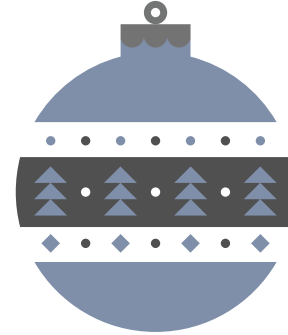


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A Beginner's Guide to 'Small Claims'



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5 December 2022

University of South Wales
in association with
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Introduction

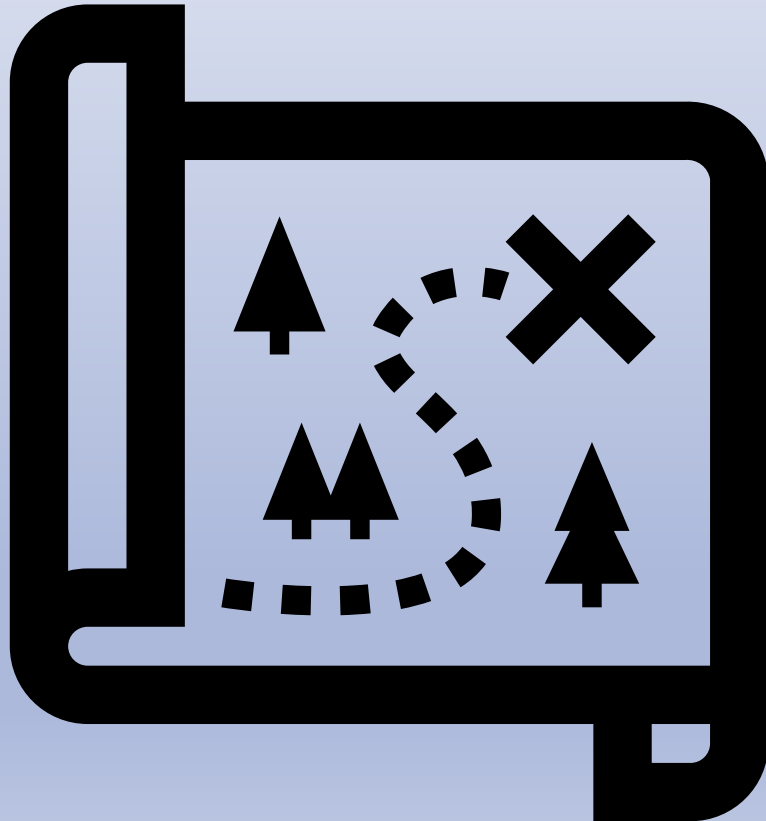
- Adam Collins, University of South Wales
- Property Litigation Solicitor
- University of South Wales Legal Advice Clinic
- Lecturer in Legal Practice

What we will cover



- What is a 'small claim'?
- Where and how to commence a 'small claim' (inc. Money Claims Online);
- Tips for drafting a particulars of claim;
- Tips for responding to a particulars of claim;
- Managing the 'small claims' process; and
- Obtaining a judgment.

Civil Procedure Rules (CPR)



- Set of rules and accompanying practice directions.
- Road map for civil litigation.
- CPR 1: Overriding Objective – Court to deal with cases justly and at proportionate cost ([PART 1 - OVERRIDING OBJECTIVE - Civil Procedure Rules \(justice.gov.uk\)](https://www.justice.gov.uk/civil/part1)).

What is a 'small claim'?



What is a 'small claim'?

- Financial value of not more than £10,000;
- Residential disrepair claims against a Landlord for not more than £1,000; and
- Low value personal injury claims*.
- **Factually:** less complicated.
- **Examples:** consumer disputes, debt, disputes about ownership of goods.

Example of a 'small claim'

- Party A is hired to build a wall by Party B for £3,000
- The parties agree that Party A will be paid at the end of the job
- Party A completes the job
- Party B refuses to pay Party A



The Stages of a Claim

1. Pre-Action

2. Issuing a
claim

3. Allocation &
Case
management

4. Hearing

5. Enforcement

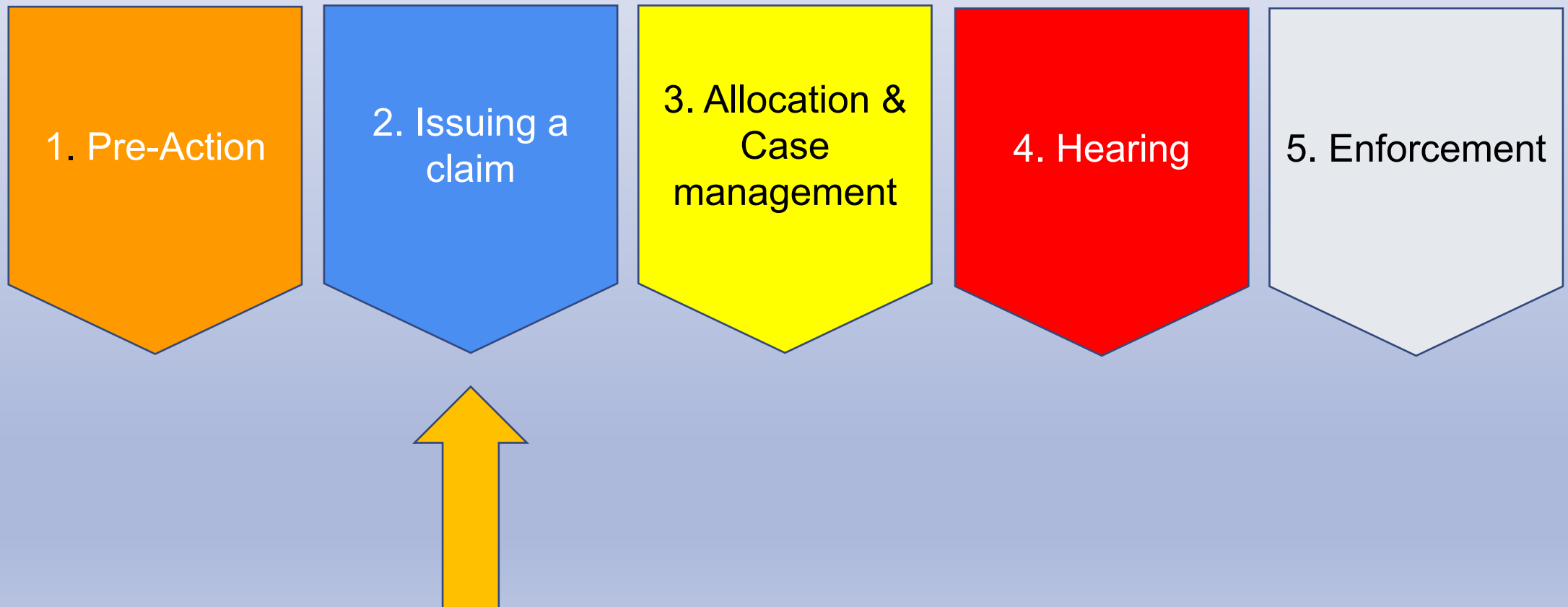


Step 1: Pre-Action



- Need to follow pre-action protocol – general protocol applies unless the claim is a specific type of claim.
- General letter before action:
 - Name and addresses of both parties;
 - Concise details of the claim (i.e – alleged breaches etc, key documents);
 - What the claimant wants the defendant to do (if money, how is this calculated, where is it to be paid);
 - By when (needs to be reasonable minimum 14 days); and
 - Court action will follow if there is not a satisfactory reply or no reply received.

The Stages of a Claim



Court fees



If you know the claim amount

The court fee is based on the amount you're claiming, plus [any interest](#).

Claim amount	Fees
Up to £300	£35
£300.01 to £500	£50
£500.01 to £1,000	£70
£1,000.01 to £1,500	£80
£1,500.01 to £3,000	£115
£3,000.01 to £5,000	£205
£5,000.01 to £10,000	£455
£10,000.01 to £200,000	5% of the claim
More than £200,000	£10,000

- Help with fees – may provide a full or partial reduction in the court fee.
- Apply online or post using an EX160 Form ([Form EX160: apply for help with court and tribunal fees - GOV.UK \(www.gov.uk\)](#)).
- Reference number – keep a note.
- Don't forget the hearing fee at a later date – maximum of £346.

Calculating Interest



- Don't forget your client's entitlement to interest!
- Contractual interest – may not apply.
- Late Payment of Commercial Debts (Interest) Act 1998*
- Section 69 County Courts Act 1984 – interest is 8%



Calculating Interest



- Daily rate of interest calculation:
- Claiming £3,000:
 - $0.08 \times 3000 = \text{£}240$ (this is my per annum interest rate at 8%)
 - $240/365 = \text{£}0.66$ (this is my daily rate of interest)





Where to issue?



- **By post:** County Court Money Claims Centre, PO Box 527, Salford, M5 0BY; OR
- **Money Claims Service (Beta)** – specific requirements apply. Can use Help with Fees; OR
- **Money Claims Online** – cannot use Help with Fees.

Money Claims Service (Beta)



BETA This is a new service – your [feedback \(opens in a new window\)](#) will help us to improve it.

Try the new online service

We are building a new service. Different designs are being tested and changed based on feedback from users.

You will be asked some questions to check you are eligible to use this service.

[Continue](#)

▶ [Contact us for help](#)

Money Claims Service (Beta)



Application incomplete

You have completed 0 of 7 sections

After you have completed all the actions you will be taken to a page where you can check your answers before submitting.

1. Consider other options

[Resolving this dispute](#)

INCOMPLETE

2. Prepare your claim

[Completing your claim](#)

INCOMPLETE

[Your details](#)

INCOMPLETE

[Their details](#)

INCOMPLETE

[Claim amount](#)

INCOMPLETE

[Claim details](#)

INCOMPLETE

3. Submit

[Check and submit your claim](#)

INCOMPLETE

Money Claims Service (Beta)



Claim amount

Your claim could be for a single amount or made up of multiple items.

Don't include:

- interest - we'll ask you about this next
- your claim fee - we'll add this for you

What you're claiming for

Briefly explain each item - for example, "broken tiles",
"roof damage"

	Amount
<input type="text"/>	£ <input type="text"/>
<input type="text"/>	£ <input type="text"/>
<input type="text"/>	£ <input type="text"/>
<input type="text"/>	£ <input type="text"/>

Briefly explain your claim

Tell us why you believe the defendant owes you money.

Don't give us a detailed timeline - we'll ask for that separately.

You'll have to pay an extra fee if you want to change the details of the claim later.

Save and continue

Money Claims Service (Beta)



Timeline of events

If you don't know the exact date, tell us the month and year.

Example timeline

- 28 May 2022 - John Smith gave me a quote to replace the roof.
- 30 May 2022 - We agreed and signed a contract for the work.
- 2 August 2022 - I noticed a leak on the landing and told Mr Smith about this.

Date

For example, 28 May
2022

What happened

For example, you might have signed a contract

List any evidence (optional)

Tell us about any evidence you wish to provide. You do not need to send us any evidence now. If your case goes to a court hearing, and is not settled, you will need to provide evidence.

List your evidence

Add more evidence

Money Claims Online



Claim > Claimant Details > Correspondence Address > **Defendant Details** > Claim Particulars > Summary > Payment Details > Confirmation >

Submit Claim - Defendant Details

Those fields marked with * are mandatory.

Please enter the details of each defendant (up to a maximum of two).

Defendant 1

Type of defendant:

- Individual
 Organisation

Title: *

Mr ▾

First Name: *

TRAINING

Surname: *

EXAMPLE

Address Line 1: *

TRAINING

Address Line 2: *

PONTYPRIDD

Address Line 3:

Mid Glamorgan

Address Line 4:

Postcode: *

CF37 1DL

Lookup

Add 2nd Defendant (optional) ✓

Money Claims Online



Claim > Claimant Details > Correspondence Address > Defendant Details > **Claim Particulars** > Summary > Payment Details > Confirmation

Submit Claim - Claim Particulars

Step 5 of 8

Those fields marked with * are mandatory.

Particulars of Claim *

You are required to give details of your claim in the box below. If you wish, you may also send detailed particulars direct to the defendant. If you need to do this, please tick here

You must serve any additional documents on the defendant within 14 days after service of the claim form.

Do you want to reserve the right to claim interest under the County Court Act? If yes please select 'yes' and complete the following fields. If you wish to claim interest under any other act or agreement please select 'no' and enter the full details of your interest agreement in the box below. *

Yes No

If yes is selected, the relevant associated text will be automatically inserted in the claim particulars when the claim is submitted.

Date money became owed to you (dd/mm/yyyy): *

24/10/2022

Date you are issuing the claim (dd/mm/yyyy): *

24/11/2022

Claim amount: *

£ 3,000.00

Daily rate of interest up to the date of judgment: *

£ 0.68

Without interest.

Please enter the interest as an amount. If you are unsure how to calculate the rate of interest please refer to the user guide.

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Money Claims Online



A short statement (maximum 1080 characters) of what you are claiming for and why.

TRAINING EXAMPLE

14 Lines Remaining

Claim amounts

Amount claimed: *

£ 3,000.68

Court fee:

£ 205.00

Total amount:

£ 3,205.68

[Calculate](#)

Maximum claim amount £99,999.99 including any interest up to date of claim request

Money Claims Online



Particulars of Claim

Sending Particulars Directly Yes

Claim Particulars

TRAINING EXAMPLE

I will provide the defendant with separate detailed particulars within 14 days after service of the claim form.

The claimant claims interest under section 69 of the County Courts Act 1984 at the rate of 8% a year from 24/10/2022 to 24/11/2022 on £3,000.00 and also interest at the same rate up to the date of judgment or earlier payment at a daily rate of £0.68.

I reserve the right to claim interest under the County Court Act

Date money became owed 24/10/2022

Date you are issuing a claim 24/11/2022

Claim amount £3,000.00

Daily rate of interest up to the date of judgment £0.68

Claim amounts

Amount Claimed £3,000.68

Court fee £205.00

Total Amount £3,205.68

Statement of Truth

I am the claimant - I believe the facts stated in this claim form are true.


I confirm I have read the [guidance](#) *

Signed: *

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County Court Money Claims Centre (By post)



 **Claim Form**

You may be able to issue your claim online which may save time and money. Go to www.moneyclaim.gov.uk to find out more.

In the

Fee Account no.	
Help with Fees - Ref no. (if applicable)	H W F - [] [] - [] []
For court use only	
Claim no.	
Issue date	

Claimant(s) name(s) and address(es) including postcode

SEAL

Defendant(s) name and address(es) including postcode

Brief details of claim

Value

Defendant's name and address for service including postcode

Amount claimed	£
Court fee	
Legal representative's costs	
Total amount	

For further details of the courts www.gov.uk/find-court-tribunal.
When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.
N1 Claim form (CPR Part 7) (06.22) © Crown Copyright 2022

- More traditional approach to drafting.
- You will need to manually input the Court fee and work out the interest on the amount that you are claiming.
- Good approach is to leave legal representative's costs to "To be assessed."
- Value should be the specified sum plus interest
- Brief details of the claim should just be that (what, in essence is the claim about)?

County Court Money Claims Centre (By post)



- 1.) At all material times the Claimant was a general contractor and the Defendant was dealing as a consumer.
- 2.) On 5 June 2022 the Claimant entered into a verbal contract with the Defendant to construct a wall at the Defendant's property ("the Contract"). It was an express term of the Contract that the Claimant would construct the wall by 20 June 2022.
- 3.) It was an express term of the Contract that the Defendant would pay the Claimant £1500 by 15 July 2022.
- 4.) In accordance with the Contract, the Claimant completed the wall on 18 June 2022.
- 5.) In breach of the Contract the Defendant failed to pay the agreed price or any part thereof.
- 6.) The Claimant claims the sum of £1500.
- 7.) The Claimant claims interest pursuant to section 69 of the County Courts Act on the sum of £1500 from 15 July 2022 until judgment at the rate of 8% per annum amounting to £4.38 at the date of issue of the Claim Form and continuing at the rate of £1.46 per day.

AND THE CLAIMANT CLAIMS

- 1.) The Sum of £1500
- 2.) Interest pursuant to paragraph 7 above.

Service & Deadlines



- Serve the particulars of claim within 4 months (Don't forget the response pack available on Gov.uk – includes notes for the Defendant).
- CPR sets a theoretical service date known as 'deemed served' e.g – 1st class post then deemed served two business days later.
- Defence:
 - Either Admit the Claim in whole or part;
 - File a Defence within 14 days of service of the Particulars of Claim; or
 - File an Acknowledgment of Service within 14 days of service of the Particulars of Claim and buy yourself 28 days in total to file a Defence (28 days from the service of the Particulars of Claim).

Tips for drafting a Defence

- Respond on a separate word document or the Response Pack provided.
- Use numbered paragraphs.
- Address every point raised in the Particulars of Claim – any omission may be deemed as an admission.
- For each point raised in the Particulars of Claim consider whether you intend to:
 - Admit
 - Deny
 - Require Proof
- Don't be afraid to admit uncontroversial points!

Judgment in Default

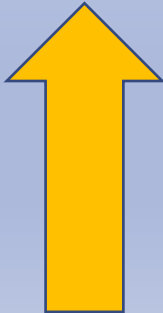


- If the Defendant does not file an Acknowledgement of Service or Defence = apply for Judgment in Default.
- Successful Judgment in Default = County Court Judgment (CCJ).
- Money Claims Service & MCOL = apply online via your account.
- Claim form by post need to file N227.





The Steps



Directions Questionnaire



Directions questionnaire (Small Claims Track)

In the	Claim No.

To be completed by, or on behalf of,

who is [1st][2nd][3rd][] [Claimant][Defendant][Part 20 claimant] in this claim

You should note the date by which this questionnaire must be returned and the name of the court it should be returned to since this may be different from the court where the proceedings were issued.

If you have settled this claim (or if you settle it on a future date) and do not need to have it heard or tried, you must let the court know immediately.

A Settlement/Mediation

Under the Civil Procedure Rules parties should make every effort to settle their case. At this stage you should still think about whether you and the other party(ies) can settle your dispute without going to a hearing.

You may seek to settle the claim either by direct discussion or negotiation with the other party or by mediation. If settlement is reached parties may enter into a binding agreement which can be enforced if the terms of the agreement were to be breached.

Mediation is a way of resolving disputes without a court hearing, where the parties are assisted in resolving their dispute with the help of an impartial mediator. If the claim is settled at this stage the parties can avoid further court fees, costs and time involved in preparing and attending a hearing.

You may use any mediation provider. However, HMCTS provide a **free confidential** Small Claims Mediation Service which is available to parties in most small claims cases which are for less than £10,000.

Mediation is usually carried out by telephone in one hour time limited appointments convenient to the parties and is quicker than waiting for a court hearing before a judge. There is no obligation to use the Small Claims Mediation Service nor are you required to settle if you do. If you are unable to reach agreement with the other party at mediation, the claim will proceed to a small claims hearing.

You can get more information about mediation from www.gov.uk

If all parties agree, this case will be referred to the Small Claims Mediation Service. In any event the court may order the service to contact you to explore mediation.

A1 Do you agree to this case being referred to the Small Claims Mediation Service? Yes No

Please give your contact details below – If all parties agree to mediation your details will be passed to the small claims mediation team who will contact you to arrange an appointment.

You must complete the remainder of the form regardless of your answer to A1

Directions Questionnaire



B Your contact details

Notes

Your full name

Address for Service

Telephone number

Mobile

Email

It is essential that you provide this information, particularly if you have requested mediation. Staff will contact you within office hours (9am - 5pm).

Directions Questionnaire



C Track

Notes

- C1** Do you agree that the small claims track is the appropriate track for this case? Yes No

If No, say why not and state the track to which you believe it should be allocated

Track

The small claims track – generally for lower value and less complex claims with a value under £10,000. You can get more information by reading leaflet EX306 'The small claims track in civil courts'. You can get this leaflet online from hmctsformfinder.justice.gov.uk

D Suitability for determination without a hearing

Notes

- D1** Do you consider that this claim is suitable for determination without a hearing, i.e. by a judge reading and considering the case papers, witness statements and other documents filed by the parties, making a decision, and giving a note of reasons for that decision? Yes No

If No, please state why not.

The court can determine this claim without a hearing: (a) if both parties agree; or (b) where the 'Small Claims Paper Determination Pilot' applies, even if the parties do not agree. For more information on the courts participating in the pilot and the cases to which the pilot may and may not apply, please see Practice Direction 51ZC to CPR 51.

Relevant reasons include that there are factual disputes which will need the judge to hear from witnesses directly (in which case please specify the factual dispute and the relevant witnesses) or that the issues are so complex they need to be argued orally.



Directions Questionnaire

E About the hearing

Notes

Hearing venue

E1 At which County Court hearing centre would you prefer the small claims hearing to take place and why?

Expert evidence

E2 Are you asking for the court's permission to use the written evidence of an expert? Yes No

If Yes, state why and give the name of the expert (if known) and the area of expertise and the likely cost if appointed.

Witnesses

E3 How many witnesses, including yourself, will give evidence on your behalf at the hearing?

Hearing

E4 Are there any days within the next six months when you, an expert or a witness will not be able to attend court for the hearing? Yes No

If Yes, please give details

	Dates not available
Yourself	
Expert	
Other essential witness	

Location

If your claim is a designated money claim the case will usually be transferred to the claimants preferred court or the defendants home court as appropriate. However, there is no guarantee of transfer to this court. For further information see CPR Parts 3, 12, 13, 14 and 26.

Expert evidence

The court must grant you permission to use an expert witness. Your notice of allocation will tell you if permission has been granted. Please note the upper limit for experts' fees that can be recovered is £750. You can get more information by reading leaflet **EX306 'The small claims track in civil courts'**. You can get this leaflet online from hmctsformfinder.justice.gov.uk

Witnesses

Witnesses may be asked to give evidence by either party. The court needs to have notice that you intend to call a witness. Witness expenses for travel accommodation and loss of earning should be met by the party requesting their attendance. You can get more information by reading **EX342 'Coming to a court hearing'**. You can get this leaflet online from hmctformfinder.justice.gov.uk

Hearing

Dates to avoid: You should enter those dates where you, your expert or an essential witness will not be able to attend court because of a holiday or other commitments.

Interpreters: In some circumstances the court will arrange for, and meet the cost of an interpreter. If you require an interpreter, you should contact the court immediately. Further details visit our website www.justice.gov.uk/understanding

Directions Questionnaire



Will you be using an interpreter at the hearing either for yourself or for a witness?

Yes No

www.justice.gov.uk under guidance.

If Yes, please specify the type of interpreter

E5 Do you believe you, or a witness who will give evidence on your behalf, are vulnerable in any way which the court needs to consider?

Yes No

If Yes, please explain in what way you or the witness are vulnerable and what steps, support or adjustments you wish the court and the judge to consider.

Directions Questionnaire



Signature

You must sign this form

[Legal representative for the][1st][2nd][3rd][]
[Claimant][Defendant][Part 20 claimant]

Once you have completed this form, please return it to the court at the address shown on the form N149A - Notice of proposed allocation to Small Claims Track.

You must also send a copy of this form (N180 Directions questionnaire) to each of the other parties in this case.



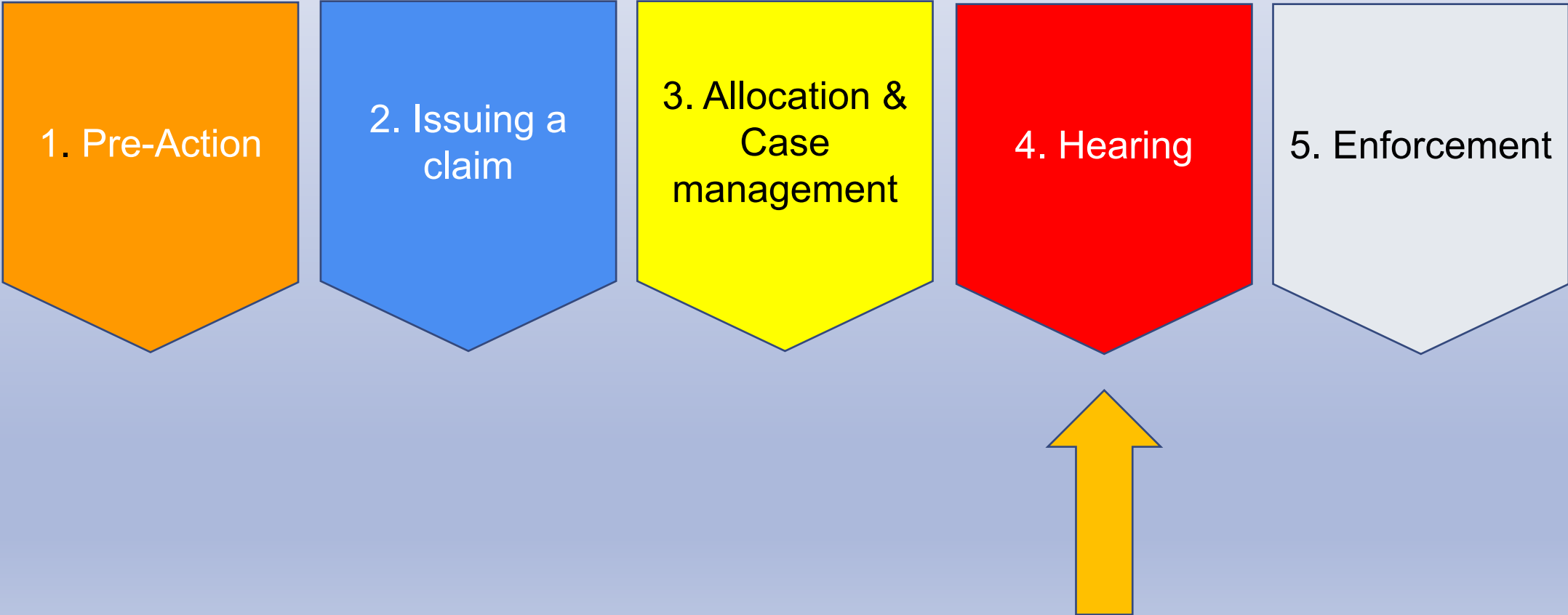
What happens next?



- Claimant must pay the hearing fee by the deadline otherwise the claim will be struck out.
- Court will issue directions (i.e – a timetable of what steps need to be completed and by when)
- Small claims directions are generally informal e.g – a general deadline will be set by when all relevant documents/evidence need to be filed at Court.



The Steps



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The Hearing



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Judgment & Costs



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- General rule in litigation is that successful party pays the unsuccessful party's costs (e.g – legal fees) – **There are qualifications to this in small claims.**
- Can be awarded 'Fixed Costs' – Cost of issuing the claim form, hearing fee, reasonable travel expenses/loss of earnings for attending.
- Expert fee of £750.

The Steps



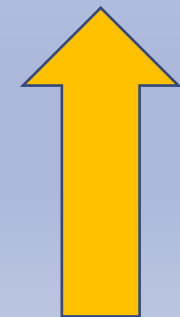
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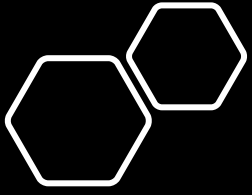
2. Issuing a
claim

3. Allocation &
Case
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4. Hearing

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Thank you for
listening!

Questions?

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