

The Court Procedure

Tracks

If a court claim is defended, the court will ask the Claimant whether it wishes to proceed with the claim. The Claimant does this by filing a Notice of Intention to Proceed.

Once this is filed the court will issue directions questionnaires which must be completed and returned by the specified date. Depending on the value of a claim, the court will allocate it to a "track", either the Small Claims Track, Fast Track, The new Intermediate Track or Multi Track.

Different procedures and cost rules apply to each track as follows;

Small Claims Track. Debt claims up to £10,000

- Directions usually consist of witness statements with documents relied upon referred and to and attached followed by a trial date
- At the final hearing there is usually no costs award other than court fees, each party bears its own legal costs

New Small Claims mandatory mediation.

- As of 22/5/24 new practice direction came into force making mediation a requirement for most small claims cases up to the value of £10,000. Mediation with HMCTS' Small Claims Mediation Service (SCMS) will become a requirement for new claims which are allocated to the small claims track. These cases represent more than 70% of money claims under £10,000 made in 2023. Parties will attend a free, one-hour mediation session to provide the opportunity for a swifter and more consensual resolution.

Fast Track. Debt claims from £10,000.01 to £25,000

- Directions will involve:
 - Disclosure of all documents (even if they are discretionary to your own case);
 - Exchange of witness statement
 - Experts reports if necessary
 - Oral expert evidence limited to one expert per party per field
 - Fixed trial date of no longer than one day
- Subject to a new fixed costs regime and complexity banding

New. Intermediate Track. Debt Claims of £25,000 to £100,000.00

- Trial is expected to last less than three days
- Oral evidence is limited to two experts per claim
- Subject to a new fixed costs regime and complexity banding

Multi Track. Debt Claims over £100,000.00

- Complex high value cases
- Directions are managed by the court by Case Management Conferences at stages throughout the claim but will involve:
 - Disclosure of all documents (even if they are discretionary to your own case);
 - Exchange of witness statement
 - Experts reports if necessary
 - Fixed trial date
- Costs budgets must be prepared at the outset
- Costs will be assessed by detailed assessment

It is important to note that costs are always at the courts discretion and it is unlikely that 100% of legal costs would be recovered in a Fast or Multi Track claim even if you are successful at trial. If you are unsuccessful at trial you should bear in mind that you will not only be liable for your own legal costs incurred but also any costs award the court grants the other party.

it's also always important to consider an early settlement as important factors that should be taken into consideration are the length of time it will take to get to a final hearing given the current delays with the Courts (12 months even more for some Courts), coupled with the cost of potentially losing staff members if you are required to provide witness evidence, the cost of the preparation of the information, documentation in readiness for the hearing and the fact that there is often no 100% guarantee of success and, even if you are successful if you do not receive immediate payment you then have to consider how best to recover the Judgment Order made at the final hearing .

For further information please contact: clientservices@legalrecoveries.com