

How to use the small claims court

If a customer or a supplier owes you money and refuses to settle, the only solution may be to go to court. For claims up to £5,000 you often hear of the 'small claims court', but what this really means is the special procedure for handling smaller claims in a county court.

The small claims track is designed to be quick, cheap and easy to use.

Typical smaller claims include faulty goods, or goods not supplied under a contract or paid for, or poor workmanship by a tradesman.

Provided a claim is for under £5,000, it is not necessary to use a solicitor. If a claim is for over £5,000 and covers compensation (or damages) it is advisable to consult a solicitor. If a claim is for more than £15,000, for example, it may be advisable to claim in the High Court.

To make a claim in any county court in England and Wales you have to ask the court for a Form N1 (see the 'phone book for phone numbers and addresses under courts) and complete it.

The type of question required relates to details of your claim, its value, the claimant and defendant, etc. Help in filling the form is available from court staff or a Citizens' Advice Bureau. Three photocopies will be necessary, one for yourself, one for the court and one for the defendant or more if there are several defendants.

You can claim interest on the money the defendant owes you at the rate of eight per cent per year from the date the money became owed to you at a daily rate.

For example, if you are owed £1,000, the rate of daily interest would be:

$0.00022 \times 1,000 = 0.22$, i.e. **22p per day**. If the debt is 50 days old, you calculate $50 \times 0.22 = 11$, or **£11 added to the amount claimed**.

The fee payable to the court depends on the amount you are claiming, but in some cases no fee may be charged. Staff at any county court will give you details.

What happens when a completed claim form has been sent to the county court? The court will post a copy of the form to the defendant, together with an

admission form, a defence form and an acknowledgement of service.

The defendant can then choose to do nothing, admit the whole or part of your claim, or dispute the whole or part of your claim.

In practice, many cases are not defended. But if a claim is defended then it is going to take time to prepare your case, e.g. to get all the relevant documents or copies and statements from witnesses, and to attend a court hearing.

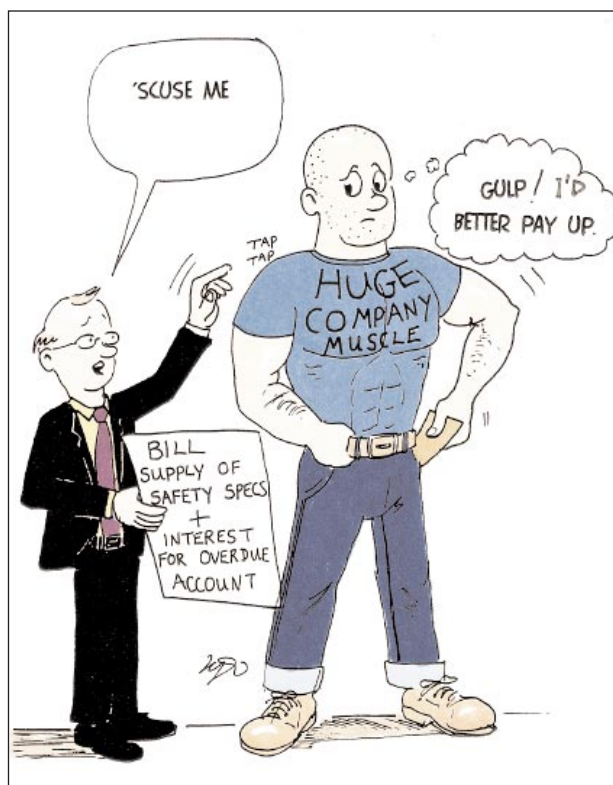
In a disputed case, when a claim is for less than £5,000, it may be advisable to seek the advice of a solicitor or when a claim is defended, it may be necessary to take someone to the court to speak on your behalf.

Obviously, a lot depends on the strength of your claim. Claims for money owed for work done or goods supplied are not often disputed. This means it can be straightforward to get a court order for payment, i.e. a judgement.

However, you could face a situation where the defendant, e.g. a limited company, has no assets in its own name, or your individual customer has no money or assets or anything else of value. You might still get a judgement, but it is going to be difficult to get payment, especially if there are already other county court judgements against your customer.

If the judgement orders your customer to pay direct to you, this means that you will know quickly whether you are going to be paid or you will need to consider further action, i.e. enforcement, to get your money. The court can then take steps to enforce a debt on your instructions, but it is important to act quickly. Deciding whether to enforce a judgement may depend on whether the customer has admitted the claim and made an offer to pay before the judgement or on whether enforcement action is likely to be worthwhile.

If the customer is a limited company and you know the name of one of the directors, you can find out about the company's assets by asking for an oral examination of the director, or a search of the Register (Registry Trust) which may help you to decide whether enforcement is likely to be worthwhile.



Small businesses seem to be putting aside fears of damaging relations with big customers

If you do decide to go to court:

- act quickly
- find out as much as possible about your customer before you take court action
- find out about court procedure and your responsibilities
- consider carefully whether you can afford the time and the expense

If you do go to court and the defendant does not pay you can ask the court to take further action, called 'enforcing the judgement'. But the court will not do anything unless you ask it to and there may be a fee involved, but this will be added to the money the defendant already owes you.

Small firms now have another weapon at their disposal, with legislative backing rather than recourse to the courts.

A growing number of small businesses already use the late payment legislation introduced by the Government in 1998 to curb unfair payment practices.

Dun & Bradstreet estimates that 25 per cent of the 40,000 annual business failures in Britain are caused by payment delays. The Late Payment of Commercial Debts Act allows businesses with fewer than 50 employees to claim interest at eight per cent above the Bank of England base rate on late payments. Where no credit period can be agreed, suppliers can begin charging after 30 days.

The threat of the new legislation appears to be rattling companies that habitually pay late. In many cases firms do not actually need to enforce the legislation which is there as a credible threat. A growing number of small businesses appear to be putting aside fears of damaging relations with big customers to demand interest payments on overdue bills.

Here are some useful contacts for further help:

- Registry Trust Ltd for details of county court judgements, 020 7380 0133
- DTI Better Payment Practice Guide, 0870 150 2500
- Lawyers for Your Business (for free legal advice), 0171 405 9075
- Insolvency Service, 020 07636 1110.

What happens after I issue my claim form?

