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Legal-Zone

INTRODUCTION

The thing to remember about making a claim in the civil courts is not to be afraid of it. In the vast majority of cases there will be no difficult legal issues to argue and it will be just a case of following a procedure which although possibly strange to you is not complicated. If you get it wrong there will court staff to help whose job is to assist. And as we shall see the judge who will decide your case has a duty to ensure fair play and ensure that a litigant in person is on an equal footing with his opponent.

Civil proceedings are entirely separate and different from the criminal cases you may have seen or read about. They are decided in a totally different court and with separate rules under a separate procedure. There will be no judges with wigs and red robes and most cases will be dealt with relatively informally sat around a table with a district judge specially trained to deliver justice in a 'consumer friendly' fashion.

The purpose of this book is to provide the knowledge and confidence necessary for a Litigant in Person to take his dispute to a Civil Court and have access to justice without the need to pay often prohibitive lawyer costs. The sections deal with each stage of a civil action, then give a little bit of the law in the most common areas of claim, and finally provide examples of how your claim should be prepared.

There are no promises that this book will make the litigation process enjoyable although winning a case can bring a certain satisfaction. It will however hopefully ease the way to obtaining justice in a friendly and informative way. It is not intended to be bedtime reading or to be read all at once. Choose the sections which relate to where you are and refer to the others later as your case progresses. Links to the sections are provided in the table of contents and throughout the book so use these to surf where you choose.

Procedure in the Civil Courts is governed by the Civil Procedure Rules (CPR). The Rules have the overriding objective of requiring the court to deal with cases justly by:

- ensuring that the parties are on an equal footing;
- saving expense;



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- dealing with a case in ways which are proportionate to the amount of money involved, the importance of the issues to the parties, the issues complexity and the financial position of each party;
- Ensuring that cases are dealt with expeditiously and fairly and allotting a case an appropriate share of the court's resources.

An important objective is therefore to ensure that a litigant in person, acting without legal representation, is not disadvantaged.

The court will exercise these overriding objectives by actively managing cases, and the parties are required to help the court to further these objectives.

Active case management means:

- (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (b) identifying the issues at an early stage;
- (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
- (d) deciding the order in which issues are to be resolved;
- (e) encouraging the parties to use an alternative dispute resolution^(GL) procedure if the court considers that appropriate and facilitating the use of such procedure;
- (f) helping the parties to settle the whole or part of the case;
- (g) fixing timetables or otherwise controlling the progress of the case;
- (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- (i) dealing with as many aspects of the case as it can on the same occasion;
- (j) dealing with the case without the parties needing to attend at court;
- (k) making use of technology; and
- (l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

The court may exercise its powers on an application by a party or on its own initiative.