

# Small Claims Determination on Paper

Supporting Data

## Background

Small claims are generally for less than £10,000 and are subject to a dedicated procedure<sup>1</sup> aimed at handling simpler cases of limited financial value proportionately, such as low value debt claims. Due to the high volumes of claims allocated to the small claims track, their effective management is critical to the overall efficiency of the civil courts.

The majority (77%) of the 75,897 claims allocated to the small claims track in 2023 arose from claims for a specific amount of money ('money claims'). Money claims involve a wide variety of types of claims and also a variety of different users, from individuals and sole traders through to large organisations, both with and without legal representation. Damages claims accounted for 22% of the claims allocated to the Small Claims track; the majority of these claims are from legally represented claimants recovering Damages for personal injury.

In 2021, a working group was formed by the Master of the Rolls to look at the resolution of small claims to identify lessons learned from the methods adopted within different courts to ensure that small claims continued to progress to resolution. The final reports of that group was published in 2022<sup>2</sup> which made a recommendations for dealing with claims below £500 that included dealing with these claims on paper. HMCTS were supportive of this recommendation, having a previous ambition to enable a proportion of small claims to be dealt with on their papers where suitable.

As such, a sub-committee of the CPRC was constituted to draft proposals for a scheme to enable the court to direct that small claim could be determined without a hearing without requiring the agreement of all parties, as required under rule 27.10. From this, the Small Claims Paper Determination Pilot has been operating since June 2022 under Practice Direction 51ZC.

### The aim of the pilot

The purpose of the pilot is to provide a more efficient and cost-effective alternative to physical hearings for lower value and less complex claims reducing the time taken for the judiciary to deal with the claims and for users to receive an outcome, maximising the efficiency of the Small Claims sitting day and freeing up resource to improve timeliness for more complex claims.

### How the pilot operates

The pilot applies to all small claims proceeding in the County Court sitting at Bedford, Luton, Guildford, Staines, Cardiff and Manchester issued after 1 June 2022 with the exception of those small claims where the parties have followed the Pre-Action Protocol for Personal Injury Claims below the Small Claims limit in Road Traffic Accidents and have started proceedings under Practice Direction 27B or for housing disrepair.

The Directions Questionnaire (N180) and equivalent screens within the digital platforms, Online Civil Money Claims (OCMC) and the Damages service were amended to include a section requiring each

---

<sup>1</sup> PART 27 – THE SMALL CLAIMS TRACK – Civil Procedure Rules

<sup>2</sup> SMALL CLAIMS

party to indicate whether they consider that the claim is suitable for determination without a hearing and if not, why not.

The decision as to whether a claim is suitable for paper determination is a matter for the judge, generally at the point of allocating the claim and giving case management and hearing directions and taking into account information provided within the Directions Questionnaire with the parties given at least 21 days notice before any paper determination takes place.

There is a mechanism for parties to object to the determination being made on paper through written representation made no less than seven days before the determination is due to take place which is considered by the judge on the date of the determination.

For those claims determined on their papers, the judge prepared a note of reasons which included reasons for determining the matter suitable for determination without a hearing if a party objected with each party being sent a copy of the note of reasons.

It is important to note that due to operation of the digital Online Civil Money Claims and Damages platform, it was not possible for claims proceeding on those platforms to be part of this pilot. These claims often proceeding to a Standard Direction Order made by a legal adviser rather than a judge and were therefore not deemed appropriate to be considered within this pilot.

## Evaluation

This evaluation compares two time periods before and after the commencement of the pilot. The time considered before the pilot is June 2021 – May 2022 and June 2023 – May 2024. As the pilot applied to cases issued after 1 June 2022 (the commencement of the pilot), sufficient time was allowed for these cases to reach trial which is why the time period immediately following the commencement of the pilot has not been included.

It is important to understand the context of the claims contained within this time period and the impact it may have had on the data and the changes we may see in claim mix in the future.

The pilot began operating at a time when courts were still undergoing significant recovery following the onset of the Covid pandemic which impacted all stages of the court process including the volumes of claims that were issued with many bulk users suppressing issue volumes. In more recent years, claim volumes have begun to increase again and this trend looks set to continue throughout 2025.

Since the onset of the pilot, significant progress has been made through the Reform programme in digitising money claims including these claims being able to be progressed right through to final order digitally for the first time. This evaluation notes difficulties with the quality of paper bundles which may be less of an issue in the future with more small claims utilising a digital bundle.

In addition, a significant policy change came into force under a separate pilot practice direction in May 2022 for cases proceeding on legacy systems which makes mediation a requirement for all defended small claims. This has significantly increased the number of cases receiving and settling at mediation and an evaluation will take place over the coming years to better understand the impact of mediation as a requirement which could significantly change the landscape of small claims cases proceeding to trial in the future if, for example, certain case types or cases with certain characteristics prove more likely to settle at mediation and less likely to proceed to trial in the future.

# Small Claim volumes

During these two time periods a significant number of claims were issued which fit into these criteria.

Table 1. Number of claims allocated to the Small Claims Track pre and post pilot implementation.

<b>Court</b>	<b>Small Claims allocated 21/22</b>	<b>Small Claims allocated 23/24</b>	<b>% change</b>
Bedford	137	111	19% decrease
Luton	2,727	1,732	36% decrease
Guildford	1,058	539	49% decrease
Staines	457	336	26% decrease
Manchester	4,893	2,761	44% decrease
Cardiff	960	632	34% decrease
National	99,375	83,469	16% decrease

The volume of claims allocated to the small claims track varied significantly over the evaluation period with each of the pilot sites seeing a decrease in volumes greater than the decrease seen nationally.

Table 2. Number of claims allocated to the Small Claims track proceeding to full hearing (a trial resulting in a final judgment or order)

<b>Court</b>	<b>Small Claims Full Hearings 21/22</b>	<b>Small Claims Full Hearings 23/24</b>	<b>% change</b>
Bedford	795	580	27% decrease
Luton	548	122	78% decrease
Guildford	406	359	12% decrease

Staines	145	208	43% increase
Manchester	1,612	1,236	23% decrease
Cardiff	303	222	27% decrease
National	38,026	35,798	6% decrease

The volume of claims proceeding to full hearing decreased in all pilot sites with the exception of Staines with the decreases being greater than the national average.

The trend change is important to note. Post-Covid, the volumes of claims decreased with many bulk users (those being users who issue money claims in significant volumes) suppressing demand over 2020 and 2021. Whilst volumes have slowly recovered towards 2019 levels, it takes time for these increases to show in allocation and hearing date. In addition, significant performance challenges in the Civil National Business Centre during 2023 may be impacting the later data as claims took longer to reach local courts for onward case management and hearing.

# Supporting Data

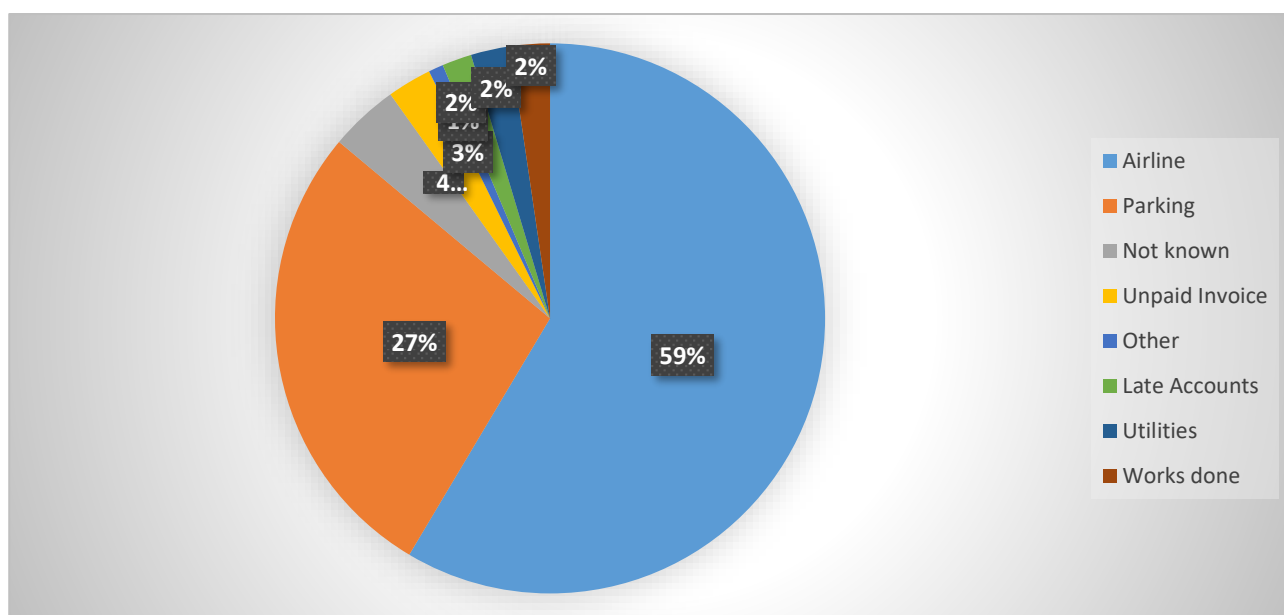
## Analysis

Due to limitations within the case management system, it has not been possible to evaluate the entirety of the caseload determined on their papers and has instead relied on data arising from 612 claims since the commencement of the pilot which have been identified as determined on their papers.

## Case Type

Analysis of the particulars of claim for each of the 612 cases was undertaken to identify the type or characteristics of a case.

Figure 1. Proportion of claims determined on their papers by case type



By far the largest proportion of claims determined on their papers were claims categorised as 'airline' claims related to flight delays which accounted for 59% of determined claims. It is important to note that one of the pilot sites Luton manages is a flight delay centre and as such deals with a higher proportion of these claims than most other courts nationally. It is therefore to be expected that a large number of claims are of this type.

The second most common claim type was categorised as 'parking' claims and accounted for 27% of the claims determined on their papers. There is further work ongoing outside of this pilot to better understand the volumes and distribution of parking claims but as these are dealt with at the Defendants home court (the Defendant generally being a litigant in person in these claims), it is expected that these claims will have a much more even national spread than flight delay claims for example.

All other claim types identified accounted for between 1-3% of claims and included claims for unpaid invoices, late accounts, utilities and works done. There was a proportion of claims (4%) for which the reason for claim was not clear from the information available.

## Objections

As previously described, parties have the opportunity to object to their claim being determined on their papers and objections were received in 288 of the 612 cases analysed. Whilst this is a large proportion of objections (47%), it is important to note that the majority of these (92%) were received from one user with each objection being counted separately.

Of the 288 objections received;

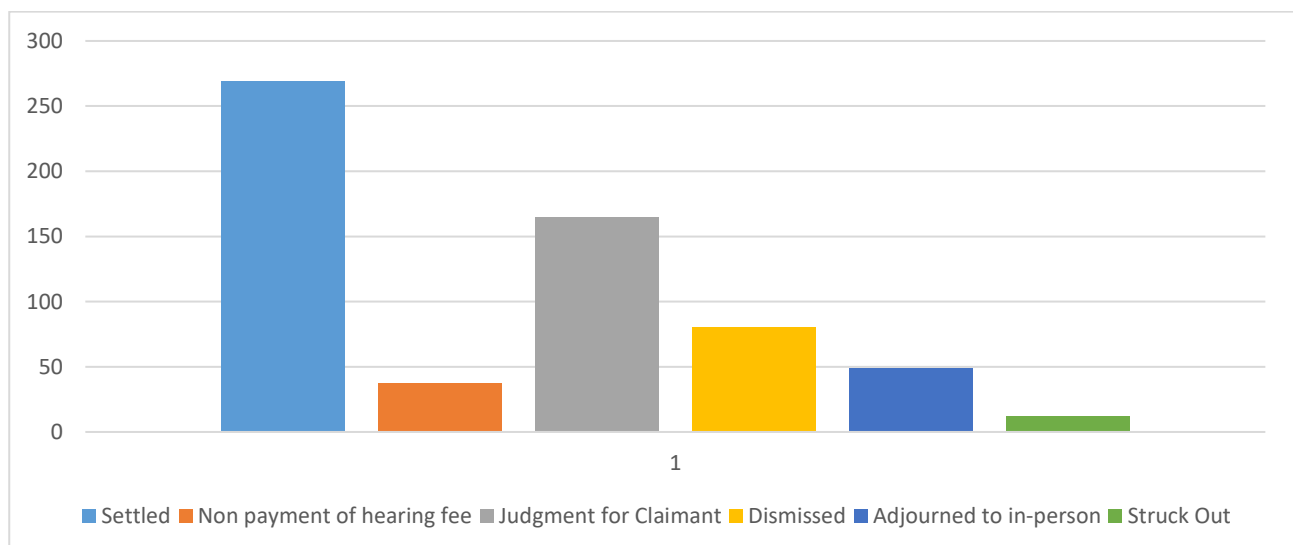
- 5 were received from the Claimant
- 264 were received from the Defendant (from 14 separate users)
- 6 were received from both parties

In accordance with the Practice Direction, these objections were considered at the paper determination (unless the claim settled or discontinued ahead of the determination date) by the judge with 29 cases being converted to in person hearings however 50% of the claims with objections filed settled before being considered by a judge and so it is not clear what proportion would have been converted without those settlements.

## Outcomes

Of the claims that were to be determined on their papers, the outcomes were tracked and analysed based on the orders made (or correspondence filed for those that settled)

Figure 2. Volume of claims determined on their papers by outcome.



The majority of claims to be determined on their papers (44%) settled or were discontinued ahead of the determination date. This is very slightly higher than the settlement rate for the same period for all Small Claims which sits at 43%.

Over a quarter of claims (27%) resulted in a final Judgment for Claimant 13% were dismissed and 2% were struck out at the determination making a total of 42% disposed of at the paper determination. This is slightly lower than for small claims overall in the same period which is 43%.

The proportion of claims adjourned for an in-person hearing was 8% accounting for 49 cases. It should be noted that 32 of the 49 claims had received an objection to the paper determination from one or more of the parties. Compared to small claims more generally, the adjournment rate is much lower in paper determinations at 8% compared to 20% for in person hearings.

## Hearing time

Of the 612 cases analysed, the estimated length of hearing varied between 60-120 minutes as is broken down as follows

- 502 cases listed for 60 minutes
- 18 listed for 75 minutes
- 55 listed for 90 minutes
- 37 listed for 120 minutes

Whilst many cases were disposed of ahead of determination taking place and data limitations meaning a full data set for those cases that did go ahead to be determined on their papers was not possible, analysis was completed on the time taken to dispose of 100 claims across the pilot sites with actual time taken varying between 20-150 minutes.

In 50% of the claims, the actual time to dispose of the claim was less than the listed time, in 8% of the claims the actual time equalled the listed time and in 22% of the cases the actual time exceeded the listed time. This is similar to the spread of time taken in attended/remote hearings and is likely to be indicative of the variety of cases seen within the Small Claims track. The average time taken to dispose of a claim at a paper determination is 53 minutes which is longer than the data collected for in person hearings which averaged 44 minutes.

Analysis of time taken is very difficult to the nature of how small claims are listed. Many courts operate a 'block listing' policy which sees all claims listed for a standard amount of time (usually between 1-2 hours) in bulk rather than receiving individual estimated length of hearing and specific time which the case will be heard. As a result, caution should be taken when reviewing the data as the actual time taken relates to the time shown on the hearing notice and not a individual estimate of that particular case.