

Instructing solicitors for small claims

In court claims for sums of up to £10,000 the courts will not generally order the losing party to pay the winner's legal costs. This means that money spent on a solicitor will not be recoverable, whatever the outcome. This note explains the risks of incurring legal costs in low value claims and the alternatives.

The court 'track'

The manner in which claims proceed to trial is determined by the value of the claim. There are two relevant 'tracks' for lower value claims:

- The small claims track (for claims valued £10,000 and under);
- The fast track (for claims valued between £10,000 and £25,000).

Whilst the complexity or simplicity of the issues in dispute might be a reason for a claim to be allocated to a higher or lower track than usual, claims worth £10,000 and under are usually allocated to the small claims track and are dealt with by the 'Small Claims Court'.

What is the small claims court?

The main purpose of the Small Claims Court is to increase access to justice.

It is designed to be used by people without the need for input or guidance from legal professionals. For this reason staff and judges in the Small Claims Court will make allowance for the fact that most claims will not necessarily be argued using legal language or by reference to statutes or case law.

The process for moving a claim along the small claims track is driven by the court itself, which will give instructions and dates (known as 'directions') by which parties need to complete various steps, such as filing a defence (that is, sending it to court), filing evidence or attending trial. For details on procedure in the Small Claims Court please see the [Guide to Dealing with a Small Claim](#) that can be found on our website.

Costs dangers in the small court

To ensure that bringing a claim in the Small Claims Court is affordable and to ensure wider access to justice, the general rule is that legal costs are not recoverable in the Small Claims Court, even if you win.

The problem is that the cost of paying solicitors to represent you can exceed the value of the claim itself.

In the Small Claims Court, these fees will have to be paid by you – whatever the outcome. In many cases the costs of legal advice on a small claim will cancel out the benefits of successfully recovering money or defending a claim. The smaller the value of the claim then the more likely it is that this will happen.

Alternatives to instructing solicitors

The system is designed to be used without involving lawyers and you can pursue your claim or defence on your own (and most people do). Where there are complicated legal and factual issues that need to be dealt with, the



judge will try to assist you.

If you need further support, you can seek free help and assistance from your local Citizens Advice Bureau or Legal Advice Centre.