

## The Civil Justice System

*A) Describe the main Civil Courts and their jurisdiction.*

*There are four main civil courts in the English Legal System, which hold civil jurisdiction; the County Court, High Court, Court of Appeal and The House of Lords. There are also smaller civil courts with some jurisdiction such as the magistrate's court and then there is, of course, the European Court of Justice setting precedent for all our courts.*

*The magistrate's court has a very small amount of civil jurisdiction. They are responsible for granting licences to pubs, betting shops and other outlets. They also have jurisdiction over some domestic matters such as adoption and some other matrimonial matters. The magistrates require some training before undertaking these sorts of cases and uniformity is upheld as appeals are taken to the family division of the High Court. The civil jurisdiction of the magistrate's courts is quite minimal and overlaps with that of the County Court and High Court. They also have responsibility for dealing with civil debts such as money owed for council tax, electricity and other state-charged utilities.*

*The County Court deals with the widest range of civil matters and these can include anything from contractual problems, to divorce cases and other matters linked to property and children. The most significant difference between the High Court and the County Court is the workload involved. The County Court has a much greater workload and turnover of cases. The county court hears cases up to £50,000, for both personal injury and normal claims, since the recommendations for reforms from Lord Justice Woolf in the Courts and Legal Services Act 1990. These cases are nearly always heard in open court (anyone can attend) and utilise the three track system introduced by Woolf in the Civil Procedure Act 1997 to improve the efficiency of the civil justice system. These are the Small Claims procedure, Fast Track and Multi Track systems.*

*The Small Claims procedure is designed to be relatively cheap, simple and fast. Claims under £5000 (£1000 for personal injury)*

are heard using the Small Claims procedure and the claimant and defendant are encouraged to represent themselves to lower costs. These claims are heard in ordinary court and Judges are generally encouraged to be more inquisitorial and take a more interventional approach to speed up the process. This simplifies things for both parties too.

The Fast Track is used for cases where the claim is for between £5000 and £15000 (£1000-£15000 for Personal Injury) and where the case is not expected to last for more than a day. A district judge hears these and the winner will claim costs including those for legal representation.

The last is the Multi Track and this is for cases over £15000 or lower claims of unusual complexity. Circuit Judges hear these cases and use trial management by setting a timetable. They can also suggest Alternative Dispute Resolution.

The final, main court in the Civil Justice System is the High Court. These usually hear claims over £50000 and the court is broken up into three divisions, each with their own jurisdiction and areas of specialisation. These divisions are The Queen's Bench Division, Chancery Division and Family Division.

The Queens Bench Division is headed by Lord Chief Justice and the vast majority of cases that come before this court are concerned with all forms of tort law and breach of contract. The Queen's Bench Division also conducts judicial Review cases. The Chancery Division deals with company law matters, conveyancing, land law matters, copyright actions and breach of patent, probate and taxation cases.

The final division is the Family Division whose jurisdiction is primarily to hear divorce and matrimonial cases. Also it hears social welfare cases (child welfare, financial orders for the division of family property, payment of maintenance and others.) Other minor issues concerning the court include adoption, custody and the access of children.

*B) Discuss the problems of making a claim in the civil courts.*

*When making a civil claim in the civil courts there are many problems that will be encountered. The main problem with civil actions is the cost. The reforms suggested by Woolf in the 1997 Civil Procedure Act have only increased costs even though many changes have been implemented. Before you even get to court you must pay £90 for an N1 form to launch a civil action, detailing the reasoning for your action and the compensation you wish to recoup. There are also now allocating costs for the court and these all have to be paid before the case proceeds on. There is very little legal aid available for civil cases, especially since the Access to Justice Act 1999 meaning that those with lesser financial muscle cannot compete with regards to quality legal advice or even precede with a case. Only social welfare cases are given funding and once the amount allocated by government has been spent then there will be no funding at all. This means that the only way for some to obtain legal funding is through private companies, using a 'no win, no fee' method of payment. The only problem with this is the firm will recoup a substantially larger quantity of the damages if their party does win the case. Also, a study by Hazel Genn in 1987 showed where there is one party insured in the proceedings, they will often try to drag out proceedings and exhaust the other party financially. Professor Zander, a main critic of Lord Woolf's reforms, has suggested this too. The risk of paying the winning parties legal costs can also put off financially limited claimants.*

*Another problem with civil actions is still the complexity of cases. Despite the change in procedural rules and the watering down of legal terminology used in civil cases, legal representation is still essential for the vast majority of people to understand the proceedings and act accordingly. The main reform to simplify cases by Woolf was to get Judges to use case management and be more inquisitorial, this is unfortunately not happening. The proceedings are equally slow and Professor Zander, a critic I have mentioned previously, describes the mock procedure as 'short, sharp trial with restricted oral evidence and an interventionist judge chivvying the parties to a resolution' and claims 'most will feel that justice has not been done.'*

Another main problem with pressing for a civil action is the delays, which ultimately increase costs and deny compensation. In particular the Small Claims procedure where a HUGE backlog of cases causes massive delays. The procedure also is not simple enough meaning that delays are caused for explanation and more time is needed to contemplate legal tactics. Another problem is the fact more and more lawyers and solicitors are finding their way into Small Claims cases. This is causing delays as they will attempt to make cases last longer to increase their pay, also making the balance of representation waver in favour of more financially competent people and big business. The Small Claims procedure is not the only track full of delays. It can take up to 30 weeks for a fast track case to reach a verdict and even then a study has shown in all civil cases only one third of winning parties receive their damages at all.

All in all, even after the attempts to reform it, the Civil Justice system still proves flawed, biased towards the more wealthy and unjust. Not to mention ridiculously expensive. There are many critics of the attempts to change the system but there is not simple solution. Lord Justice Woolf's try will not be the last. At least it reflects a desire to reform and change with social climates, financial backgrounds and general evolution, rather than being conservative and trapped in pointless, sentimental tradition.