

Guide to Small Claims

What claims should be brought in the small claims court?

If you are seeking to recover a debt or issuing a claim where the value is up to £10,000, you should seek to issue a claim in the small claims court.

How is the small claims court different?

Many individuals represent themselves as you will only be able to recover a small amount of fixed costs in the event you are successful. It is therefore often disproportionate to instruct a solicitor for advice and/or to represent you in a small claims matter as the costs could be equal to or in excess of the amount in dispute. Because there are so many more individuals issuing claims and representing themselves, the court rules in the small claims court are more relaxed.

If the above is true, why should I seek advice from a solicitor?

If you are in any doubt about the merits of your claim seeking advice at the outset could help avoid delays and expense in the long run as you will know where you stand and will be better informed in relation to your dispute. You may also be able to avoid lodging your claim at all if your solicitor resolves your dispute through a carefully drafted Letter Before Action sent to your opponent. Further, if the value of your dispute is in the top end of the small claims bracket then it may well be worth seeking advice. Alsters Kelley offer a fixed fee service for small claims which is outlined below.

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What is the process to follow in the small claims court?

Once you have issued your claim and paid the relevant fee, the Defendant will either file an Admission, Acknowledgement of Service, Defence or fail to respond. If the Defendant fails to respond at all by the deadline given by the Court, you will be able to apply for judgment in default which means that the Court will award judgment in your favour.

If the Defendant files a Defence, the Court will send Directions Questionnaires to both parties which will need to be completed and returned to Court. The Court is also likely to refer the matter for small claims mediation which is a free service where an impartial mediator will arrange an informal mediation by phone with both parties in order to encourage a settlement.

If it has not been possible to settle the matter, the Court will make directions as to how and when both parties will file their documents on which they intend to rely and whether witness statements will be required. The Court will also set a date for the hearing.

What do I do once judgment has been made?

If you are successful at the hearing, the Court will order that the Defendant pay you what you are due normally together with interest and a small amount of fixed costs and fees which you have paid to the Court. If the Defendant fails to pay you by the



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date due, you will need to consider enforcing the Judgment which may include instructing High Court Enforcement Officers or County Court bailiffs, applying for a charging order over any property owned by the Defendant or applying for an order that the Defendant's employer pay the sum due in instalments directly out of their salary. Detailed advice on enforcement options is outside the scope of this factsheet but you should always consider at the outset whether it is worth pursuing the Defendant if they do not have any assets and/or you do not know where they are employed. We will advise you on recoverability at the outset of the matter in order to allow you to make a pragmatic decision in the first instance. We can arrange for credit report, asset tracing and other services to help you make the decision to proceed either to issue proceedings or to enforcement options.

If you are unsuccessful, you can appeal the decision, but you should ask the Judge at the hearing for leave to appeal. You must also have proper reasons to appeal and there is a tight time limit in which to do so.

How we can help you

At Alsters Kelley, we can offer fixed fees for straightforward claims. These are as outlined in the table below. You can pick and choose which elements you require assistance with. If there are any further actions you require not listed in the tables below, we can give a separate quotation for those. If we consider that your case is complex and falls outside of the below structure, we will let you know why and

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provide you with a separate cost estimate. You will be responsible for paying all disbursements to third parties including Court fees and Barristers fees etc. in advance.

Please note that all figures are subject to VAT and we would require the fees on account prior to starting the work and we also require you to provide us with a signed Notice of Acting from the outset if we are to go on the Court record:

If you are the Claimant:

STAGE OF MATTER	OUR FEE	DISBURSEMENTS
Initial advice and Letter Before Action	£250	
Preparing the claim form and Particulars of Claim	£250	Court fee which depends on the value of your claim and currently varies between £35 - £455
Applying for Judgment in Default (if opponent fails to file a Defence)	£50	
Advice on Defence and completing Directions Questionnaire	£75	
Preparing witness statement (amount is for each statement)	£250	

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Advocacy either via Alsters Kelley or instructing a barrister as appropriate	Separate quote to be agreed	1) Advocate/Counsel's fee - estimated £200 - £750 plus VAT. 2) Hearing fee which depends on the value of your claim and currently varies between £25 - £335.
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If you are the Defendant:

STAGE OF MATTER	OUR FEE	DISBURSEMENTS
Initial advice and response letter to Letter Before Action	£250	
Preparing, filing, and serving Defence (and Counterclaim)	£250	Court fee which depends on the value of your counterclaim and currently varies between £35 - £455
Completing Directions Questionnaire	£50	

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Preparing witness statement (amount is for each statement)	£250	
Advocacy either via Alsters Kelley or instructing a barrister as appropriate	Separate quote to be agreed	1) Advocate/Counsel's fee - estimated £200 - £750 plus VAT. 2) Hearing fee which depends on the value of your claim and currently varies between £25 - £335.

For more information, please contact the Dispute Resolution Department on 02477 710235.

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