

**THE GENERAL FRAMEWORK  
OF CIVIL COURT ACTIONS IN ENGLAND AND WALES**

**1. Introduction**

From April 1999 new court rules apply. This fact sheet outlines their effect.

**2. The general intention of the rules**

- To achieve justice - fairly, quickly and economically.
- To resolve disputes without starting formal court cases.
- To encourage those in dispute to give full information to the other party at the earliest opportunity.
- To speed up the conclusion of those cases where court proceedings are issued.
- To make the expense of fighting court cases reasonably proportionate to the amount in dispute.

These objectives are intended to be achieved by the rules on costs\*. Understanding the costs rules is vital.\*

**3. The procedure**

Before the court papers are issued.

Parties are strongly discouraged from rushing straight into litigation. Instead there will be a period – possibly as long as 3 months – of efforts to agree a solution. This starts with the claimant writing to the other party setting out that there is a claim, what it is for, and why it may be issued, and providing the relevant supporting evidence. The other party should respond in a similar way. During this time:-

- The parties should be open and honest with their assertions and supporting evidence. The hope is that understanding the other party's point of view will identify, if not reduce, the areas of disagreement and even lead to full agreement.
- Alternative Dispute Resolution (ADR)\* should be considered and tried if appropriate.
- It is essential to prepare thoroughly for litigation. This involves gathering all evidence. All witness statements will need to be fully prepared (including if possible experts' statements) and all documents collected and sorted. This should be done before the issue of proceedings since once court papers have been issued time is very limited.
- Either party can make an offer to settle of a kind which carries special weight and has a real sting in its tail (a Part 36 Offer)\*.

**4. The first stages of a court action**

The claimant sends his/her claim form and particulars of claim to the court. These must contain the essential facts, the remedy sought, where possible, the value of the claim and a statement of truth\*.

On payment of the relevant fee the court issues the claim.

There is a strict time limit for the claimant to serve the court papers on the defendant.

The defendant must then respond within even stricter time limits. If prompt and correct action is not taken by the defendant, the claimant may be able to enter judgment.

If proceedings are to be defended, the defendant must give a copy of the defence to the court and give the claimant a copy within the time allowed.

The claimant's particulars of claim and the defendant's defence are known as "Statements of Case". There are other kinds, including a Counterclaim, Reply, Defence to Counterclaim and a Third Party Claim. We will advise you if your case needs one of these.

Care, skill and legal knowledge are needed in the preparation of any statement of case.

At any time before the final trial of the case, either party can make an application to the court for an order. An example would be for an injunction order to freeze the position between the parties until trial. All such applications are known as interim applications. There are important costs\* consequences. Interim applications should only be made if it is really important to do so.

At any time before trial, the court can make any order it sees fit. This can be on its own initiative or when a party asks for an order. Any order can have a dramatic effect – e.g. striking out a statement of case or any part of it, or requiring a party to do something within a very short time.

## **5. Allocation**

When the court receives the defence it will issue an "Allocation Questionnaire". This must be completed and returned promptly. Failure to do that can be disastrous. The relevant court fee must be paid, usually by the claimant.

On the information in the statements of case and the allocation questionnaires, the court allocates the case to one of three "tracks". These are:-

- The Small Claims Track\*. Generally for cases involving £5,000 or less. The exceptions are personal injury or housing disrepair cases which in general must involve £1,000 or less.
- The Fast Track\*. Generally for cases above the small claims track involving £15,000 or less as long as the trial is unlikely to last for more than one day.
- The Multi Track\*. Generally for all larger, more important or more complicated cases.

## **6. The later stages**

These will differ according to the different tracks\*.

The way in which any case is run is likely to be governed by the rules on costs\*.

\* See separate fact sheet on this subject

**NB** *The above notes are intended as general guidance only. Do not act on them alone. For more detailed advice on how these matters affect you please contact the person dealing with your case.*

*This fact sheet should be read in conjunction with our fact sheets on Costs, Small Claims Track, Fast Track, Multi Track, Offers to Settle, Alternative Dispute Resolution, Statements of Truth and Disclosure.*