

Remember, however, that if the claim is defended you will need to take time to prepare your case. For example, you will have to put together copies of all relevant documents or spend time getting statements from witnesses. You will probably be required to attend a court hearing and you may have to spend more time completing forms to enforce your judgment.

Will I need an advocate?

In straightforward cases the small claims procedure provides a simple and informal way of resolving disputes. You should be able to process your claim without the need for an advocate.

You have to prove your claim, so in more complex cases you will need to have some understanding of the legal basis of your claim and court procedures. You may, for example, need to provide expert's reports and organise statements from witnesses who saw your accident. In any case it may save you a lot of money, time and effort if you gain some legal advice before you start your claim.

The advocate will be able to tell you:

- if it is worth taking out a claim;
- if it is, how best to prepare for it;
- what evidence you may need; and
- what amount of damages to ask for.

You may qualify for Legal Aid to meet some, or all, of your legal costs.

Please remember that this and other leaflets can only provide you with a general idea of what is likely to happen. They cannot explain everything about court rules, costs and procedures which may affect different claims in different ways. Court staff can provide you with information, tell you about court forms and procedures, but they cannot give you legal advice or answer questions like "Will I win my case?", "What evidence do I need?" You should seek legal advice from an advocate.

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Other leaflets in the series:-

For the claimant

HCG01—What is a small claim?

HCG02—How to make a small claim

HCG03—No reply to my claim

HCG04—The defendant admits my claim, I claimed a fixed amount

HCG05—The defendant admits my claim, I did not claim a fixed amount

HCG06—The defendant disputes all or part of my claim

HCG07—I am coming to a court hearing, what do I need to know?

HCG08—I have a judgment but the defendant has not paid

HCG09—How do I apply for execution?

HCG10—How do I apply for an attachment of earnings order?

HCG11—How do I apply for a charging order?

HCG12—How do I apply for an arrestment order?

For the defendant

HCG13—A claim has been made against me, what should I do?

HCG14—Defending a claim

HCG15—Paying my judgment

HCG16—I cannot pay my judgment, what can I do?

HCG17—I have received a charging order, what is it?


HCG18—I am coming to a court hearing, what do I need to know?

HCG19—Registered judgments, what does this mean?

www.courts.im

Deemsters Walk, Bucks Road, Douglas
Isle of Man IM1 3AR

Phone: +44 (0) 1624 685265 Fax: +44 (0) 1624 685236
E-mail: court.house@courts.im



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What is a Small Claim? **HCG01**

Claimant guidance in the Small Claims Procedure

What is a small claim?

www.courts.im

In general, a small claim is one where the value of the claim is for £10,000 or less (£5,000 or less if the claim is for personal injuries). There is no lower limit.

What does it mean to make a claim?

Making a claim is when you begin formal legal action against another party. You can make a claim after you have tried other methods to recover the money you believe is owed to you.

What is serving a claim?

Once formal legal action has started by the issuing of a claim, the defendant needs to be notified of the claim. Serving the claim is where the claim form you lodged with the court is either sent or given to the defendant by the coroner, and they are officially notified of the action that you are taking.

Do I have to make a claim; are there any alternatives to court?

It may be in your best interest to try and settle a claim before beginning formal court action.

You may wish to try and settle your claim by writing to the defendant outlining your claim. If you do, you should keep a copy of your letter and allow them a week or so to reply.

If you do not receive a satisfactory reply it would be reasonable for you to write again, this time advising that you intend to start legal proceedings if your claim is not settled.

If you still do not receive a satisfactory response, you may wish to consider alternative dispute resolution (ADR) or the issue of a small claim. Alternative dispute resolution is not meant to replace the courts, but it can have advantages over going to court, namely:-

- more flexible;
- quicker;
- less stressful; and
- cheaper.

Why go to court?

If you are unable to settle your dispute any other way, you may decide to issue your claim through the court.

You can issue claims for a variety of reasons, including:

- where your property has been damaged (e.g. your car in a car accident);
- where you loaned money to someone and they haven't paid it back;
- where you are owed wages by an employer;
- where you have suffered personal injury;
- where you have purchased goods and they have not been supplied or they are faulty; or
- where you have had work done and it has been faulty.

These are just some examples of the more common disputes and there may be situations not included in the list where you may issue a claim through the court.

If I decide to go to court, should I still try to settle the claim?

Issuing a claim should always be your last resort. The court will expect you to have acted reasonably, such as exchanging information and documentation about the dispute and generally try to avoid the need to issue a claim.

There is little satisfaction to be gained from winning your case if the defendant has no money to pay you. Before issuing a claim it is important to consider whether the person, firm or company you are claiming from is likely to be able to pay. If they are:

- unemployed;
- bankrupt;
- have no money of their own;
- have no personal property or anything of value belonging to them (such as a car);
- have ceased to trade; or
- have other debts to pay

the court may not be able to help you get your money. You may, however, be able to get your money if you are prepared to accept small, regular payments (instalments) over a period of time.

Can I afford to go to court?

It will cost you money to start a claim. Court staff will be able to tell you how much you have to pay. You can also find details on the Courts website - www.courts.im. Please note that the fee might increase each year.

The fee you pay is added to the amount you are claiming from the defendant. If you are successful with your claim, you may be entitled to get that money back from the defendant.

It does not matter if the fee takes your total over the maximum claim amount for a particular procedure. The fee is regarded as 'costs', which is separate to the amount you are claiming is owed to you.

What other expenses are there?

If the defendant (the person you are issuing the claim against) defends your claim, you may need witnesses to help to tell the court what happened. You may have to pay their travelling expenses and the money they would have earned that day. You may also need to obtain a report from a doctor, for example, and request that this expert come to court to give evidence. Again you will have to pay the expert's expenses and charges. These are known as costs.

If you are successful in the claim the court may order the defendant to pay towards those costs. Whilst it is rare in the small claims procedure if you are unsuccessful in your claim the court may order you to pay towards the defendant's costs.

Can I afford the time?

Many cases are not defended and the way in which claims for money (especially amounts of £10,000 or less) are dealt with is designed to allow you to do this yourself, with the need to attend at court only once or twice.