

Should I seek compensation through a small claims court?

What is a small claim?

A small claim is one where the amount claimed is no more than £10,000 (the amount in personal injury claims is different). The most common types of claims are:

- Compensation for faulty services, e.g. by builders or garages
- Compensation for faulty goods, and
- Disputes between landlords and tenants, e.g. rent arrears or compensation for not doing repairs.

Before spending money on making a court claim you should consider whether:

- You can settle out of court
- You are likely to get your money if you win
- You should seek expert help, and
- How much taking action will cost.

Should I settle out of court?

The average amount recovered through a small claim isn't much more than the average out-of-court settlement so it is also worth thinking about whether there are other less costly avenues open to you. A mediation service could be quicker and cheaper than going to court, for example, or the individual or business you are in dispute with could have a trade body or regulator whom you could seek assistance from.

Make sure you've complied with all the steps set out in the [Practice Direction on Pre-Action Conduct](#) before you start court action. You must try to settle a claim before taking court action.

The court may penalise you if you don't try to settle first and there are qualified people who can help you to try to sort out your problem without going to court. This is known as alternative dispute resolution (ADR).

If you have tried alternative dispute resolution to settle out of court and it didn't work or if it isn't an option for you, you will need to write a letter before action before you take someone to court. You need to do this as part of pre-action conduct. Citizens Advice has a useful page on [how to write a letter before action](#).

Will I get my money if I win?

It is not worth you starting court proceedings if the person or business you are claiming from has no money. There are ways to find out whether your opponent has been made bankrupt or has unpaid County Court Judgments (CCJs) against them. If they do have an unpaid judgment against them it means that they have been taken to court in the past and not paid.

To find out whether the defendant has unpaid CCJs, phone the Registry Trust on 020 7380 0133 or visit their website at www.registry-trust.org.uk for details.

Contact the Insolvency Service to establish whether the defendant is bankrupt. For details see www.bis.gov.uk/insolvency.

If you win your case, the judge will state how long the defendant has to pay the sum you've been awarded.

Should I seek specialist help?

The small claims process is designed to be simple and it is usually uneconomic to instruct a solicitor even if you win.

You could, however, seek our advice before you commence proceedings. We will be happy to speak to you over the telephone and, if you would like to follow up with a meeting and advice in writing, we will agree a fixed fee with you. We also often assist people at specific points of their case. One of our lawyers could help you draft your claim or assist with witness statements and the disclosure of documents, for example.

Another source of assistance is Citizens Advice. They have offices in Margate and Canterbury which will give you free advice before you decide to make a claim and the Citizens Advice website has a useful small claims overview. To visit their page click [here](#).

Where do I get the forms I need to make a claim?

Copies of all the court forms can be obtained from your local county court or at www.justice.gov.uk where you should click on 'Courts' and 'Find a court form'. Thanet County Court is in Cecil Square, Margate. If you live in the Canterbury area you would need to visit Canterbury Combined Courts Centre in Chaucer Road. We recommend you telephone your local court before visiting.

Websites such as [Which?](#) give helpful advice on how to fill out the forms and explain the small claims process in detail.

How much will taking court action cost me?

Court fees vary depending on how much you are claiming. Please refer to www.justice.gov.uk/courts or contact your local court for further information and confirmation of the court fees.

You may be exempt from paying fees if you receive income support, jobseeker's allowance or the maximum working family's tax credit.

You should also bear in mind the time cost of bringing a claim, as you will need to take time to prepare your case and will probably be required to go to a court hearing if the claim is defended.

To stand the best chance of winning you may have to pay for expert evidence e.g. a doctor, mechanic or surveyor. You *may* be allowed to claim costs from your opponent towards this expense if you win the case. If you win the case you *may* also be able to claim your court fees, travel costs and something towards your lost earnings for the day.

Legal costs are non recoverable except in exceptional circumstances. This means that you will probably not be able to recover your costs if you win. However, it can also be to your advantage in that you are unlikely to have to pay your opponent's legal costs if you lose.

What happens if your opponent refuses to pay?

Obtaining judgment against your opponent does not guarantee payment. If you win but your opponent refuses to pay up you will have to spend money enforcing the order by making further applications to court. This cost varies depending on the type of enforcement order you are seeking.

Can you settle once proceedings have started?

Once proceedings are issued the opportunity might arise to negotiate a settlement of the claim. In these circumstances if you have paid a hearing fee you can write to the court to ask for a refund. Negotiating a settlement can lead to a more amicable conclusion, help you avoid time and expense, and avoid a judgment being entered against you.

What will happen if I lose?

If judgment is given against you and you consider the decision to be wrong in law or unfair, you can ask for permission to appeal. You will have to pay a fee and the court will only give permission to appeal where it considers that the appeal has a realistic prospect of success. An appeal generally takes the form of a review of the proceedings rather than a re-hearing and therefore you do not usually get a second chance to give evidence. It is normally worth seeking legal advice before trying to appeal and we would be pleased to assist you.

The contents of this fact sheet are general principles and do not constitute legal advice. Every case is different.

Margate	Birchington	Broadstairs	Canterbury	Ramsgate
Hawley Street	Station Road	High Street	Broad Street	Queen Street
01843 234010	01843 842356	01843 868861	01227 207000	01843 595990

Email: reception@boysandmaughan.co.uk
www.boysandmaughan.co.uk

