



Outline of the Litigation Procedure

Civil litigation is the process of resolving disputes through the Civil Courts. To start, we are going to look at the litigation procedure in outline.

A civil action will be started (depending upon the amount of money involved in the claim) either in a County Court or in the High Court. The burden of proof is on the Claimant, i.e. it is for the Claimant to prove his claim. The standard of proof is that the Claimant must prove his claim to the Judge's satisfaction on the balance of probabilities. This means, in effect, that after hearing all the evidence of the parties to the action, the Judge will weigh it up and needs only find that in his opinion it is probable that the evidence of the Claimant is more reliable and/or believable than that of the Defendant, or vice versa.

The procedure is laid down by Statute and can be found in the Civil Procedure Rules of 1998 (CPR) (as amended by various Civil Procedure Amendment Rules) which can be viewed on the Ministry of Justice website.

This Statute not only sets out the procedures to be followed, but also provides examples of the various court documents that need to be prepared during a civil action or claim (as described throughout this unit).

Before we take a step-by-step look at the procedure, there are some preliminary matters that must first be understood:

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1. **Time Limits:** These are imposed for each procedural step in both the County Court and the High Court. There are time limits in which steps must be taken (called in the CPR a “timetable”), and if these time limits are not adhered to, the defaulter’s case can be in jeopardy. These time limits can, however, be extended if the parties agree. If the other party does not agree, then an application for an extension can be made to the court – the District Judge in the County Court, and the Master (the equivalent of a District Judge) in the High Court. This is referred to as a variation in the case timetable either by agreement or by the court.
2. **The Form and Precedents:** Most procedural steps involve the completion of a form of some description. There are set forms (or form layouts) for most applications, such as making a claim or an interim application (an application for an order made during the proceedings and prior to the trial/hearing). These forms should be followed as closely as the circumstances allow. Solicitors’ firms will usually hold these forms as templates within their case management software or access them digitally through legal databases. Most of the official forms are set out in the Appendix to the Civil Procedure Rules (CPR) and can also be downloaded from the Ministry of Justice website.
3. **The Court File:** Once a case is commenced the court will open a file which will contain details of the case and copies of the various forms and documents filed. Most court business is done through the post (first-class pre-paid), but documents may be lodged at the court offices in person. However, a practice direction may be made to make provision for documents to be filed at or sent to the court by Fax, e-mail or other electronic means, if it is considered necessary.
4. **Amount of Claim:** Don’t forget the jurisdiction of the Civil Courts. Both the County Court and the High Court have unlimited jurisdiction in cases of contract and tort. However, claims for personal injury where the amount likely to be recovered is £50,000 or more can be started only in the High Court. Other claims where the amount claimed is over £100,000, and any claim for less than these amounts where the issues are of a complex nature or are a matter of public importance, although started in the County Court, can be transferred to the High Court.
5. **Which Court:** Where the claim is one which must be commenced in the High Court, such as a money claim where the financial value of the claim is worth (i.e. over £100,000, or over £50,000 if it is a personal injury case), and/or one in which the complexity of the facts, legal issues, the remedies or procedures involved, and/or the importance of the outcome of the claim to the public in general, is such that the claimant believes that the claim ought to be dealt with by a High Court Judge, then it will be issued in the High Court District Registry in the district where the Claimant resides or carries on business.

Where the claim is commenced in the High Court, then it will be issued in the High Court District Registry in the district where the Claimant resides or carries on business. Claims which must be commenced in the high court would be:

- A money claim where the financial value of the claim and the amount in dispute (i.e. over £100,000, or over £50,000 if it is a personal injury case).
- A claim in which the complexity of the facts, legal issues, remedies or procedures involved and/or the importance of the outcome of the claim to the public in general, is such that the

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claimant believes that the claim ought to be dealt with by a High Court Judge.

Under new procedures (Practice Direction 7A to CPR, Part 7), all money claims – i.e. debts which fall under a Part 7 claim (general claims under contract or tort) for either a specified or an unspecified amount can be lodged through the County Court Money Claims Centre (CCMCC) or the County Court Business Centre. They can be lodged through the post or online. The address for this is County Court Money Claims Centre, PO Box 527, Salford, M5 0BY.

All other types of County Court claims (i.e. Part 8 or Part 20 claims – see explanation later on) will still be issued at the County Court Hearing Centre in the district where the Claimant resides or carries on business. You will need to return any subsequent documents on those claims to the Hearing Centre.

The CCMCC acts mainly as an administrative office and deal only with the issue and service of claims, and then either with entry of default Judgments (this is a judgment in favour of a plaintiff when the defendant has not responded to a claim or has failed to appear before a court of law), or the preliminary stages up to the filing of a Directions questionnaire (if a defence is filed each party is required to complete and return a direction questionnaire to the court so that the judge may properly allocate the claim to a track and give further directions towards a final hearing), and also applications for Summary Judgment (this is a judgment made by a court for one party and against another party without a full trial).

Cases are transferred, according to the appropriate track to which the case is designated (as described in a later section of this course), either to the “preferred” County Court – which will be (because by this stage a defence will have been filed) the County Court in the area in which the Defendant resides or carries on business – or to the appropriate High Court District Registry.

This is a preview of our course materials. For full access, enrol through our website [here](#).

Coursework Sample

Assessment 1a Complete a Claim Form

A County Court claim form and a High Court claim form are prepared and issued on a set form, which is the same in whichever court it is issued.

For this assessment, your firm is acting for Mr John Smith, who is the sole proprietor of a printing firm. He had installed a new printing press in his workshop and had advertised to sell his old machine, a Brandenburg XT76 off-set Litho, for the sum of £9,000. Mr Charles Green came to have a look at it and offered the sum of £8,500 for it, which Mr Smith accepted. He duly had the machine delivered to Mr Green and invoiced him for the amount agreed, payment to be made within 10 days. Despite reminders having been sent, Mr Green has still not paid the invoice and so Mr Smith has instructed your firm to issue a claim against Mr Green for the sum of £8,500 plus interest.

Please head the claim form “County Court Money Claims Centre”. Leave the claim number box blank, as the number would be issued by the court.

Type the Claimant’s and Defendant’s names (including their titles) in the appropriate sections with their addresses.

Where it says, “Brief details of claim”, type “Goods supplied and delivered”.

The value of the claim is £8,500.

In the “Amount claimed” box, put “8790.63” (this includes interest, as explained below in the Particulars of Claim).

When working in a law firm, you would need to find out the court fee and the Solicitor’s costs, and type the total, but this is not necessary for your assessment. Please put 8790.63 in the total amount box.

Include the Defendant’s name and address in the box.

In the box which asks, “You must indicate your preferred court for hearings here” insert “The County Court, Blankstone Hearing Centre”.

The Claimant is not vulnerable, and there are no witnesses, so tick “No” to this question.

The claim does not include any issues under the Human Rights Act 1998, so tick “No”.

The Particulars of Claim will be included with the form, so tick "attached".

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The Particulars of Claim should read as follows:

The Claimant's claim is for the sum of £8,500, being the price of goods sold and delivered by the Claimant to the Defendant, and the Claimant also claims interest under s.69 of the County Court Act 1984 at the rate of 8% per annum until Judgment or earlier payment. – new paragraph – Particulars: – new paragraph – 1. On the 1 January 20XX the Defendant agreed to purchase from the Claimant a Brandenburg XT76 off-set Litho Printing Machine which was delivered to the Defendant on the same day accompanied with Invoice No: 574 for the sum of £8,500. – new paragraph – 2. The Claimant sent two reminders to the Defendant, one on the 21 January 20XX and another on the 28 January 20XX requesting final payment. – new paragraph – 3. No payment has been received by the Claimant from the Defendant or at all. – new paragraph – and the Claimant claims: – new paragraph – 1. The said sum of £8,500. – new line – 2. Interest as aforesaid from the 1 January 20XX to date (156 days) at 8% = £290.63 – new paragraph – Total £8,790.63

Complete the Statement of Truth for the claimant to sign.

In the box underneath, type the name of the Claimant's Solicitors.

Type the Claimant's Solicitor's address on the last page for the documents to be sent to.

When working in a law firm, the form should normally be printed in triplicate; for the purposes of your assessment, however, you need only produce one copy.

This subject includes nine practical assessments in total, which help learners to develop essential Legal Secretary skills. Learners are provided with full instructions on how to complete each assessment, and information is included within the assessment criteria to support successful completion.

A multiple-choice achievement test is also included to assess overall knowledge and understanding.