

## SMALL CLAIMS TRACK LITIGATION

### 1. What is the "Small Claims Track"

This is a method of litigation that deals with cases involving:-

- Personal injury claims where the total claim is for not more than £5,000 and the personal injury element is for not more than £1,000.
- A housing disrepair claim by a tenant involving not more than £1,000 cost of repair (plus up to a further £1,000 for other damages).
- Any other claim involving not more than £5,000.

### 2. The procedure

The general rules of the court do not apply fully to these claims.

The court will usually order each party to deliver to the court and serve on the other party at least 14 days before the final hearing copies of all documents intended to be relied on. It will also fix a date for the final hearing (giving not less than 21 days notice to the parties) and may make other orders.

The hearing date given is usually within a few weeks. The court can call a preliminary hearing.

No expert evidence can be used without the court's express permission.

If all parties agree, the court can make its decision on the basis of the papers lodged with it, without a hearing.

The hearing itself will be informal. The judge can proceed in any reasonable way. This includes acting as an inquisitor.

There are special rules covering the possibility of either party not attending the final hearing.

The court's final decision can be appealed to the circuit judge, but only if there was a serious irregularity affecting the proceedings or the court made a mistake of law. There are very strict time limits for this. The circuit judge can decide the appeal without a hearing.

### 3. Costs

Legal costs incurred by the winner are generally not recoverable from the loser. \*

The winner can usually expect the court, on request, to order the loser to pay his court fees, and some or all of the expenses (including loss of earnings) of each of the winner's witnesses who attend the final hearing.

- \* This does not apply if the value of the claim was above the small claims track level but the parties asked for it to be allocated to that track.

**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 the General Framework and Statements of Truth*