

# Allocation and Directions Questionnaires

Once a claim becomes defended and a copy of the Defence is filed at Court, a Court officer will then determine which track a claim is to be allocated to, and in due course, send out a Notice of Proposed Allocation to the parties.

## TRACK ALLOCATION

The Courts will allocate all defended claims to one of three tracks, namely the small claims track, the fast track or the multi-track. Claims are normally allocated to a particular track based on the value of the claim. However, if a claim is particularly complex or requires a longer trial, then it may be allocated to a higher track.

The current monetary limits for the three tracks are as follows:

- Small claims track – up to £10,000
- Fast track – between £10,000 and £25,000
- Multi-track – above £25,000

There are different rules for each track and these determine how the case is to proceed, what level of judge will hear the case and the recoverability of costs within that track.

## NB (update May 2023)

From 1 October 2023, a new track will be introduced, namely the intermediate track. This will deal with cases with a value of between £25,000 and £100,000, thus raising the multi-track limit to claims above £100,000.

From 1 October 2023, all newly allocated fast-track and intermediate-track cases will also be assigned one of four complexity levels. The complexity level of a claim will determine the amount of fixed recoverable costs which a successful party will be able to recover for their fast-track or intermediate-track claim.

## NOTICE OF PROPOSED ALLOCATION

This notice informs the parties which track the claim has been allocated to, and also provides a date by which the parties must file Directions Questionnaires (DQs). It may also provide for other procedural deadlines for the parties to comply with.

- For small claims track cases, the Court must provide at least 14 days' notice for parties to file their DQs.

- For fast track and multi-track cases, the Court must provide at least 28 days' notice for the parties to file DQs.

Whilst in practice these deadlines are often longer, it is worth noting the minimum timeframes the Court has to give, especially for fast and multi-track cases, where the parties may also have to file costs budgets and draft directions at the same time as the Directions Questionnaire, together with any Replies (if appropriate).

From 1 October 2023, the Notice of Proposed Allocation will also set out the assigned complexity level of your claim if it has been allocated to the fast-track or intermediate-track

## DIRECTIONS QUESTIONNAIRE (DQ)

For small claims matters, form N180 should be used.

For fast track and multi-track cases, form N181 should be used.

Completing the DQ is relatively straightforward, although if in doubt, you should seek legal advice.

The DQ ask a series of questions about the claim, including what the parties have done to date, and how they believe the claim should be conducted going forward. It will request details of how disclosure is to be dealt with, the number of witnesses to be used, whether expert evidence is envisaged, and it will also ask for any dates the parties wish to avoid for a final hearing. The parties are also provided with an opportunity to confirm whether they agree that the case should remain in the track to which it has been allocated and if not, to provide reasons as to why it should be in a different track.

The DQ also allows parties to seek a stay of proceedings for one month to see if there is any scope for the claim to be resolved by way of alternative dispute resolution, such as a mediation.

The DQ should be filed at Court by the date specified in the Notice of Proposed Allocation. This date cannot usually be extended by agreement between the parties and would require the Court's permission. The DQ should also be served on your opponent.

From 1 October 2023, parties will be able to

challenge the complexity level of their fast-track or intermediate-track claim, if they believe the Court have incorrectly assigned it to the wrong complexity level. Parties will however be expected to see if they can agree a complexity level between them prior to the filing of DQ's

#### OTHER DOCUMENTS TO BE FILED WITH A DIRECTIONS QUESTIONNAIRE

For fast track and multi-track claims, there are a number of other documents that should be filed at the same time as the DQ:

- Proposed directions

The parties are encouraged to try and agree a timetable (known as 'directions') as to how the case will proceed. This will usually set out the dates by when the parties should comply with disclosure, witness statements, expert reports and any final trial in the matter.

- Costs budgets

In all multi-track claims (save where the amount in disputes exceeds £10 million) parties, except litigants in person, are obliged to file costs budgets, set out in a particular form, known as Precedent H. Where the value of the claim is less than £50,000, the costs budget needs to be filed with the DQ. (In other cases, the costs budget is filed within 21 days of the first case management conference). (This requirement may change after 1 October 2023 with the introduction of the intermediate-track, which will raise the threshold for multi-track claims to £100,000.)

The Precedent H form sets out the estimated costs that a party believes it will spend on the claim, detailing each stage of the proceedings and any legal costs and disbursements they anticipate spending. The Court will use the costs budgets as part of a discussion with the parties at the case management conference.

- Disclosure report

If possible, the parties are encouraged to discuss what documents they have that are relevant to the matters in issue in the case, and where those documents are located. Parties should complete the questionnaire to assist each other and to also provide them with an estimate of costs that may be involved in providing disclosure to their opponent. The report also deals with how electronic documents are to be dealt with and how (and in what format) they may be provided to their opponent.

There are different rules relating to the disclosure of documents and what the parties need to do in preparation for the same, depending on which Court your claim is heard in.

#### CONSEQUENCES FOR FAILING TO FILE A DIRECTIONS QUESTIONNAIRE

The Court has a number of options open to them if a party fails to file a DQ by the date specified in the Notice of Proposed Allocation. For monetary claims in the County Court, the Court may strike out the claim, meaning the Claimant can no longer pursue their claim or the Defendant can no longer defend the claim.

In other cases, it is more usual for the Court to provide directions, usually giving the non-compliant party a final deadline by which to file the DQ or face their claim being struck out.

The Court can however, enter judgment against a party or impose a costs sanction on the party for their failure to file the DQ.

In all cases, it is important to comply with the time limits set by the Court to avoid any sanctions as set out above.

#### GET IN TOUCH



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The lawyers have incomparable client service skills. They are very clear and always make sure they understand the picture, even if it is a complicated one.

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