

Cases without merit

The Court may dismiss all or part of a claim or a defence to a claim without a trial.

The Court may do this in the following ways:

- it can strike out a claim or defence. This usually occurs where Jersey law does not permit the claim or defence to be brought;
- a claim can also be struck out where a party is acting maliciously or where the issue has already been decided in an earlier case;
- the Court can also be asked to dismiss a claim or defence on the basis that a party has no real prospect of succeeding. This power is used for weak, improbable or fanciful cases.

If you bring such an application, it is up to you to persuade the Court that a trial is not necessary.

It is only if it is clear and obvious that a claim or defence to a claim will not succeed that the Court will decide a matter without a trial.

If there are arguments on both sides, then the Court will require a trial to take place, even if one argument may appear stronger than the other.

If you consider that you wish to bring such an application, you should speak to the Greffier about the details of the procedure involved.

The Petty Debts Court

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DIRECTIONS HEARINGS & TRIAL

Directions Hearings

A directions hearing is a hearing where the Court makes orders so that a trial of a case can take place. Only when the Court's orders have been carried out can a trial occur.

This section concerns cases which:

- are not dealt with under the Small Claims Procedure; and
- have not settled at mediation.

The usual type of orders the Court will make at a directions hearing cover the following:

- either party may be required to clarify or explain part of their pleading;
- both parties will be required to produce any document they have which is either referred to in any pleading, or which a party wishes to rely on;
- both parties will be required to produce a sworn statement (also called Affidavit) from anyone who will give evidence in support of your case;
- in some cases the Court may permit you to call evidence from an expert.

At the directions hearing, you should be prepared to explain how long you need to produce the documents you have, how long it will take you to produce sworn statements for yourself and any witness and whether you need expert evidence.

Any orders made by the Court will set a date by which you have to comply.

If you do not comply with the orders made by the Court, your case will not be ready to proceed to trial.

If you persistently fail to comply with a Court order, your claim may be dismissed if you are a plaintiff, or judgment may be given against you if you are a defendant.

What documents do I have to produce?

Both parties will be required to exchange any documents they have which are either referred to in any pleading, or which a party wishes to rely on.

“Documents” covers any written communication, any email, text or similar message, or any documents electronically stored on a computer. It also covers photographs, plans, sketches or drawings.

If the other party disputes that any document is genuine, they are allowed to see the original document.

If there is a dispute as to whether a document is genuine, the Court will decide. This may be at trial or at a separate directions hearing.

You do not have to produce any document that contains any legal advice you have received relating to the dispute.

Witnesses

If you wish to call someone to give evidence on your behalf, you must produce a witness statement from them setting out their evidence. That evidence must be directly relevant to the claim or any defence to the claim.

The statement of any witness must set out, in detail and in writing, their recollection of any event they were involved in. Normally it is helpful if the statement is a chronological account of what the witness remembers.

The Trial of claims of £5,000 or less

Once the Court is satisfied that all necessary information has been filed by both parties, the Court will fix a date for a trial of the claim. This will last no more than one day.

At the trial, you should bring with you the original of any document you wish to rely on. This includes any communication or pictures stored on an electronic device.

You should also bring with you any person who is a witness to your claim.

At the hearing, the Judge will decide how the trial is to take place. The Judge will proceed on the basis that is considered to be fair to all parties. The Judge may in particular:

- ask questions of any or all witnesses before anyone else does;
- require all witnesses to tell their stories before any witness is questioned;
- limit questioning of a witness to a fixed time, or to a particular topic.

The hearing will generally be in public, unless the Court orders otherwise, and will be recorded.

The Judge will inform the parties of his or her decision either at the end of a hearing or as soon as possible after the hearing. The Judge will give reasons for the decision.

- The plaintiff and then his or her witnesses will give their evidence as follows:
 - * they may clarify anything contained in their witness statement;
 - * the Judge may ask the witness questions to clarify anything contained in their witness statement;
 - * the other party may then question the witness. This is known as cross-examination.
- Experts will normally be heard after all other witnesses for each party.
- Once the plaintiff and the plaintiff's witnesses have given evidence and have been questioned, the defendant then outlines his or her case, gives their evidence and then calls his or her witnesses in the same way as the plaintiff.
- After both sides have given their evidence, each party will summarise its final position. This is where each party sets out its arguments in support of its case.
- If a party wishes to rely on any cases or laws, also called authorities, to support its argument, it should draw the Court's attention to these.
- After the Court has heard all the evidence and anything any party wishes to say, the Court will give its decision and its reasons.
- The decision may be given that day, or the Judge may decide that he or she wants to think about everything he or she has heard before reaching a decision. This is known as "reserving a decision". If this happens, you will be notified of a time and date when you should attend court to hear the Judge's decision.

If a witness will not agree to come to court voluntarily, you can ask the Court to make an order for them to attend, as long as you can show the Court that the evidence of the witness is relevant.

Experts

The Court will permit expert evidence where it considers such evidence will help it to decide the case. The evidence of experts is used where the Court does not have sufficient knowledge or experience of a particular subject.

Examples of expert evidence allowed by the Court may relate to a road traffic accident, whether or not the treatment by a doctor met the appropriate standard of care, the nature of the injury you may have suffered, or the value of any property or possession affected by the claim.

If you consider that the Court should permit you to rely on evidence from an expert, you should, at the directions hearing, identify which category of expert you require and why such evidence will help the Court to decide the case.

Fixing a trial date

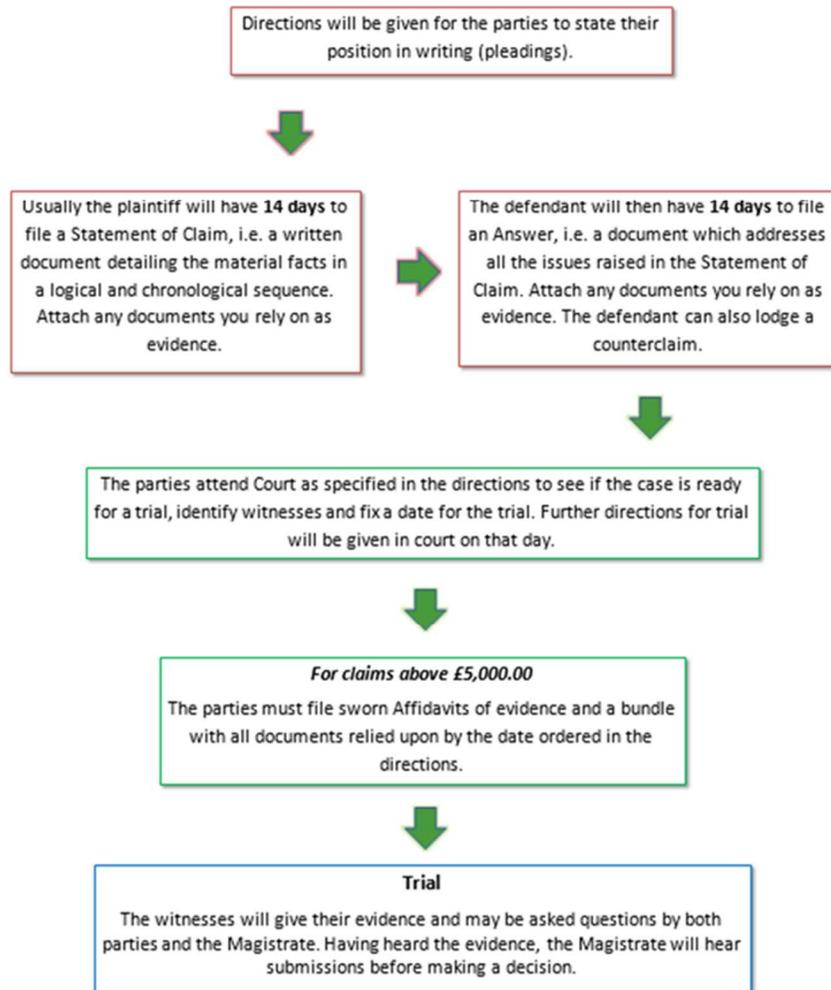
Once the parties have complied with all orders necessary for a trial to take place, the Greffier will liaise with the parties to fix a date for trial.

Trial fee

The plaintiff will have to pay a fee to fix a date for the trial (£30).

If the claim is £3,000 or more, the plaintiff will also have to pay a trial fee (£300 per day or part of the day). This fee must be paid no later than seven days before the trial date.

Should mediation not be successful, the case will proceed to trial



The Trial of claims in excess of £5,000

Preparation in advance of a trial

In advance of a trial, each party will be required to prepare a bundle containing copies of:

- all documents relating to the dispute they wish to rely on;
- their witness statements;
- their expert evidence; and
- any laws or cases they wish to rely on .

You must provide to the Court two copies of the bundle four weeks before the date fixed for trial. At the same time you must send one copy of the bundle to the other side and keep one copy for yourself.

Each bundle must be identical. All pages need to be numbered and the bundle must have an index at the front setting out its contents.

You should also prepare a list of your witnesses and expert witnesses, including their full name and, if known, their date of birth.

The trial itself

- before giving their evidence, each party and every witness who is to give evidence will be sworn-in. This means that the parties and all witnesses will take an oath or an affirmation and promise to tell the truth.
- if you are the plaintiff, you will be asked to give a brief summary of what the case is about, and what evidence you intend to rely on.