



Guide to dealing with a small claim

Our guide to dealing with a small claim has been prepared to help you through the process and to try to avoid or minimise incurring legal fees on a small claim.

When you are involved in a dispute, perhaps with a former friend, client or retailer, it is always better to try to resolve the dispute before it reaches the courts. Write to the other party demanding payment, or other result, within a certain time limit and threatening court action if you are not paid. If that does not work, and you want to make a claim or a claim is made against you, you will need to understand the court process, which can be bewildering.

We have prepared this guide to 'small claims' (claims up to £10,000) to help you through the court process and to help you to avoid or minimise legal fees. The guide is not, however, intended to constitute legal or other advice. Legal advice should always be sought in relation to any particular circumstances.

You might want to start a claim in the county court because someone: owes you money; damages your property; supplies you with faulty goods; or provides a poor standard of workmanship. In this guide we use the example of a computer worth £2,000 which was not paid for, and show sample court documents where appropriate.

Before spending money in making a court claim (which will include court fees and potentially witness or expert expenses) you should consider whether the other party is likely to be able to pay you. If they have no money to pay you it is not worth spending money on court proceedings. If you think they may be bankrupt or insolvent, please ask us to carry out a search on your behalf (for payment of a small fee).

You can also find out if a person you are claiming from already has unpaid court judgments against him (he is less likely to pay you if so) by searching the Register of County Court Judgments. This can be done on-line at www.trustonline.org.uk or by writing to Registry Trust Limited, at 153 – 157 Cleveland Street, London W1T 6QW (telephone 020 7380 0133) with a cheque for £4.00 against each name you are interested in (three or more names £10).

Copies of all the court forms referred to can be obtained from your local county court or from the Court Service website which also contains useful guidance leaflets on all stages of making a claim (www.justice.gov.uk and click on 'Courts' then 'Find a court form' on the right hand side).

If you are claiming a specified sum of money you can make a claim on-line (www.moneyclaim.gov.uk). If you decide to use this service you should follow the on-line guidance on how to progress the claim.

Alternatively, you can take part in a pilot scheme, the Online Civil Money Claims pilot for cases worth up to £10,000 including interest. It is aimed at people who actively want to deal with their claim themselves and believe that the other party will also not seek help from lawyers. The scheme uses its own forms and procedure and the claim must meet certain criteria, check [here](#), at Section 2, paragraph 2.1(3). If your case is suitable, you can access the on-line platform at <https://www.gov.uk/make-money-claim>. This guide may still be useful to give you an overview of the legal process.

Remember to keep copies of all correspondence and court documents.



Definition of a small claim

A small claim is one where the amount claimed is no more than £10,000, excluding any claim for interest or costs. There are exceptions to this rule if the claim relates to personal injuries or is a claim by a tenant against his landlord in certain circumstances but these will not be covered here and you should seek further advice if you think your claim falls into one of these categories.

Help with small claims

The small claims process is designed to be simple so that parties can act for themselves without incurring the cost of a solicitor. For this reason, as a general rule you will not recover your costs other than certain expenses, even if you win. This can mean it is uneconomic to instruct a solicitor to act for you in bringing or defending a small claim. Alternative sources of advice and assistance are local Law Centres and Citizens Advice (www.citizensadvice.org.uk).

The claim form

If you decide to make a court claim, you will need to complete a Claim Form, Form N1, naming the parties involved in the dispute and giving a concise description of the claim.

Form N1A 'Notes for Claimant on completing a claim form', gives detailed guidance. You should specify what you hope to gain from making the claim (e.g. payment of monies due to you, in which case you must include a statement of value setting out how much you expect to be awarded at trial).

If the claim is for money only (and assuming you do not want to use Money Claim Online, mentioned above), you must insert 'County Court Money Claims Centre' in the box at the top right that starts 'In the'. You then add the name of the court where you would prefer any hearings to take place to the 'preferred County Court hearing centre' box halfway down the page. All county court money claims are issued in and processed by the County Court Money Claims Centre (CCMCC) until the allocation stage, explained below.

If the Claim is for money and/or another remedy, you can issue the claim at any County Court hearing centre. See Part 7 of the Civil Procedure Rules on www.justice.gov.uk.

You will have to pay a fee for making the claim. All cheques for court fees should be made payable to 'HM Courts and Tribunals Service'.

The table below sets out the current fees for issuing a claim but for up to date fees you should check with the court or on the website www.justice.gov.uk (click on 'Courts' then 'Court and Tribunal Fees' then 'Civil and Family Court Fees (Leaflet EX50)').

Claim size (£)	County Court Fee (£)
0 – 300	35
300.01 – 500	50
500.01 – 1,000	70



1,000.01 – 1,500	80
1,500.01 – 3,000	115
3,000.01 – 5,000	205
5,000.01 – 10,000	455

You must sign the Statement of Truth on the front of the Claim Form confirming that the facts stated are true.

If the Claimant is a company, the Statement of Truth must be signed by someone with a senior position in the company who must state:

- the office or position he holds; and
- that he is duly authorised to sign the statement.

If the Claimant is a partnership, the Statement of Truth may be signed by:

- any of the partners; or
- a person having the control or management of the partnership business.

There are special rules for service of the Claim Form but generally it is advisable to let the court serve it on the Defendant with a copy of the Response Pack.

Once you have filled in Form N1 you should photocopy it so that you have one copy to keep for yourself, one for the court and one for each Defendant you are claiming from. The need to copy the right number of forms applies to all the forms mentioned below.

You must also print the same number of copies of 'Notes for Defendant on replying to the claim form' Form N1C, and send it to the court with Form N1.

The particulars of claim

These are referred to on Form N1 and they should give more details of the claim. If it is quite a straightforward matter, they can be written on the back of Form N1 in the space provided. Alternatively, if you need to provide a lot of information it can be included on a separate form with numbered paragraphs and headed 'Particulars of Claim'.

The Particulars of Claim must include:

- a concise statement of the facts on which you rely; and
- how much interest you are seeking on the money owed, if any. We show how to claim interest in the example form N1 linked above but you should state:

'The Claimant claims:

Interest under section 69 of the County Courts Act 1984 at the rate of 8% per year, from [date when the money became owed to you] to [the date you are issuing the claim] of £[insert the amount claimed] at a daily rate of [insert rate, calculated as set out below] and



Interest at the same rate up to the date of judgment or earlier payment at a daily rate of [enter the daily rate of interest].

Alternatively at such rate and for such period as the court thinks fit.'

To work out the amount of interest you are owed up to the date you start your claim, you first need to work out the daily rate of interest, which is calculated as follows:

$$\frac{\text{amount claimed} \times 8\%}{365 \text{ days}} = \text{daily rate}$$

Multiply the daily rate of interest by the number of days the money has been owing to you to calculate the principal sum claimed.

You might also like to include in the Particulars of Claim:

- any point of law on which your claim is based
- the names of any witnesses
- any document relied on (including an expert's report) as an attachment. For example, if you are claiming an unpaid invoice, a copy of the invoice and any reminder letters can be attached to the particulars of claim marked 'POC1'.

Issuing the claim form

When you have completed the Claim Form, N1, and the Particulars of Claim (if separate), you must send them and the NIC to court with the correct number of copies and the cheque for the court fee, as mentioned above.

If the claim is just for money you must send it to the County Court Money Claims Centre ('CCMCC') at Salford Business Centre, P.O. Box 527, Salford M5 0BY.

Non-money and 'mixed' claims can be started in your local county court.

When the Claimant sends the Claim Form to the court ('files' it at court) the court will 'issue' the claim by marking it with the court seal and this sets the claim process and timetable in motion.

The defence – and what to do if a claim is made against you

If you receive a Claim Form addressed to you as the Defendant, you must take prompt action to protect your position.

You should first check the section of the Claim Form headed 'Particulars of Claim'. If it states 'to follow', you do not need to reply until you receive them. If the 'Particulars of Claim' section is filled in or the Particulars of Claim are attached, you must reply within 14 days. If the court receives no response from you within 14 days of service of the Claim Form the Claimant may be entitled to enter judgment against you. The key date from which to count the 14 days is the 'date of service' which should have been calculated by the court and inserted at the top of the Claim Form. It is usually around the date you receive the Claim Form.

With the Claim Form will be a 'Response Pack', Form N9 (shown [here](#)) explaining how to reply to the claim. Read these carefully. Remember to post your reply at least 2 days before the end of the 14 day period.

The options for replying to the Claim Form are to:



- pay the amount claimed
- admit all or part of the claim
- admit liability for the claim, and ask for time to pay or
- dispute ('defend') the claim.

If you know that the claim is justified and you owe the sum claimed, you would be advised to respond by admitting the sum due on Form N9A and either paying it immediately or asking to be allowed to pay by instalments if you cannot afford to pay all at once. If possible, you should ensure your payment gets to the Claimant within 14 days of service of the Claim Form to avoid a judgment being entered against you and possibly affecting your credit rating. If the Claimant is claiming interest, you should add daily interest to the amount claimed. You can admit part of a claim and dispute the rest if you have good reason to do so.

The claim may be for a specified or unspecified amount and the forms used vary slightly according to this.

If you consider you have a Defence to the claim, or to part of it, you should complete the Acknowledgement of Service ('Response Pack') Form N9 within 14 days of the date you received the Claim Form. This will then give you a total of 28 days from the date of service to file your Defence.

If you are going to defend the claim, the Defence can be completed on Form N9B if it is reasonably straightforward or, if it is more complicated, it can be prepared as a separate document (with numbered paragraphs). It is important to give as much information in your Defence as possible and to attach relevant documents if appropriate. You must respond to each point raised ('allegation') in the Particulars of Claim by either admitting or denying it or, if you cannot do either of those, by 'not admitting'. If you do not answer all the allegations in the Particulars of Claim it will be assumed that you admit them. You should state your reasons for denying an allegation and state your version of events if it conflicts with the Claimant's version.

The Defence should end with a Statement of Truth stating "I believe that the facts stated in this Defence are true"; the rules on who should sign it if it is made on behalf of a company or partnership are as set out in the 'Claim Form' section above. You should send the Defence to the court and a copy to the Claimant and any other party.

You might consider that you have a counterclaim against the Claimant because he or she owes you money. If so, this should be included under a separate heading in your Defence, setting out what you are seeking and including any claim for interest. There will be a fee payable for the counterclaim, calculated in the same way as a claim (see section 'The Claim Form' above for a schedule of court fees).

Alternatively, if you believe you have already paid the sum claimed, you should send evidence of this with your Defence either within 14 days of receiving the Claim Form or within 28 days if you have filed and served an acknowledgement of service.

If you are defending the claim as an individual the claim will automatically be transferred to your local court once you file your Defence. This may increase the Claimant's costs.

Request for judgment

If you are the Claimant and receive either:

- no acknowledgement of service or admission from the Defendant within 14 days of service; or
- an acknowledgement of service but no Defence within 28 days of service of the Claim Form

You may be entitled to request Judgment in Default (i.e. ask the court to order the Defendant to pay you the amount claimed because no reply has been received). This involves filling in either Form N225 or N227,



depending on whether you are asking for a specified amount or not. Do it as soon as possible after the time limit has passed, because until the court receives your request to enter judgment the Defendant can still reply to your claim. If the claim is for an unspecified amount and was issued by the CCMCC it will automatically be transferred to your preferred court for a hearing to decide the amount due.

Setting aside judgment

If you are the Claimant and you discover that the Defendant did not receive the Claim Form before judgment was entered then you should either ask the court to set aside the judgment or ask for directions. You are not entitled to take any further step in the proceedings to enforce the judgment.

If you are the Defendant with judgment entered against you, you may be able to apply for it to be set aside if you can persuade the court that you have a real prospect of successfully defending the claim or some other good reason why you should be allowed to defend it. You need to complete an Application Notice on Form N244 setting out your reasons for being allowed to defend the claim. If the claim was issued by the CCMCC and has not already been transferred to another County Court, it will either be transferred to the hearing centre nearest to the Defendant's home (if an individual) or to the Claimant's preferred court.

Allocation to small claims track

If the claim is defended, you may have to carry on with your claim up to a final court hearing. Most claims for £10,000 or less are dealt with on the 'small claims track'. The court will consider whether a claim should be allocated to the small claims track after the Defendant has filed a defence and will send a Notice of Proposed Allocation to each party. That notice will give a time limit for each party to send to the court, and copy to each other party, a completed directions questionnaire, Form N180. The court will send a blank copy of the correct directions questionnaire to any party acting for themselves. If a party does not complete and return the directions questionnaire within the time limit, that party's claim or defence may be struck out.

Make sure you send the completed questionnaire to the correct court, which may have changed since the Defendant put in a defence. The court will tell you where to send it.

This guide deals only with the small claims court. If you consider that, although the financial value of your claim is less than £10,000, the claim should be allocated to a different track, then you should state your reasons why in Section C of the questionnaire.

When completing your directions questionnaire you should try to think through exactly what your claim will involve, including what documents you will need to show to prove your case, what parties and witnesses will need to be involved and how long you think the final hearing will last. If you think you will need expert evidence to prove your claim, you must explain why and, if possible, name the expert you wish to use and give an idea of how much he or she is likely to charge. In small claims you can recover up to £750 for expert's fees from the other side if you win and the court agrees that is justified.

If you think that you and your opponent may be able to settle the claim by negotiation then you should try to do so. If you need help and/or consider that mediation (a method of dispute resolution which is guided by a neutral third party mediator) might achieve more than straightforward negotiation you should tick the box at Section A1 on the directions questionnaire. You will then be offered help by HM Courts and Tribunals Service's free Small Claims Mediation Service.

The judge will expect you to have discussed, and tried to agree, 'directions' for the progress of the case with your opponent, or at least set out what you are seeking. These can be attached to your directions questionnaire.



If you want to try direct negotiation with your opponent but are concerned that the court process does not allow enough time you can ask the court to include a direction 'staying' (i.e. pausing) the proceedings for up to one month while you try to settle.

After all parties have filed their directions questionnaires, and any stay has expired, the court will send Notice of Allocation to each party.

The disadvantage with having your claim allocated to the small claims track is that generally, as mentioned above, neither party can recover their costs (other than certain expenses) of the action and therefore it is not usually cost-effective to employ a solicitor to assist with the case. This guide is to help you present your case as effectively as you can. The only exception to the 'no costs' rule is if you can show that the other party behaved unreasonably, perhaps by trying to defend his actions when there were absolutely no grounds for doing so.

The advantage to the small claims track is that matters are dealt with less formally than on the other tracks and your claim should reach a conclusion quite quickly.

Procedure following allocation

The Notice of Allocation will include 'directions' telling you what you have to do to progress the case up to the date of the final hearing. The notice will usually tell you the time, date and place when your hearing will take place and how much time has been allowed for it. A 'hearing fee' must be paid at least 28 days before the hearing date (or, if the notice gives a trial period, by the Monday of the first week of that period). Normally the Claimant pays the fee. However, if the original claim has been settled but the Defendant wants to pursue a counter-claim, the Defendant must pay.

The hearing fees for small claims are currently:

This fee will not be refunded even if you settle the case before the hearing date.	Claim size (£)	County Court Fee (£)
	0-300	25
	300.01 – 500	55
	500.01 – 1,000	80
	1,000.01 – 1,500	115
	1,500.01 – 3,000	170
	Over 3,000.01	335

Disclosure

You will need to collect together copies of all documents you wish to disclose to your opponent. Make sure the copies are legible and in chronological order. It is important to have contemporaneous evidence where possible.

See Appendix A to the Practice Direction to Part 27 of the Civil Procedure Rules (www.justice.gov.uk – Procedure rules – Civil) for guidance on the sort of information and documents the court usually needs in particular types of case). You will normally be required to disclose only those documents that you intend to rely on but, in rare cases, the court may require you to disclose all documents that are relevant whether or not they assist your case or your opponent's case. You must send copies to the court, and to your opponent, typically 14 days before the final hearing. You should bring the original documents to the final hearing.

Witness Statements

The court will not usually ask you to file witness statements to support your case but if they are required, they need to be set out. You will generally be a witness for your own case because you can tell the facts of your case ('the evidence') which will support your claim. If witness statements are required then the court will set a time limit for you to submit them.

Your witness statement should be in your own words and should include:

- your full name, address and occupation
- whether the details in it are made from your own knowledge
- a signed statement of truth in the final paragraph, declaring 'I believe that the facts stated in this witness statement are true' and signed and dated by you.

The same rules apply for all witness statements. If you knowingly give false information in your statement and you have verified it with a statement of truth you may be liable to a fine or imprisonment. Witness statements should be carefully drafted to ensure they include all relevant facts about your case but should not generally state opinion.

Expert evidence

If you want to use an expert, you should say so in the directions questionnaire. You will only be able to use expert evidence if the judge gives you permission. The judge may consider it necessary to help decide the issues in the case. You may have the court's permission to instruct your own expert or it may have been ordered that the parties should instruct a joint expert and for which you agree to share the costs. This is the most likely way for the court to deal with expert evidence in a small claims track case. Where possible an expert's report will be filed and relied on as the evidence, rather than having to call the expert to give evidence in court at the final hearing which would increase the costs. If the judge gave you permission to use an expert and you win your case, the judge may tell your opponent to pay up to £750 towards the costs of instructing the expert.

There are very specific rules which an expert has to comply with. He has a duty to help the court with all matters within his expertise. His duty to the court overrides any obligation he has to the party instructing him or paying for the report.

In brief however, the report should:

- be addressed to the court and not to you
- give details
 - of the expert's qualifications
 - any documents or other materials relied on when making the report
 - any person who carried out any test mentioned in the report and whether it was done under the expert's supervision.

- contain:
 - a summary of any range of opinion given in the report and reasons for the expert's own opinion
 - a statement that the expert understands his duty to the court and has complied with that duty
 - a summary of any written and oral instructions given to the expert by the party (or parties) asking for the report
 - a statement of truth verifying the report – “I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer” – and be signed by the expert.

Other applications

You may need to make an application to the court in the action, for example asking to adjourn the final hearing date or to force your opponent to provide their witness statements if they have failed to do so. You will have to complete an Application Notice, Form N244. There will be a £255.00 fee for an application where the other party does not agree with it or a £100.00 fee if you are in agreement.

Final hearing

Unless the judge has decided that he can deal with the case without a hearing, the court will allocate a date and time for you and your opponent to attend court and present your case to the district judge. If it is inconvenient you should apply to the court immediately on Form N244 (see the example Application Notice above), paying the appropriate fee, stating your reasons why you cannot make the date given and asking for a later date to be set.

It may be that due to the distance to the court you want the court to deal with the claim in your absence. If so, you should write to the court at least seven days before the hearing date asking them to take written evidence into account and send in a witness statement setting out your position. However, it is usually advisable to attend the court to explain your case in person. The hearing will be relatively informal and will take place in a judge's room but members of the public will be entitled to sit in and listen unless there are special circumstances. The judge will wear a suit and not a wig and gown.

In order to prepare for the hearing you should familiarise yourself with your case and your opponent's case. You should be polite to the judge and your opponent. You should refer to the district judge as 'Sir' or 'Madam' as appropriate. You can expect the judge to take an active role and question witnesses and you and your opponent in detail.

If you are the Claimant you should introduce yourself and your opponent and give a summary of the claim. Try to keep your language simple and keep your presentation brief. You should ask the judge if he or she has had the chance to read the papers; he or she may need time to do so or may ask for further details. When giving evidence tell the judge what has happened in a chronological way. Avoid being drawn into comment on what has happened or being abusive to your opponent. If you have any witnesses you can ask them to expand on their evidence and if the Defendant calls any witnesses question them about their evidence or statements, if they have made one. If you are the Defendant you will get the chance to present your case after the Claimant has finished, call your own witnesses and can question the Claimant's witnesses. It is worth taking a calculator to the hearing so that you can work out any interest you consider might be owing to you if the judge finds in your favour. Make a careful note of the hearing, particularly what the judge says.

Remember that you will only have a limited time to put your case to the judge and it may be helpful to write down what you want to say so that you do not forget. If you have permission to use an expert to give evidence



at the hearing rather than just relying on their written evidence, you should make sure that they know exactly where the court is and when the hearing will start.

Costs

Generally it is not possible to recover your costs of a claim in a small claims court and if you are acting for yourself your costs should be fairly limited. However, if you can prove that the other party has acted unreasonably you may be awarded some costs. Examples of unreasonable behaviour might include:

- pulling out of a case at the last minute when there has been no change in the circumstances
- pursuing a case which is speculative and unsupportable
- making unnecessary or disproportionate applications for procedural orders
- pressing a hopeless case to try and embarrass or inconvenience the other party
- adjournments caused by one party not turning up at the hearing without a reasonable excuse
- requesting an adjournment at the last possible moment because of bad preparation.

If you think one of these circumstances might apply you should prepare a schedule of the costs you have incurred setting out what time has been spent on the case (the court will not normally allow you more than £19.00 per hour) and the expenses incurred, e.g. photocopying, travel etc. Ideally this should be sent to your opponent and the court 24 hours before the hearing. Be reasonable in a small claim as a court will not expect to give you much compensation for costs.

If you win the claim you may be allowed the following costs:

- any court fees you have paid
- an amount of not more than £260 for legal advice if your claim included an application for an injunction (an order to stop someone doing something) or an order for specific performance (an order to make someone do something)
- an amount of up to £95 per day for you and for any witness you may have. This is for loss of earnings due to attending the court hearing
- an amount of up to £750 for an expert's fees
- any additional travelling and overnight expenses.

Appeal

If judgment is given against you, and you consider the judge's decision to be unfair or wrong in law, you can ask for permission to appeal. You should ask at the end of the hearing and the judge will tell you whether or not permission is granted. Usually a judge will refuse permission but that is not the end of the matter. You should then seek legal advice as to whether you have any grounds of appeal. The appeal court will normally only allow an appeal where it considers the decision of the small claims court was either wrong or unjust because of a serious procedural or other irregularity in the proceedings in the small claims court.

If the trial judge refuses permission and you are advised that you have good grounds of appeal, you should apply for permission using an Appellant's Notice on Form N164 (which can be obtained from the court) and this must be filed with the court either 21 days after the decision of the small claims court or within any different date that the judge has given you to apply for permission to appeal. You will have to pay a fee of £120.

If the judge at the small claims hearing gives you permission, you still need to file an Appellant's Notice within those dates so that the appeal can proceed. An appeal notice must then be served on each respondent (any party to the claim other than you) within 7 days after filing it at court. An appeal from a decision of a deputy district judge or district judge, who will hear a small claim at the first stage, is appealed to the circuit judge in the

same court. The court will only give permission to appeal where it considers that the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard.

It is normally worth seeking legal advice as to the advisability of trying to appeal a decision before completing a form. Generally it is difficult to appeal a decision by the judge on factual evidence given in the case but it may be easier to appeal any decision on law. An appeal generally takes the form of a review of the proceedings rather than a re-hearing and therefore you do not usually get a second chance to give evidence.

Settlement

It may be that once proceedings are issued the opportunity arises to seek to negotiate a settlement of the claim. It is often worth trying to negotiate to:

- avoid the time and expense of preparing for and attending a final hearing
- try and resolve matters more amicably, and
- avoid a judgment being entered against you which can then affect your credit rating.

If you are able to agree a settlement, you should then prepare a consent order. If you have managed to agree a settlement you should get your opponent to sign a consent order agreeing the terms and then file this at court with a £100.00 fee.

If you paid a hearing fee remember to write to the court claiming a refund at least 7 days before the hearing date set by the court.

Contact with the court

If you need to contact the court about your case always refer to your claim number (in the top right hand corner of the court forms) and the date of your hearing if you know it. You can:

- call into the court office and speak to a member of staff – the opening hours vary. They should be shown at the bottom of any notice you receive from the court. If not, telephone the court or check on the court's website via: <https://www.gov.uk/find-court-tribunal>
- telephone the court any week day
- write to (or fax) the court
- if it is a money claim that has not yet been transferred from the County Court Money Claims Centre, contact details are:
 - Email: ccmcccustomerenquiries@hmcts.gsi.gov.uk
 - Telephone: 0300 123 1372