

# Petty Debts

A brief guide to  
petty debt procedures

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## PETTY DEBTS

Petty Debts Procedures in the Magistrates Court can be used by a person or company that believes they are owed money by another person or company and all other options have failed. The limit is £10,000; claims for higher amounts must go through the Royal Court.

It is worth considering whether the party that owes the money will be able to afford to pay it otherwise a judgement in your favour may still not lead you to receiving any repayment.

Examples of claims you can make include (but are not limited to):

- Claims for debts
- Claims for damage to your property
- Damage to vehicles caused in road traffic incidents
- Disputes over rent or deposit held
- Claims for arrears of child maintenance
- Unpaid invoices

It is important to prepare properly and to understand how the proceedings work. Although this is a court procedure, it is designed for people to be able to represent themselves without the need for legal representation. Indeed, if an advocate is employed, that cost cannot be claimed from the other party.

1. **The Plaintiff** (or claimant) must go to HM Sheriff's office at the Royal Court House to get a Summons served on the Defendant (the person claimed to owe the money) to come to Court. The Plaintiff must pay the Summons, Court and Enforcement Fees. Make sure you use the correct full name and address of the person or limited company. You will need a home address if the defendant is an individual, not an address of employment.

If, at the request of the Plaintiff, judgment is awarded **with costs** that means that the Plaintiff is entitled to recover from the Defendant (or Debtor) the fees which the Plaintiff has paid.

It is important that the Plaintiff bears in mind these fees which he must pay. In particular, Court Fees will increase by £127 **per hour or part thereof** if there is a contested hearing before the Court.

If there are adjournments and/or a contested hearing the Plaintiff will receive a further account from the Greffe, **in addition** to the basic fees which the Plaintiff must pay before the first Court hearing.

2. **The Defendant** must also bear in mind that if judgment is awarded against him **with costs**, he will be required to pay to the Plaintiff the Summons, Court and Enforcement Fees which the Plaintiff has had to pay, in addition to the judgment debt (the amount which the Court has ordered the Defendant to pay to the Plaintiff). When an action is contested the Court Fees will increase by **£127 per hour or part thereof**.

3. **The Sheriff** will need to have 2 copies of the final statement, invoice or letter asking for payment including the full name and address of the Defendant. If it is against a Limited Company, make sure that this is the firm's registered address.

4. **First Hearing** On payment of the relevant Summons fee (see below) a date for the hearing will be given. Inform the Sheriff if payment is received or arranged before this. Otherwise the Plaintiff must attend the Sheriff's office between 2–2.15pm to pay the Court fee before going to the Magistrate's Court at 2.30pm. The first hearing is to establish whether there is a dispute and if so set a date for a contested hearing so take a diary and check the availability of your any witnesses beforehand. There will be no witnesses or detailed evidence presented.

5. **Judgment** will automatically be given against a Defendant who admits the claim or who does not appear and can include limited costs if requested such as Court and Sheriff's fees (maybe with interest) though not for a lawyer or a paid translator.

**Fees for issuing the Summons:** (Payable to HM Sergeant correct Jan 2019)  
The fee varies according to the size of the claim, as follows:

<b>Amount Claimed</b>	<b>Summons Fee</b>	<b>Court fee (per hour or part of an hour)</b>
Up to maximum of £10,000	£60	£127
Arrest of Wages Summons	£60	£60
Any other	£60	£60

Plaintiffs (and Defendants) **must** bear in mind that **additional fees** may have to be paid if an action is adjourned or if the Defendant denies the claim or opposes the application and a contested hearing is necessary.

**Adjournment Fee:** A fee of £33 must be paid at the Greffe no later than 2.15pm on the Thursday afternoon to which the action has been adjourned. If the action is adjourned more than once, an adjournment fee of £33 is payable on each occasion.

If the Defendant disputes the claim it will be adjourned to a fixed date for trial. At the trial, both parties must bring along all their documents and witnesses.

**Contested Hearing Court Fee:** If the action is adjourned to a fixed date for a contested hearing, no adjournment fee is charged, but Court Fees will be payable based on (a) the amount claimed and (b) the court time involved. The fees are as follows:

<b>Amount Claimed</b>	<b>Court Fee</b>
	(chargeable per hour or part of an hour)
Up to maximum of £10,000	£127
Arrest of Wages Summons	£60
Any other case	£60

The Plaintiff will be sent an account by the Greffe for these additional fees for a Contested Hearing.

## **PROCEDURE AT A FINAL (CONTESTED) HEARING**

Often both sides represent themselves, but it is **very important that you prepare your evidence well** before attending the Court hearing. This could be a timetable of events, copies of letters or invoices or anything else to prove your side of the story.

Copies of all documents you produce at the hearing should be provided both to the court and the other party 7 days in advance. Otherwise there is a risk of incurring fees for photocopying or even an adjournment due to the delay.

Ensure that all the relevant witnesses are present: the Greffe can issue a summons if needed. Also plan what questions you will need to ask the other party and their witnesses to help prove your case.

It is possible to be represented by an Advocate (at your own cost). A “friend” who can quietly offer advice may be taken into court with you, but only with the

permission of the Magistrate. If you intend to employ an Advocate, it would be sensible to agree an hourly rate before proceedings commence.

The burden is on the Plaintiff to prove their case on the balance of probabilities. They begin and present their evidence. The Defendant can then ask questions of the witnesses in cross-examination. This is not the time for the Defendant to tell their side of the case, that part comes later.

The Defendant's case is then heard with any witnesses being called. They are then cross-examined by the Plaintiff. At the end the Defendant sums up, followed last of all by the Plaintiff. The Magistrate then gives **the decision**.

**Appeal Procedure:** An Appeal that the judgment was wrong can be made to the Royal Court within seven days using a written notice obtained from the Greffe, although this will incur additional costs including the cost of a transcript of the hearing.

**Witness Allowance:** Any party to civil proceedings may be ordered to pay a witness allowance of a reasonable amount for each half-day that any person (including another party) has been required to attend Court to give evidence.

**Remission of Court Fees:** Any person liable to pay Court Fees can apply to the Magistrate's Court to reduce the fees he is liable to pay. This should be done at the sitting where judgment is given.

## **ENFORCEMENT**

When a Plaintiff has been awarded judgement by the Court, **he must collect the Act of Court from the Greffe**, which is a certificate confirming the details of the judgment.

If the money is not paid by the Defendant, the Plaintiff can instruct **HM Sheriff**, as executive officer of the Court, to seek to recover the monies due by the Defendant. The Sheriff will prepare a report which may lead to an arrest of goods to recover the money owed or a wage arrest may be put upon a defendant that is employed.

<b>HM Sheriff's Report fee:</b> (correct Jan 2019)	
<b>Amount Claimed</b>	<b>Sheriff's Fee</b>
Not more than £1,000	£49
More than £1,000 but less than £2,500	£72
More than £2,500 but less than £5,000	£82
More than £5,000 (maximum is £10,000)	£93 (which increases if assets are arrested)
<b>Wage Arrest fees:</b>	
Where wages of a judgement debtor are arrested	£33 (plus 5% of amount)
Maintenance Orders /Compensation Orders	£33 (plus 5% of amount)

## **FURTHER INFORMATION**

Some pitfalls and problems are unavoidable, but others are not. Please note the following to avoid inconvenience to anyone.

1. It is normal for documents (i.e. letters, accounts, bills, etc.) to be referred to at a hearing. In order not to waste time, please bring to Court the originals and three sets of copies.
2. If you want to prove the other side's conversation with, for example, your spouse, secretary or a work colleague that person must be in Court as a witness to give evidence.
3. It is rarely possible to adjourn a case when a date has been fixed for a hearing unless the other side consents.
4. If photos are being produced as evidence, copies need to be provided and the photographer should be present in court.
5. Any request for costs must be made during the hearing

**A more detailed guide is available from the Court**

### **General disclaimer**

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