

An Essential Legal Guide

Making a Money Claim Online



All you need to know on how to make a successful money claim online, including:

- How to write a convincing claim
- How to fill in the court forms effectively
- How to make your debtor pay up

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This is an excerpt from Lawpack's book *Making a Money Claim Online - An Essential Legal Guide*.

To find out how easy it is to make (and win) a small claim through www.moneyclaim.gov.uk, **click here**.

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For convenience (and for no other reason), 'him', 'he' and 'his' have been used throughout and should be read to include 'her', 'she' and 'her'.

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Introduction

Trying to get your money back through the Small Claims Court can be time-consuming and the process can appear to be rather antiquated.

But the good news is that there is now an alternative for people wanting to make a small claim – ‘Money Claim Online’. This online service is provided by the Ministry of Justice and is part of the Court Service. You will not be alone if you use this service – around 75 per cent of all civil claims are small ones.

Money Claim Online allows you access to a system that is totally electronic, from the moment the claim is begun to the time at which the defendant pays you or informs the court that he will defend the claim.

If you want to make a small claim online, visit Money Claim Online’s website www.moneyclaim.gov.uk or go to www.hmcourts-service.gov.uk and follow the links from there.

But even though you can process your small claim through this site, you still need guidance on how to make a claim through this service.

This Guide tells you all you need to know on how to make a small claim online successfully.

Chapter 1

Starting off

Before you make a claim in the courts...

Consider whether you can settle your claim first, because you may find that a demand letter will be enough to get the debt paid. This is why debt recovery agencies are busy. They know that the mere threat of legal proceedings is enough to make many debtors pay up. So before you commit your time and money to chasing a debt, write a formal demand letter. [Click here](#) to view a selection of sample letters. They are linked to the case examples that appear later.

What you need to use Money Claim Online

- Access to a personal computer (Windows or Macintosh)
- An internet connection
- Microsoft Internet Explorer 4 or 5, Netscape Navigator 4.x or Netscape Communicator 4.x
- Adobe Acrobat Reader 8 or 9. [Money Claim Online's website](#) gives you access to a free download of Acrobat Reader

How Money Claim Online works

When you register online, you are given a unique customer identification and password that allows you to issue a small claim and to follow the progress of your claim through its various stages, from issue to judgment.

Once you have registered and written up your claim, you submit it and pay a fee by credit or debit card. The system automatically works out what fee you must pay when you complete the 'amount' claimed box. At this stage you should already have your evidence ready. The court rules require you to have made the defendant fully aware of your claim in the [pre-action letter](#) you wrote. If it turns out that you had no evidence to support your claim, you could end up paying the defendant's costs and expenses. Normally, you pay only limited costs in the Small Claims Court.

A bulk processing centre in Northampton then sends your claim form to the defendant(s) in the name of Northampton County Court, telling them that you are making a claim.

When you can use Money Claim Online

You can use Money Claim Online to start your claim if:

- The only claim you are making is for a specified sum of money; and
- The claim is for less than £100,000 sterling; and
- The defendant's address for service of the claim is within England and Wales; and
- The law of England and Wales applies.

When you cannot use Money Claim Online

You cannot use Money Claim Online to start your claim if:

- Your claim is against the Crown
- Against a child or [protected party](#)
- You are a child or [protected party](#)

- You are entitled to remission of, or exemption from, paying issue fees to the court
- You are funded by the Legal Services Commission (legal aid)
- There are more than two defendants
- You are a vexatious litigant (i.e. a person who has been forbidden by a High Court Judge to issue proceedings in any County Court in England and Wales without permission under a civil restraint order).

Although you can use Money Claim Online to make a claim of up to £100,000, this book is concerned with claims of less than £5,000.

Chapter 2

Valid money claims

Does the law of England and Wales apply to my claim?

Generally, if you bought your goods and services in England and Wales the law of the contract is English. Many written contracts, such as those you enter with banks, finance companies and energy companies, will state that the law of the contract is English.

Who can make a claim?

If you are making a claim, you are the 'claimant' and the person you are suing is the 'defendant'. Any individual over the age of 18 can make a claim. You may, as a business owner or operator, also make a claim.

How long you have got to make the claim

The law requires people who have a claim to bring it to the attention of the other side as soon as possible. The law doesn't regard it as fair for anyone to have a potential claim hanging over them for an indefinite time. As time goes on memories fade and reliable evidence becomes less easy to retrieve. So the courts won't allow a claim to proceed unless it's made within a certain length of time. The earlier a claim is made the more reliable the evidence is likely to be.

If your claim is a contract claim, then you need to make a claim within six years of the date the contract was breached. Generally, any other type of [civil wrong](#) claim must be made within six years of the wrongful or negligent act or omission. However, if the wrong is a personal injury, the claim must be brought within three years of the date of injury, or the date of knowledge of the injury. If you are not clear about when the injury occurred, you may need to take specialist [legal advice](#) about the matter.

Do you have a valid claim?

You cannot make a claim unless you have the right to proceed in law. The law requires you to have what is called a '[cause of action](#)'. It's this that gives you the legal right to bring a claim. Below are the main classes of claim that you can make using Money claim Online:

Contract

If you purchase goods and services, you have made a contract. You don't have to sign a document to make a contract. People make contracts every day that don't involve anything more than an exchange of cash or credit card number for items such as food and clothes. If the goods or services prove to be defective or unsatisfactory, through no fault of yours, you can make a claim to compensate you for your loss. You will have to prove the following:

- That you made a contract with the defendant; and
- The contract was breached by the defendant; and
- The breach of contract caused you financial loss.

Example 1 ([Click here](#) to see Letter Before Claim 1)

Aneena and Vikram run a small company manufacturing organic cosmetic products that are supplied to numerous

independent retailers. One of their customers failed to make payment of their last two invoices within 30 days, as set out in their terms and conditions. The sum owed on the invoices was £700. The invoices were dated 30 June 2008 and 31 July 2008. When Aneena chased the debt she was informed that the goods hadn't been received. Aneena received signed delivery notes from the carrier for the two deliveries. Aneena and Vikram can claim £700 because the failure to pay for the two deliveries has caused them loss.

Sometimes a failure to abide by a contract renders the value of what you receive less than what you paid for.

Example 2 ([Click here](#) to see Letter Before Claim 2)

Helen bought a 'cashmere' coat in a January sale for £350. It was more than she had intended to spend and she passed up the opportunity to spend £150 on a mixed fibre coat, as she was prepared to spend more for better quality. When she went home she put the coat away intending to wear it in the colder weather. During a cold snap she decided to wear the coat. While trying it on she noticed that the dry cleaning label referred to the coat being '75% new wool and 25% mixed fibres'. The 'cashmere' label turned out to be only the brand name. When Helen complained to the store she was told that the price was a fair one for that type of coat. The store gave a misleading impression of the quality of the coat. Helen can claim £200 for the difference between what she paid for the coat and what she could have bought for less money.

Then there are claims for defective goods:

Example 3 ([Click here](#) to see Letter Before Claim 3)

Kevin bought a new laptop computer so that his son could do his GCSE coursework. As Kevin's son was a keen musician, who was regularly composing songs for his band, Kevin wanted a laptop with a great deal of memory for storing downloaded music and for storing his own compositions. The salesman in the store showed Kevin a laptop with a bundle of music software and it cost

£1,099.99. Kevin's son was delighted with the laptop, but he didn't notice three slightly dark patches (dead pixels) on the screen until he had been using the computer for three weeks. When Kevin returned to the store with the computer the salesman said that it was nothing to worry about. A week later the screen stopped working. A computer repair shop told Kevin that he needs a new screen for the laptop and that it will cost £350 for the new part and labour. The store refused to replace the computer, pointing to its terms and conditions of sale. The terms stated that any hardware problems had to be notified to the store within 14 days of the sale.

Kevin can claim for (i) the full cost of the computer on the ground that the laptop was defective and he should be able to reject the goods and get his money back; and (ii) the cost of the repair and the cost of making trips to and from the store to complain. If the court feels that it's too late to reject the goods, he can at least claim the cost of repair and the other expenses he suffered because he had to take the computer back to the store.

For more information about consumer problems, visit www.consumerdirect.gov.uk.

Negligence, nuisance and trespass

If the careless act of another person causes you loss, you can make a claim for the amount of money needed to compensate you for your losses.

You will have to prove that it was the careless act that caused the financial loss. You will also have to prove how much money you lost.

Example 4 (Click here to see Pre-Action Letter 4)

Grace's neighbours, Trevor and Tim, decided to have their 1930's house cavity wall filled with insulation material. Trevor and Tim asked Grace if their workmen could put

their ladders in her side entrance to gain access to the side elevation of their house. Grace agreed. The insulation company's workmen broke several panes of glass in Grace's stained glass landing window. It can only be replaced by having a new window made in the same style and pattern as the old one because Trevor, Tim and Grace live in a conservation area. It will cost £1,500. Grace can claim this sum because the insulation company was negligent.

Sometimes it's the failure to act rather than an intentional act that causes the loss.

Example 5 (Click here to see Letter Before Claim5)

Ken is the owner of a 'cross breed' dog. It regularly jumps up at people in the neighbourhood. Ken always assures passers by that "Bonzo" is harmless. While Lisa was walking home with her husband's dry cleaning Bonzo jumped up at her. Terrified, Lisa dropped three suits onto the rain-soaked ground. The suits slid out of the plastic covers and became covered in Bonzo's muddy paw prints. It cost £150 to repair and clean the suits. Lisa can claim £150 because Ken negligently failed to control his dog.

Other acts may be of the nuisance variety.

Example 6 (Click here to see Letter Before Claim 6)

Kay lives in the maisonette above John. A pipe in her bathroom has been leaking water onto Kay's living room ceiling for over six months. John has told Kay about the problem but she has done nothing to repair the leak. John's ceiling has developed mould from the damp patch and will cost £70 to have painted. John can claim the money because Kay didn't stop the nuisance of the leak.

When a person deliberately goes onto another's land without permission he commits trespass. If he then commits an act that causes damage, the act of trespass may entitle its owner or occupier to make a claim for the cost of repair.

Example 7 (Click here to see Letter Before Claim 7)

While Raj and his family were on a two-week cycling holiday, their neighbour Donald erected a fence between their houses. The fence ran the length of the side passage to the rear gardens. Unfortunately, the fence wasn't on the boundary. It encroached so much that the side entrance width was reduced acutely. Raj and his family were then forced to take four bikes through the house, which scuffed the walls and dirtied the carpets. Donald took down the fences after four weeks when Raj threatened to see a solicitor. It cost Raj £200 to have the carpets professionally cleaned and £400 for redecorating the hallway walls, but Donald refused to pay for the cleaning and redecoration. Donald also refused mediation by a local volunteer group of trained mediators. Raj can claim £600 for damage (i.e. trespass) to his property.

There is another category of claim that is called a breach of bailment. If you leave your property in someone else's care, you are entitled to expect that the item will be kept safe and secure. Naturally, you expect that dry cleaning will be locked away from thieves and not handed over to the wrong customer. Similarly, you expect your garage to prevent thieves from stealing or damaging your car or its contents. If your property is lost or damaged while it's in the care of another, you can make a claim either for its replacement or its repair.

Example 8 (Click here to see Letter Before Claim 8)

Rachel took her car to Dave's Auto Repairs to have new brake linings fitted to her car. When she collected her car she noticed that the hub caps, which she'd had specially painted pearl pink to match the car, and the manufacturer's 'Girl Car' pink badge were missing. The garage claimed that no one had been in the workshop other than its own staff. It admits that the workshop doors were left open during the lunch break, but that staff were there all day. It will cost £300 to replace the missing items. Rachel can claim for the cost of replacing the missing items. The cause of action is breach of bailment.

Will the debtor be able to pay the claim?

Obtaining your judgment is the easiest part of the process. Many debtors are simply unable to pay and will either hide their heads in the sand or try to find some reason not to pay. Others already have a string of unpaid debts to their name.

Here is an example of a good legal case that is hopeless.

Example 9

Derek bought a painting advertised in an online gallery called 'Cool Art Incorp' for £2,500. The gallery claimed that the painting was by Tobias Dunn and was part of the 'Brit art movement'. Derek found out that a leading provincial auction house had sold a similar painting for over £4,000. When Derek took his painting to be valued it turned out to be by Tobias Dunn of the 'Brit art moment' – a group unknown to the art world and therefore worthless. In law, Derek has a good claim for breach of contract. The misleading description caused him to enter into the contract and to lose money he would not otherwise have spent. But when Derek tried to claim his money back he found that the online gallery had closed down its site. The internet service provider gave Derek the company address. When Derek tried to telephone the company the phone wasn't answered. Derek found out that the company wasn't a limited company, but the business venture of Victor Munkton. Derek also found out that Victor Munkton had a string of unpaid County Court Judgments against him for over £70,000 and one of the creditors had begun bankruptcy proceedings. When Derek made other credit checks he found out that his debtor's only real asset, his house, was already the subject of a charging order application. [Click here](#) to see an example of the charging order application.

This case should not be pursued because the debt is unlikely to be paid. If you suspect that your debtor is likely to go bust before you can enforce any judgment, check the Register of Judgments, Orders and Fines. Visit www.trustonline.org.uk. Alternatively, you

can write to the registry at Registry Trust Limited, 173–175 Cleveland Street, London W1T 6QR; tel: 020 7380 0133. If your debtor has unpaid County Court Judgments, then you will need to consider whether you are any more likely to be paid than the other creditors.

If you decide that your debtor is creditworthy and you wish to proceed, you should still ask yourself whether you can avoid taking legal action. Even with Money Claim Online it still takes time to gather your papers together and sit at the computer processing your claim. Sometimes it can be a better use of your time to simply move on and put it down to experience. Also, if the claim is disputed, the proceedings will be transferred from the Money Claim Online system to the defendant's home court. Once the claim reaches what is called the 'allocation' stage, the court may decide to offer [mediation](#). Many County Courts offer a free mediation service with the aim of settling the dispute and freeing up the resources of the court for other cases.

Practice direction – pre-action conduct

Before you begin to complete your online claim form you must bring your claim to the attention of your intended defendant. This doesn't mean telling your debtor about it over the telephone or in general terms in a letter. The manner in which you carry out this important step is now governed by a pre-action procedure under the court rules. This procedure applies to all cases where the claim is disputed. The essential step is to write a pre-action letter. The letter must set out all the essential details of the claim. The idea is that the letter should enable the defendant to understand and investigate all the issues without the need to ask for further information from you.

The letter should:

- include your full name and address;

- say why the defendant should pay your claim;
- include the facts on which your claim is based;
- say what you want from the defendant;
- include an explanation of how the claim is calculated;
- list any documents you rely on or, better still, supply copies with the letter;
- state a reasonable date by which you expect a full response from the defendant;
- ask for copies of any relevant documents in the defendant's possession that you wish to see;
- refer the defendant to the practice direction setting out these requirements;
- inform the defendant that action will follow a failure to respond to the letter and that this may increase the defendant's exposure to paying costs.

The procedure also sets out the steps the defendant should take to respond to the claim. They are that:

- the defendant must supply a full written response within 14 days of the date of the letter before claim;
- if the defendant cannot do so, that he will write, within 14 days, acknowledging the claim and fixing a date for a full response;
- if the defendant is unable to respond because of the need to take advice, the defendant should say so in the acknowledgment letter and state from whom the advice is being sought and when he expects to be able to respond fully to the claim;
- the full response should show whether the claim is accepted in whole or in part or not at all. Reasons should

be given for each response. The defendant should state whether he intends making any counterclaim and should provide details of that counterclaim in the same way as the claimant details the claim;

- the defendant should state whether he considers that the claimant is responsible for the dispute and what facts prove this.
- the defendant should list any documents in support of the defence and supply copies of any requested by the claimant. The defendant should request any documents required from the claimant.

The intention of the procedure is to encourage the parties to resolve their disputes without issuing claims. If proceedings cannot be avoided, it's hoped that the pre-action procedure will identify the issues at an early stage, thus reducing the court time needed to decide them.