

WHAT DO THE CIVIL PROCEDURE RULES DO?

- Enable the civil courts to deal with cases justly.
- Save costs.
- Deal with cases in proportion to the amount of money involved.
- Ensure fairness – both parties will be on an equal footing.
- Consider the importance of the case, complexity and financial position of the parties.

In short the legal system should be fairer, cheaper and simpler.

COURT PROCEEDINGS ARE TO BE SEEN AS A LAST RESORT

Court should be used as a last resort and should resolve matters by way of negotiation.

In most cases specialist protocols are in place to ensure that sufficient information is provided to each party in order to encourage settlements. There can be cost penalties imposed if protocols are not followed.

Forms of negotiated settlement known as mediation and ADR are encouraged and in some cases the court can order ADR to take place. For further information please see our Alternative Dispute Resolution Guidance Sheet.

ALLOCATION OF CASES

Cases are dealt with in one of three tracks.

- Small Claims - values of up to £5,000
- Fast Track - £5,000 to £15,000
- Multi-Track - £15,000 or above

SMALL CLAIMS TRACK

This is the normal track for any claim which has a financial value of not more than £5,000. Court hearings are informal and before a Judge. Strict rules of evidence do not apply and hearings are open to the public. The key is flexibility. The Judge can adopt such procedures as he thinks is reasonable.

Costs are generally limited to a fixed amount for costs but other costs may be allowed in respect of legal advice concerning certain cases. Court fees, travelling expenses of parties or witnesses, loss of earnings are also allowed and in certain cases experts' fees up to a prescribed limit.

There are only limited rights of appeal against decisions of a District Judge.

FAST TRACK

This is the normal track for cases between £5,000 and £15,000.

MULTI-TRACK

This is the track for any claim which does not fit into the two previous headings and deals with cases of high value or complexity and most of the

cases the trial will take longer than one day.

There will be more meetings with the Judge. Such meetings are known as Case Management Conferences. These are important and at every hearing an assessment of costs will be presented to the Judge and he will make a further assessment as to the costs allowed.

The key is proportionality and the need to keep costs to a minimum. If at such a hearing a party is ordered to pay the costs of the opponent these must be paid within fourteen days.

CASE MANAGEMENT

In the past parties and their solicitor made crucial decisions in the conduct of the case and these decisions can now be overridden by the court. The Judge dealing with your case will make court orders designed to identify these issues encourage the parties to use ADR assist the parties to settle the case, fix timetable, and in certain cases to require parties to take certain steps.

WHAT HAPPENS AT A CASE MANAGEMENT CONFERENCE?

The Judge will review with the parties the steps they have taken and assess whether they have complied with any previous directions or orders given by the court. The Judge will also decide whether any further directions are required and ensure that as far as possible agreement can be reached between the parties.

The issues between the parties will be clarified and there will be discussion as to whether any further documentation is required. It is usual for the parties to attend with their solicitor at these conferences and the parties or their solicitors may have to provide a summary of the case prior to the case conference.

EXPERT EVIDENCE

Expert evidence is only allowed if it will assist in resolving the claim.

Usually there is only one expert who will be instructed jointly by both parties from an approved list. The cost is shared between the parties. Usually once the report from the expert is received both parties have fourteen days to submit written questions to the expert and the expert must provide answers.

In Fast Track matters experts will no longer attend the final hearing or trial unless the Judge requires them to do so in the interests of justice. This means that a written report will be used instead.

WHAT ABOUT COSTS?

The costs of any case are at the discretion of the Judge however it is usual for the loser to pay the winner's costs of the case.

When deciding what order to make in respect of legal costs the Court will look at all the circumstances of the case including the conduct of the parties before and after the issue of the proceedings, the way each party has pursued the case and whether or not a party has exaggerated his case or claim. The Court will look at the value of the claim and only allow costs that are proportionate to the value of the claim to be recovered.

It is important therefore that you help us comply with any Court order or directions that you co-operate with us to help us progress your case. If Court orders are not complied with and the matter is not dealt with promptly the court may punish any party for non-compliance. These orders are known as "Wasted Costs Orders".

It is important for you to realise that the onus is on you to keep your costs to a minimum. If you fail to do so you may even find that even if you win your case you may only recover a small proportion of your own legal costs. In these circumstances the amount you would recover from your opponent could be a lot less than the amount you have to pay us for the conduct of your case.

The key is that the Court will only allow costs in proportion with the value of the claim and will resolve any doubt usually in favour of the paying party – all costs must be justified.