

SUMMARY OF DEBT RECOVERY PROCESS – NORTHERN IRELAND

This factsheet applies in Northern Ireland only. Please ensure you read the correct fact sheet.

Introduction

This is intended to be a short guide on the process involved with both debt recovery and pursuing a claim via the small claims process in Northern Ireland. For more comprehensive guidance, please see Factsheets on the **Northern Ireland- Small Claims Procedure** and **Northern Ireland- Civil Court Judgments- How to Enforce**.

Step 1 – Chasing debts

In the event that debts become outstanding, these can be chased up in an informal fashion, over the telephone and etc, or by written correspondence. It is advised to give a deadline in these chasing letters/emails to get a response regarding payment of outstanding sums.

Step 2 – Letter before action

Unfortunately, in the event that the debts remain unpaid, the next step in pursuit of a debt is to present the debtor with a letter before action or letter before claim.

The letter before action/letter before claim sent to the debtor must adhere to the requirements of the “Pre-action protocol for Commercial Actions” which came into force on 6 February 2023.

For more comprehensive guidance, please see our template letter **NORTHERN IRELAND- LETTER BEFORE ACTION (PRE-ACTION PROTOCOL)** and factsheet **NORTHERN IRELAND - GUIDANCE NOTES ON THE PRE-ACTION PROTOCOL FOR COMMERCIAL ACTIONS**.

Step 3 – Commencement of claim

Should no meaningful solution be forthcoming, the next step to aim to recover the debt via the small claims court process- please note, that this process is only for pursuing claims **to the value of up to £5,000.**

These claims can be for either;

Liquidated damages - for set amounts owed, for examples goods and services not paid for.

Unliquidated damages - for estimated sums, for example loss of business profit, estimated costs of repair/ replacement.

Claims can be commenced either by

1. Using the small claims online portal - <https://www.justice-ni.gov.uk/articles/online-services>

2. Completing and submitting [Form 125](#) - notice of application for a small claim (Claim Form) to the Civil Processing Centre- copies are available from local county courts.

The parties to the claim are known as the Applicant (the party who commenced the claim) and the Respondent (the party who has had the claim made against them).

Upon receipt of the claim form, there are various choices available to the Respondent:

1. Settle the claim directly with the Applicant;
2. Admit liability for the claim;
3. Dispute liability for the claim;
4. Counterclaim; or
5. Ignore the claim.

If the Respondent fails to acknowledge the claim or admits liability, the Applicant can apply to the court for a decree by default (that is to say a judgment without the need for any hearing).

Step 4 – Defence to claim

If the Respondent chooses to defend the entirety of the claim, they must complete [Form 126A](#) - Notice of Dispute- (Defence). This can also be completed on the online portal.

In addition, the Respondent to the claim may also make a counterclaim against the Applicant.

Please note, that if the claim defended and/or a counter claim is issued, **both parties must attend a court hearing.**

Step 5 – Directions from the court

If a defence is filed, at this stage, it is now a contested dispute, and will require the parties' attendance at court for the judge consider all parties evidence.

Both parties will receive a "Notice of Hearing" with date of trial, and other directions to the hearing, giving them opportunity to gather all supporting evidence to be presented to support their argument.

In relation to the hearing, please note that the small claims process is designed so that the parties do not need a solicitor or barrister to represent them. If they do choose to engage one, even if they win their case, they will be responsible for paying their own costs as these cannot be added to the claim.

Step 6 – Court hearing and outcome

The hearing itself is informal and the judge will take an involved interest in the claim, possibly asking questions of both parties, even with regard to things which were not within their initial paperwork.

While the hearing will be informal, the parties may be asked to take a religious oath or affirmation before giving the facts of their case.

Following deliberation, once the facts and evidence have been fully considered by the judge, there are two possible outcomes:

Claim is successful

Should the Applicant's claim succeed, The Respondent will have to pay them an amount decided by the judge, in addition to the application fee and any other costs awarded.

Both parties to the claim will receive a copy of the decree in the post, a few days after the hearing. This will state the amount of money awarded by the judge in the matter.

Claim is not successful

If the judge decides against the Applicant's claim, the Respondent will not be ordered to pay anything, including the application fee that was paid by the Applicant.

If the Respondent has issued a counterclaim and the judge decides in their favour then the Applicant will be ordered to pay the Respondent an amount of money, as well as the fee they paid for issuing the counterclaim.

Both parties to the claim will receive a copy of the decree in the post, a few days after the hearing.

Step 7 – Enforcement of decree

If a successful party to a claim has not received payment from the opposing party by the time specified in the final decree issued by the judge, they may choose to seek to enforce the judgment, through use of the Enforcement of Judgments Office (EJO).

Further comprehensive information about the methods of enforcement available is included in our factsheet [Northern Ireland- Civil Court Judgments- How to Enforce](#).

Step 8 – Appeals

If a party is unhappy with the outcome of their case they may be able to appeal the decision of the judge.

A party may only be able to appeal the judge's decision if either of the following applies;

1. The judge failed to take into account all of the evidence supplied in support of the claim and/or;
2. The judge made an error in their interpretation of the law and as such their judgment should be deemed incorrect.

There is a Time limit for submission of appeals, which is within 21 days following the decree, and the form to complete by the party seeking to appeal the decision is Form 130.

Following consideration of the appeal, the judge assigned the appeal with either overturn the original judge's decision, or it will remain in force.

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