £1,000.

(Rule 2.3 defines 'claim for personal injuries' as proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person's death.)

(2) For the purposes of paragraph (1) 'damages for personal injuries' means damages claimed as compensation for pain, suffering and loss of amenity and does not include any other damages which are claimed.

(3) 'Road traffic accident' means an accident resulting in a bodily injury to any person caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales unless the injury was caused wholly or in part by a breach by the defendant of one or more of the relevant statutory provisions as defined by section 53 of the Health and Safety at Work etc. Act 1974⁽¹⁾.

(4) Subject to paragraph (1), the small claims track is the normal track for any claim which has a value of not more than £10,000.

(Rule 26.12(2) and (3) provides that the court must not allocate to the small claims track certain claims in respect of harassment or unlawful eviction.)

(5) Subject to paragraph (6), the fast track is the normal track for any claim—

(a) for which the small claims track is not the normal track; and

(b) the claim—

(i) is a claim for monetary relief, the value of which is not more than £25,000; or

(ii) is or includes a claim for non-monetary relief and—

(aa) if the claim includes a claim for monetary relief, the value of the claim for monetary relief is not more than £25,000;

(bb) the claim meets the criteria in paragraph (6)(a) and (b); and

(1) 1974 c. 37. Which has been amended by the Employment Protection Act 1975 (c. 71), sections 116 and 125(3), Schedule 15, paragraph 18, the Consumer Protection Act 1987 (c. 43), section 36, Schedule 3, S.I. 2008/960, articles 3 and 17(a) and (b), the Police (Health And Safety) Act 1997 (c. 42), section 6(1), the Local Government (Wales) Act 1994 (c. 19), sections 22(3) and 66(8), Schedule 9, paragraph 9 and Schedule 18, the Local Government Act 1985 (c. 51), section 102, Schedule 17, the Local Government etc (Scotland) Act 1994 (c. 39), section 180(1), Schedule 13 paragraph 93(3), the Energy Act 2013 (c. 32) section 116, Schedule 12, Part 1, paragraphs 1 and 12(a), (b) and (c), and the Railways Act 2005 (c. 14), section 2, Schedule 3, paragraph 15(3).

(cc) the court is satisfied that it is in the interests of justice for it to be allocated to the fast track.

(6) The fast track is the normal track for the claims referred to in paragraph (5) only if the court considers that—

- (a) the trial is likely to last for no longer than one day; and
- (b) oral expert evidence at trial is likely to be limited to—
 - (i) one expert per party in relation to any expert field; and
 - (ii) expert evidence in two expert fields.

(7) Subject to paragraphs (8), (9) and (10), the intermediate track is the normal track where—

- (a) the claim is suitable for neither the small claims track nor the fast track;
- (b) the claim includes a claim for monetary relief, the value of which is not more than £100,000;
- (c) the court considers that—
 - (i) if the case is managed proportionately, the trial will not last longer than three days;
 - (ii) oral expert evidence at trial is likely to be limited to two experts per party;
 - (iii) the claim may be justly and proportionately managed under the procedure set out in Section IV of Part 28; and
 - (iv) there are no additional factors, which would make the claim inappropriate for the intermediate track; and
- (d) the claim is brought by one claimant against either one or two defendants, or is brought by two claimants against one defendant.

(8) Where the relief sought includes a claim for non-monetary relief, the claim will not be allocated to the intermediate track unless the court also considers it to be in the interests of justice to do so.

(9) Subject to paragraph (10), the court may allocate a claim to the intermediate track where it considers it to be in the interests of justice to do so.

(10) A claim must be allocated to the multi-track where that claim is—

- (a) a mesothelioma claim or asbestos lung disease claim;
- (b) one which includes a claim for clinical negligence, unless both breach of duty and causation have been admitted;
- (c) a claim for damages in relation to harm, abuse or neglect of or by children or vulnerable adults;
- (d) a claim is one the court could order to be tried by jury if satisfied that there is in issue a matter set out in section 66(3) of the County Courts Act 1984 or section 69(1) of the Senior Courts Act 1981; or
- (e) a claim against the police which includes a claim for—
 - (i) an intentional or reckless tort; or
 - (ii) relief or a remedy in relation to a breach of the Human Rights Act 1998.

(11) Paragraph (10)(e) does not apply to—

- (a) a road accident claim arising from negligent police driving;
- (b) an employer's liability claim;
- (c) any other claim for an accidental fall on police premises.

(12) The multi-track is the normal track for any claim for which the small claims track or the fast track or the intermediate track is not the normal track.

Road traffic accident related personal injury claims

26.10. The circumstances referred to in rule 26.9(1)(a)(ii)(bb) are—

- (a) the accident occurred before 31st May 2021;
- (b) unless rule 26.11 applies, on the date that proceedings are started, the claimant is—
 - (i) a child; or
 - (ii) a protected party;
- (c) when the accident occurred, the claimant was—
 - (i) using a motor cycle;
 - (ii) a pillion passenger on, or a passenger in a sidecar attached to, a motor cycle;

- (iii) using a wheelchair, a powered wheelchair or a mobility scooter;
 - (iv) using a bicycle or other pedal cycle;
 - (v) riding a horse; or
 - (vi) a pedestrian;
- (d) unless rule 26.11 applies, on the date that proceedings are started—
- (i) the claimant is an undischarged bankrupt; or
 - (ii) the claimant or defendant acts as a personal representative of a deceased person; or
- (e) unless rule 26.11 applies, on the date of the accident, the defendant's vehicle was registered outside the United Kingdom.

Children and protected parties

26.11.—(1) The fast track is the normal track where a claim—

- (a) is for personal injuries arising from a road traffic accident which occurs on or after 31st May 2021;
- (b) is made by—
 - (i) a child or a protected party; or
 - (ii) a person who, on the date the claim was first presented via the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents, was a child; and
- (c) consists of, or includes, a claim for a whiplash injury.

(2) Where this rule applies, the claim must not be allocated to the small claims track.

(3) 'Whiplash injury' has the meaning ascribed to it by paragraph 1.2(38) of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.

General rule for allocation

26.12.—(1) In considering whether to allocate a claim to the normal track for that claim under rules 26.9, 26.10 or 26.11, the court shall have regard to the matters mentioned in rule 26.13(1).

(2) The court must not allocate a claim to the small claims track, if it includes a claim by a tenant of residential premises against his landlord for a remedy in respect of harassment or unlawful eviction.

(3) In claims under the Renting Homes (Wales) Act 2016, the court must not allocate a claim to the small claims track if it includes a claim by a contract-holder of a dwelling against their landlord for a remedy in respect of harassment or unlawful eviction.

Matters relevant to allocation to a track

26.13.—(1) When deciding the track for a claim, the matters to which the court shall have regard include—

- (a) the financial value, if any, of the claim;
- (b) the nature of the remedy sought;
- (c) the likely complexity of the facts, law or evidence;
- (d) the number of parties or likely parties;
- (e) the value of any counterclaim or additional claim and the complexity of any matters relating to it;
- (f) the amount of oral evidence which may be required;
- (g) the importance of the claim to persons who are not parties to the proceedings;
- (h) the views expressed by the parties; and
- (i) the circumstances of the parties.

(2) It is for the court to assess the financial value of a claim and in doing so it shall disregard—

- (a) any amount not in dispute;
- (b) any claim for interest;
- (c) costs;
- (d) any contributory negligence; and
- (e) where the claim is, or includes a claim for non-monetary relief, any amount prescribed by rule 45.45(1)(a)(ii) and rule 45.50(2)(b)(ii).

(3) Where—

- (a) two or more claimants have started a claim against the same defendant using the same claim form; and
- (b) each claimant has a claim against the defendant separate from the other claimants,

the court shall consider the claim of each claimant separately when it assesses financial value under paragraph (1).

Assignment within the fast track and the intermediate track

26.14.—(1) When a claim is allocated to the fast track or the intermediate track, the court must also assign the claim to a complexity band, unless it is one to which Section VIII of Part 45 applies.

(2) In both Table 1 and Table 2, below, the complexity bands numbered 1 to 4 provide an ascending scale of allowable costs commensurate with the complexity of the claim.

(3) The complexity band to which a claim is assigned shall determine the costs that are to be allowed under Table 12 or Table 14 in Practice Direction 45.

(4) Subject to paragraph (5), the parties may agree the complexity band to which a claim is assigned.

(5) The court may direct that a claim be assigned to a different complexity band than that agreed by the parties, but shall have regard to the factors set out in rule 26.13(1).

(6) A party must state on their directions questionnaire—

- (a) the agreed complexity band; or
- (b) where the parties disagree, the complexity band considered appropriate by that party,

together with any relevant information in support.

Assignment within the fast track

26.15. Unless the claim is one for noise induced hearing loss (in respect of which Sections I and IV of Part 28 and Section VIII of Part 45 make provision), the complexity band to which a claim will normally be assigned in the fast track is set out in Table 1.

Table 1

<i>Complexity band 1</i>	<i>Complexity band 2</i>	<i>Complexity band 3</i>	<i>Complexity band 4</i>
(a) road traffic accident related, non-personal injury claims; and (b) defended debt claims	(a) road traffic accident related, personal injury claims which are or should have been started under the RTA Protocol; and (b) personal injury claims to which the Pre-action Protocol for Resolution of Package Travel Claims apply	(a) road traffic accident related, personal injury claims to which the RTA Protocol does not apply; (b) employer's liability (accident) and public liability personal injury claims; (c) possession claims; (d) housing disrepair claims; and (e) other money claims	(a) employer's liability disease claims (other than a claim for noise induced hearing loss); (b) complex possession and housing disrepair claims; (c) property and building disputes; (d) professional negligence claims; and (e) any claim which would normally be allocated to the

fast track, but is
nonetheless
complex

Assignment within the intermediate track

26.16. The complexity band to which a claim will normally be assigned in the intermediate track is set out in Table 2.

Table 2

<i>Complexity band 1</i>	<i>Complexity band 2</i>	<i>Complexity band 3</i>	<i>Complexity band 4</i>
Any claim where—	Any less complex claim where more	Any more complex claim where more	Any claim which would normally be allocated to
(a) only one issue is in dispute; and	than one issue is in dispute, including	than one issue is in dispute, but which is	the intermediate track, but which is unsuitable for
(b) the trial is not expected to last longer than one day, including—	personal injury accident claims where liability and quantum are in dispute	assignment to complexity band 2, including noise induced hearing loss and other	assignment to complexity bands 1 to 3, including any personal injury claim where
(i) personal injury claims where liability or quantum is in dispute;		employer’s liability disease claims	there are serious issues of fact or law
(ii) non-personal injury road traffic claims; and			

(iii) defended
debt claims

Notice of allocation and assignment

26.17. When it has allocated a claim to a track, the court shall serve notice of allocation and, where applicable, assignment on every party.

Reallocation and reassignment

26.18.—(1) Subject to paragraphs (2) and (3), the court may on application or on its own initiative subsequently—

- (a) reallocate a claim to a different track; or
- (b) reassign a claim to a different complexity band.

(2) Where—

- (a) a claim is allocated to the intermediate track; and
- (b) directions in respect of that claim have been given,

the court may only reallocate the claim where it decides that there are exceptional reasons to justify doing so.

(3) The court may only reassign a claim to a different complexity band, where—

- (a) there has been a change in circumstances since a direction was made assigning the claim to a particular complexity band; and
- (b) the court decides the change in circumstances justifies reassignment.

Trial with a jury

26.19.—(1) An application for a claim, other than a claim for libel and slander, to be tried with a jury must be made within 28 days of service of the defence.

(2) A claim for libel or slander must be tried by Judge alone, unless at the first case management conference a party applies for trial with a jury and the court makes an order to that effect.