

An overview of the small claims court

If your business is owed money, you can look to recover the outstanding debt through the small claims court. It will handle claims up to £10,000.

You should first prepare and send a letter before action. This outlines what you're claiming and why, and notifies the debtor (the person or body that owes you money) that you'll proceed to the small claims court if the debt is not paid.

Prepare the claim form

When making a claim, you must prepare a claim form and the particulars of the claim. This will set out the nature of your claim, what is owed and any interest that needs to be added.

Issue the claim at court

The claim form can be completed online if you are claiming for a fixed/specified amount of money. Alternatively, the claim form and particulars of the claim will be issued at the County Court Money Claims Centre and a fee is paid by the Claimant.

Once the claim has been submitted, you must then send the claim and it's particulars to the debtor (this is called "serving" the claim) within 4 months.

The debtor can then respond

The debtor has 14 days after the claim was served to file a defence. Alternatively, they can file an Acknowledgement of Service ("AOS") to say they have received it. If they file an AOS, they have 28 days from the date the claim was served to file a defence.

They may choose to admit the claim. If they admit the claim and make a monthly offer of payment, it's likely that judgment will be ordered to be paid by instalments.

No AOS or defence is filed

If the debtor doesn't file an AOS, or they file an AOS but not a defence, you can apply to the court for a default judgement. This avoids the need for a trial.

A defence is filed

The defence must deal with every allegation in the particulars of the claim. Including which allegations the defendant (i) denies, giving reasons for the denial (ii) admits (iii) is unable to admit or deny but requires the claimant (you - the person making the claim) to prove

A judgement is issued

A County Court Judgement (CCJ) will be entered against the debtor for the value of the claim and usually with interest and costs. Unless the CCJ is paid in full within 30 days of receiving it, it will be entered on the debtor's credit file and the Register of judgments. It will remain there for 6 years.

Prepare for trial

The court will send a small claims direction questionnaire to the parties to complete. Once completed, a Judge will then decide what steps need to be undertaken to get the matter to trial and when the trial will take place. The directions will typically include an order to:

- (i) exchange documents
- (ii) file and serve written witness statements
- (iii) appoint an expert witness to provide a report on the issues in dispute.

The defence has no real prospects of succeeding

If you believe the defence has no real prospect of succeeding, and there is no other compelling reason why the matter should be dealt with by the court, you can apply for a Summary judgement. This avoids the need for a trial.

The case is heard at trial

The court will specify a date for the trial. A small claims trial is listed for either a day or half a day. Parties are required to attend court (with legal representation, if instructed) to present their respective positions before a District Judge. This is usually at the county court local to the debtor. After hearing the parties' positions, assessing the facts and considering the evidence, the judge will give his or her judgment in the case.

Judgment is given

If you win, A County Court Judgement (CCJ) will be entered against the debtor for the value of the claim and usually with interest and costs. Unless the CCJ is paid in full within 30 days of receiving it, it will be entered on the debtor's credit file and the Register of judgments. It will remain there for 6 years.

If you lose, you may have to pay the debtors costs, but only if the judge orders this.

Enforcement

Once a judgment or order from the court has been obtained, the court will not automatically enforce the judgment. That means if the debtor still doesn't pay, you may need to take further action to recover the debt owed.

The more commonly used methods of enforcement are

- (a) obtaining a charging order over the defendant's property
- (b) instructing High Court Enforcement to make attendance on the debtor to demand payment or seize assets to pay the debt
- (c) an attachment of earnings order

Depending on which action you take, you may need to apply to or instruct the court again.

The above information is correct as of 1st July 2019. Any changes to the law or the small claims process after that date may not be reflected here.

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