

TAKING A SMALL CLAIMS ACTION IN THE COUNTY COURT

BEFORE YOU GO TO COURT



Welcome to this guide

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If your claim is for £10,000 or less you can use this guide to help you to take action in the Small Claims court. This Pack should only be used once you have exhausted opportunities to resolve the complaint with the trader. See this link for lots of letter templates that will help you to deal with your complaint in an attempt to avoid court action



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Before you go to court consider the following:

- Going to court should be the **last resort** – the court will want to see that you have tried to negotiate with the trader before going to court.
- Going to court costs money - unless you are eligible for remission of fees you will have court fees to pay and you may have other costs for experts and witnesses. If you win the case these costs may be added to the amount that the other party has to pay you, but the amount you can claim may be limited.
- Solicitor's fees are not allowed to be claimed in the Small Claims track other than a maximum fee of £260 for legal advice.
- The amount that can be claimed for experts' fees is limited to £750.
- If there is a hearing and you are successful you can ask for costs of up to £95 a day to cover loss of earnings or loss of leave for yourself and any witnesses or experts that need to attend.
- You may lose your case and have to pay the costs of the other party.
- You may win the case but if the Defendant does not pay you, you will have to pay more money to 'enforce the judgment'.
- The Defendant may not have any money or other assets and so you may receive nothing of what you are owed.

If the person is bankrupt or a business is in compulsory liquidation you are not likely to get your money. You can check this by contacting the Insolvency Service on 0207 637 1110 or via www.insolvency.gov.uk or Companies House www.companieshouse.gov.uk

If the person has already been taken to court by others and has not paid, then you may have little chance of getting your money. You can find out if this is the case by contacting the Registry Trust at www.trustonline.org.uk. You will have to pay a fee for each name that you are interested in.



The cost of going to court

The fees listed here are correct as at 1st April 2013

You will not have to pay a court fee if:

- You receive income support
- You receive Pension Guarantee Credit
- You receive income-based Jobseeker's Allowance
- You receive Working Tax Credit provided you are not receiving Child Tax Credit, or
- Your gross income does not exceed a specified limit

Also, if you can show that the payment of a court fee will involve undue hardship, you may be eligible for a part remission. The amount of fee you pay will be based on a detailed means test to assess your financial situation. See the Courts Service [guidance](#) (Leaflet EX160A) for more information.

[Issue fee](#)

[Hearing fee](#)

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Issue Fee

This will depend on whether you are issuing the claim in court or using Money Claim On-Line. Money Claim On-Line is Her Majesty's Courts Service's Internet based service for claimants and defendants. You pay a reduced court fee if you issue your claim using this method. For more information ask the court staff or see the [guidance](#)

Sum being claimed	Claimed in a court	Money Claim Online
Does not exceed £300	£35	£25
Exceeds £300 but does not exceed £500	£50	£35
Exceeds £500 but does not exceed £1000	£70	£60
Exceeds £1,000 but does not exceed £1500	£80	£70
Exceeds £1500 but does not exceed £3000	£115	£105
Exceeds £3000 but does not exceed £5,000	£205	£185
Exceeds £5000 but does not Exceed £10,000	£455	£410



Hearing fee

Does not exceed £300	£25
Exceeds £300 but does not exceed £500	£55
Exceeds £500 but does not exceed £1000	£80
Exceeds £1000 but does not exceed £1500	£115
Exceeds £1500 but does not exceed £3000	£170
Exceeds £3000	£335



Enforcement fees

High Court Writ of execution	£60
Order to obtain information (this does not enforce the judgment but it can provide you with information to help you decide if a County Court enforcement method is suitable)	£50
Order to obtain information – request for bailiff service	£100
Warrant of execution	£100
Warrant of execution – further attempt at new address	£30
Attachment of Earnings order	£100 per defendant
Attachment of Earnings order – Consolidated attachment of earnings order	A fee of 10p for every £1, or part £1, of money paid into court, is deducted from the money before it is paid out to the creditors under the order.
Charging Order	£100 for each order
Third Party Debt Order	£100 for each third party



Letter Before Claim

Before starting any action in the County Court you will need to write to the trader (the proposed Defendant) a letter advising him/her of your intention to take action in the small claims track in the County Court.

Your letter should include:

- The claimant's full name and address.
- The basis on which the claim is made (i.e. why you say that the defendant owes you money).
- A clear summary of the facts involved.
- What you want from the defendant.
- If you are claiming a financial loss in addition to the cost of repair/refund, an explanation of how the amount has been calculated.
- A list of the essential documents on which you intend to rely.
- Reference to the form of Alternative Dispute Resolution (if any) that you consider is the most suitable and invite the defendant to agree to this. Alternative Dispute Resolution for example, can involve using a Trade Association or mediator.
- The date by which you consider it reasonable for a full response to be provided by the defendant.
- A request for copies of any relevant documents that you don't have but which you think the Defendant does have.

Unless the defendant is known to be legally represented the letter should also include the following statement:

I refer you to Practice Direction – Pre-Action Conduct and draw your attention to paragraph 4 concerning the court's powers to impose sanctions for failure to comply with the Practice Direction. Ignoring this letter before claim may lead to me starting proceedings and may increase your liability for costs. The court will look at the overall effect of non-compliance on me when deciding whether to impose sanctions. If, in the opinion of the court, there has been non-compliance, the sanctions which the court may impose include

1. Staying (that is suspending) the proceedings until steps which ought to have been taken have been taken.
2. An order that the party at fault pays the costs, or part of the costs, of the other party or parties.
3. If the party at fault is a defendant, and an order for the payment of a sum of money is subsequently made in favour of the claimant, an order that the defendant pay interest on all or part of that sum at a higher rate, not exceeding 10% above base rate, than would otherwise have been awarded.)

You should keep a copy of this letter and send it by recorded delivery.



[If you are ready to go court see the Court Claim form guide](#)

