

Litigation Tracks: An Overview

In the English Civil Court system, claims are allocated to one of four tracks to ensure efficient and cost-effective handling. The tracks—Small Claims, Fast Track, Intermediate Track, and Multi-Track—are chosen based on factors such as the claim's value, complexity, and anticipated trial length.

When deciding the appropriate track for a case, the Court considers various factors, including the financial value of the claim, the type of remedy being sought (whether monetary or non-monetary), the complexity of legal issues and evidence, the number of parties involved, the value and complexity of any counterclaims, and whether the case is important to others not directly involved in the proceedings. The Court also takes into account the views and circumstances of the parties, as well as the amount of oral evidence that may be needed.

1. Small Claims Track

The Small Claims Track is designed for straightforward cases valued under £10,000. The process is simplified and less formal, and parties generally represent themselves. Cost recovery in Small Claims cases is limited. Typically, parties may recover the Court fees paid to start the claim, reasonable witness expenses (such as travel and lost wages), and necessary costs for expert reports or medical records, provided these are reasonable. Interest on the amount owed, usually calculated at 8% per year, may also be recoverable. However, legal fees are generally not recoverable unless there are exceptional circumstances, as this track is intended to accommodate self-representation.

2. Fast Track

The Fast Track is suited to relatively straightforward cases with a value between £10,000 and £25,000, such as personal injury claims or uncomplicated breach of contract disputes. Fast Track cases involve limited evidence and are designed to streamline mid-value claims, with the trial usually lasting no more than a day. Although there is no fixed costs regime, costs are controlled to keep them proportionate to the value of the claim. Recoverable costs are based on reasonable hourly rates but are capped to prevent excessive spending. For expert evidence, written reports are typically used instead of oral testimony, helping to keep costs lower and simplify the trial process.

3. Intermediate Track

Introduced in October 2023, the Intermediate Track is intended for cases that are more complex than those suited to the Fast Track but do not require the comprehensive flexibility of the Multi-Track. This track generally applies to cases with claims valued between £25,000 and £100,000 and is expected to resolve within a maximum of three trial days. The cases allocated to this track include moderate commercial disputes, professional negligence claims, and other cases with moderate evidentiary or procedural requirements, where claims involve a certain level of complexity but do not require the exhaustive flexibility typical in Multi-Track cases.

Cases suitable for the Intermediate Track generally meet these criteria:

- a. The claim should be unsuitable for the Small or Fast Tracks.
- b. The claim involves monetary relief, and its value doesn't exceed £100,000.
- c. The Court considers that the trial can be wrapped up in three days or less.
- d. Expert oral evidence won't involve more than two experts per party.
- e. The claim can be managed under the procedure in section iv of CPR part 28.
- f. The claim is brought by one claimant against either one or two Defendants or is brought by two claimants against one Defendant.
- g. the platform is long enough for a 12-carriage train.

Intermediate Track cases are further classified into four complexity bands. Each band reflects different levels of case intricacy, which then correspond to specific recoverable costs at various stages in the proceedings. If your case is allocated to the Intermediate Track, it will be assigned to one of these four bands. Parties are encouraged to agree on the appropriate complexity band; if no agreement is reached, the Court will decide. Each band reflects the level of case complexity and outlines a specific range of fixed recoverable costs:

Complexity Band	Criteria
One	Single issue in dispute Trial not expected to last more than a single day PI claim where liability/quantum in dispute Non- PI RTA
Two	Any less complex case where more than one issue in dispute Includes PI claims where liability and quantum in dispute
Three	More complex claims More than one issue in dispute but not suitable assignment to complexity band 2 Includes noise induced hearing loss claims EL disease claims
Four	Any claim unsuitable for Band 1-3 PI claims where there are serious issues of fact and law

The Intermediate Track in civil litigation includes a structured fixed costs regime under CPR Part 45. This regime sets limits on the legal costs that a successful party can recover from the losing party, ensuring that costs remain proportionate to the complexity of the case and its stage of progression. The system aims to provide predictability and transparency, helping clients understand and plan for their potential financial commitments throughout the litigation process.

Recoverable costs are divided into four complexity bands (Bands 1 to 4), with costs increasing as the complexity of the case grows. Simpler cases are assigned to lower-cost bands, while more complex cases with significant documentation and intricate legal questions are placed in higher bands. Each band is tied to a Fixed Costs Table in CPR 45, which specifies the costs that can be recovered at various stages of the case.

The stages in this table represent key points in litigation, such as the filing of the defence, disclosure of documents, exchange of witness statements, and trial preparation. These stages allow for a fair and consistent approach to cost recovery, ensuring that recoverable costs reflect the complexity of the case and the work undertaken at each stage.

The **Fixed Costs Table** for Intermediate Track cases under CPR 45 is structured as follows:

Stage	Band 1	Band 2	Band 3	Band 4
S1: From pre-issue up to and including the date of service of the defence	£1,652 + 3% of damages	£5,162 + 6% of damages	£6,607 + 6% of damages	£9,601 + 8% of damages

S2: Specialist legal representative providing post-issue advice in writing or in conference or drafting a statement of case	£2,065	£2,065	£2,374 or £3,613 if counsel is also instructed to draft a defence to a counterclaim	£2,374 or £3,613 if counsel is also instructed to draft a defence to a counterclaim
S3: From the date of service of the defence up to the earlier of the date set for CMC or the order giving directions under 28.2	£4,129 + 10% of damages	£7,949 + 12% of damages	£9,394 + 12% of damages	£13,420 + 14% of damages
S4: From the end of Stage 3 up to and including the date set by the Court for inspection of documents	£4,749 + 12% of damages	£9,704 + 14% of damages	£11,356 + 14% of damages	£16,517 + 16% of damages
S5: From the end of Stage 4 up to and including the later of the dates set by the Court for service of witness statements or expert reports	£5,368 + 12% of damages	£11,356 + 16% of damages	£12,388 + 16% of damages	£20,647 + 18% of damages
S6: From the end of Stage 5 up to and including the date set for the pre-trial review or up to 14 days before the trial date, whichever is earlier	£6,091 + 15% of damages	£15,485 + 16% of damages	£16,517 + 16% of damages	£24,776 + 18% of damages
S7: Specialist legal representative advising in writing or in conference following the filing of a defence	£1,445	£1,755	£2,374	£2,994
S8: From the end of Stage 6	£6,813 + 15% of damages,	£17,550 + 20% of damages,	£19,614 + 20% of damages,	£29,938 + 22% of damages,

up to the date of the trial	less £599 if trial bundle not prepared	less £898 if trial bundle not prepared	less £1,239 if trial bundle not prepared	less £1,445 if trial bundle not prepared
S9: Attendance of a legal representative (other than trial advocate) at trial per day	£599	£898	£1,239	£1,445
S10: Advocacy fee: day 1	£3,303	£3,613	£4,129	£5,988
S11: Advocacy fees for subsequent days, less 50% per day if trial lasts no more than half a day	£1,445	£1,755	£2,065	£2,994
S12: Handing down of a reserved judgment and consequential matters, where dealt with separately from the trial	£599	£599	£599	£599
Stage 13: Alternative Dispute Resolution (ADR) Fixed Recoverable Costs for Mediation or Joint Settlement Meeting	£1,239	£1,239	£1,239	£1,239
S14: Alternative Dispute Resolution: additional fee payable once only for specialist legal representative attendance at a mediation or joint settlement meeting covered by S13	£1,445	£1,755	£2,065	£2,374
S15: Approval of settlement for child, unless the settlement is	£1,239	£1,445	£1,755	£2,065

approved at trial				
S16: Advocacy fee—(a) where the claim is listed for trial, but is removed from the list or settled (i) on the day of trial; or (ii) not more than 1 day before trial; (b) where the claim is listed for trial, but is removed from the list or settled more than 1 day but not more than 5 days before trial	100% of applicable advocacy fee in S10	75% of applicable advocacy fee in S10		

The table above outlines recoverable fixed costs for cases in the Intermediate Track, based on case complexity and the point at which it is resolved.

4. Multi-Track

The Multi-Track is reserved for the most complex and high-value cases, usually those valued over £100,000 or those requiring significant preparation due to complex legal issues, extensive evidence, or multiple expert witnesses. Unlike the Fast Track or Intermediate Track, the Multi-Track does not follow a fixed costs regime. Instead, legal costs are based on actual expenses incurred and are reviewed by the Court to ensure they are reasonable and proportionate.

The general rule regarding costs in a Multi-Track litigation case is that, if your claim succeeds, you will be entitled to recover your costs from the Defendant. On the other hand, if the claim fails, you are likely to be required to pay the Defendant's costs. However, the Court has discretion to make a different costs order. The Court will take into account factors such as the conduct of the parties and any Part 36 or other admissible offers to settle the case.

It is very unusual for a party to be able to recover all of the costs incurred in the litigation. The actual amount of costs to be paid is subject to an assessment process, unless the parties can agree the amount that will be paid. The standard basis of assessment is to allow costs to be recovered that were reasonably incurred, reasonable in amount and proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred.

The Court will also take into account the party's costs budgets for each stage of the claim. Each party is required to submit a costs budget and to revise it as appropriate as the case progresses. If a party's actual costs exceed its budget, the excess may not be recoverable from the paying party.