

# DEBT RECOVERY

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YOUR DEBT RECOVERY PACKAGE

WRIGHT | HASSALL





# Our service

The aim of our Debt Recovery service is to pursue, enforce and recover outstanding debts whilst making the process as comprehensive, efficient, and cost-effective for you as possible. Our advice will be commercially sensitive, and you can be confident that our dispute resolution and debt recovery expertise will achieve the best possible outcome for you.

You will have direct contact with experienced members of our Debt Recovery team who will provide you with advice throughout and regular updates as the matter progresses.

**Our debt recovery offering can be broken down into the following services:**

- Pre-Action Procedure: Review of your claim, preliminary investigation, cost assessments, pre-action correspondence and advice on the recovery options available to you.
- Issuing a claim.
- Obtaining Judgment and/or settling the claim.
- Enforcement actions/options

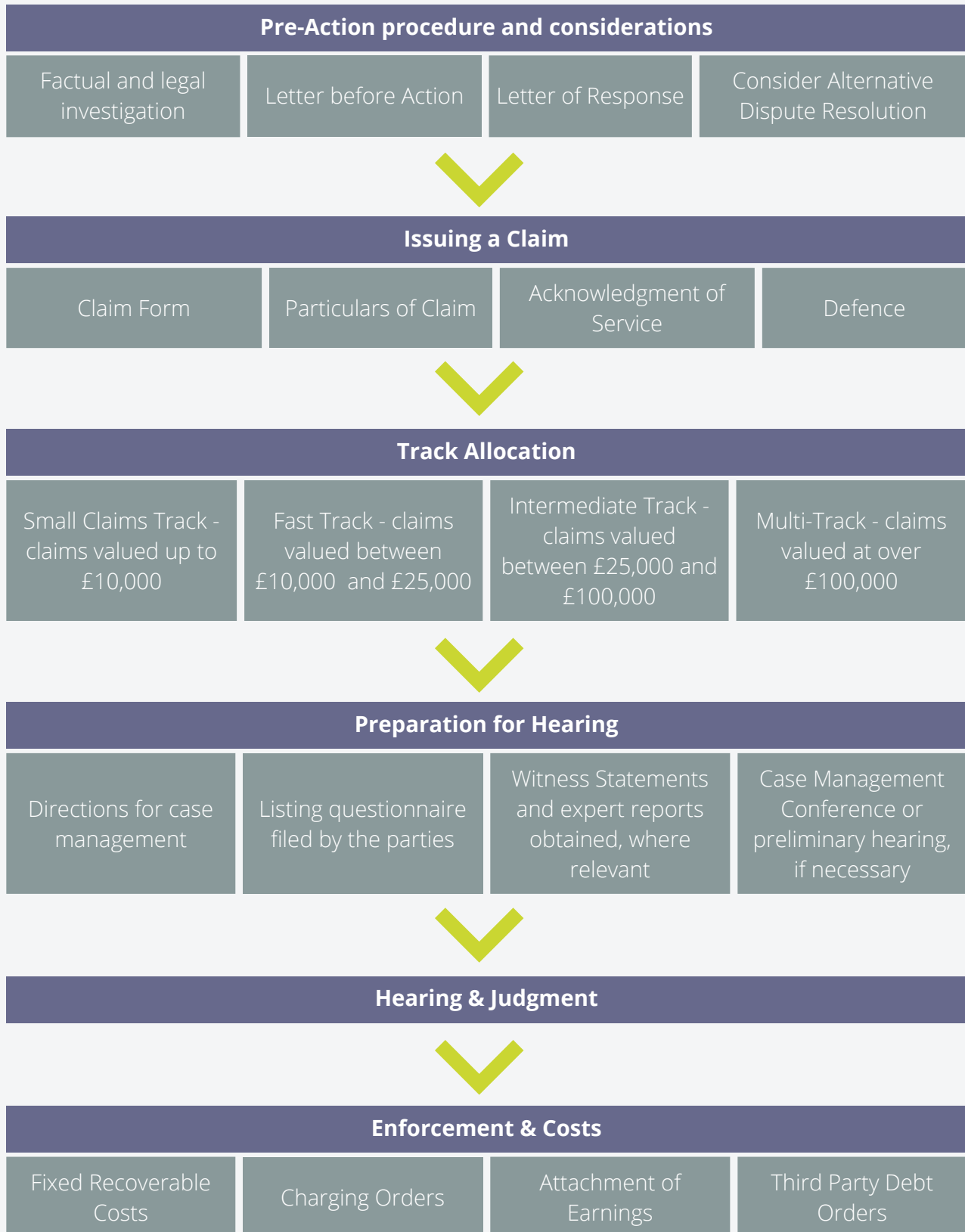
This document should be read in conjunction with our Terms of Business. Where any conflict arises between this document and the Terms of Business, the Terms of Business shall prevail.

This debt recovery service is principally targeted towards simple debt claims such as unpaid invoices and defaults on loans where the debtor has not made a counterclaim. If for whatever reason your case is or becomes at any time complex and/or high-value and/or disputed and/or contains a significant number of documents and/or we consider that it would not be appropriate for it to be conducted under the terms of this document, then we reserve the right to remove your matter from our debt recovery service and refer it to a member of our commercial litigation team who will advise you of their charges and expenses.

*All information is correct at time of publication. Our debt recovery package will be updated and amended from time to time to reflect relevant changes to the Civil Procedure Rules and associated costs regime, including those relating to fixed recoverable costs.*

# The litigation process

The flowchart below sets out the litigation process in further detail and the steps undertaken at each stage.



# Pre-action considerations and correspondence

## Initial investigation

For all claims we will conduct a brief, initial investigation of the matter. This includes a review of any documents or correspondence relating to the debt as well as a legal investigation into the grounds for the claim and any statutory and/or legal limitations. This investigation will enable us to prepare the pre-action correspondence.

### The goals of this preliminary review are:

- Legal and factual investigation into the claim;
- Consideration of strategy and the proportionality of pursuing the claim; Consideration of costs and recoverability;
- Potential alternative means of recovering the debt; and Production of a note to present our findings.

## Preliminary review

Where claims are valued at more than £10,000 we will offer you a preliminary review of the case before embarking on pre-action correspondence and litigation.

### Our charges for this preliminary review are as follows:

Claim Value	Charge
£10,000 - £25,000	£300 plus VAT
£25,000.01 - £100,000	£600 plus VAT
£100,000.01+	£800 plus VAT

## Letters Before Action

Before initiating court proceedings, a Letter Before Action must be sent to the debtor setting out the claim and providing a timeframe to pay the debt, failing which a Court claim will be issued.

This letter is an essential part of the debt recovery procedure, and it is required by the Pre-Action Protocol.

### Our charges for preparing a Letter Before Action are as follows:

Claim Value	Charge
Less than £10,000	£200 plus VAT
£10,000.01 - £25,000	£400 plus VAT
£25,000.01 - £100,000	£600 plus VAT

## Pre-action considerations and correspondence

For complex and/or high-value cases over £100,000, we may need to prepare a more tailored Letter Before Action. We will be able to advise you if this is necessary once our experienced team have reviewed the papers. If so, then we will provide you with a separate fee estimate for the same and such work will be charged at £200 plus VAT per hour.

In accordance with the Pre-Action Protocol, the debtor should then respond to the Letter Before Action and may either submit proposals for paying the debt or explain why the debt is disputed, if that is the case.

If the debtor does not engage with Pre-Action Protocol and take steps to pay the debt, then a claim form can be issued at court.

It is important to remember that the aim of the Pre-Action Protocol is to exchange sufficient information in order to understand each parties' position, narrow the issues in dispute and attempt to settle where possible.

Our costs for dealing with all pre-action correspondence following the service of the Letter Before Action will be as charged as follows, provided that we are not required to spend more than 2 hours on the same.

Claim Value	Charge
Less than £10,000	£300 plus VAT
£10,000.01 - £25,000	£300 plus VAT
£25,000.01 - £100,000	£400 plus VAT

For more complex and/or high-value cases over £100,000 and/or where pre-action correspondence is or will likely exceed 2

hours, we will provide a separate cost estimate for the work which will be charged at £200 plus VAT per hour.

# Pre-action considerations and correspondence

## Alternative Dispute Resolution (ADR)

Whilst exploring pre-action considerations, we will also encourage you to consider alternative methods of dispute resolution. Our goal is to provide you with robust and commercially sensible advice so that the debt recovery process is as proportionate and cost effective as possible. Accordingly, litigation should be seen as a last resort, particularly for small debts.

### Some of the types of ADR which you might consider are:

- Mediation: an independent third party helps the disputing parties to come to a mutually acceptable outcome.
- Negotiation: parties disclose their arguments and evidence and attempt to reach a compromise, ideally at an early stage of the process and before substantial costs and expenses are incurred.

We will confirm our charges in relation to mediation separately, if or when the need should arise.

Our costs in respect of negotiating a settlement of the claim will be as charged as follows, provided that we are not required to spend more than 2 hours on the same.

Claim Value	Charge
Less than £10,000	£300 plus VAT
£10,000.01 - £25,000	£400 plus VAT
£25,000.01 - £100,000	£400 plus VAT

For more complex and/or high-value cases over £100,000 and/or where the negotiation process is or will likely exceed 2 hours, we

will provide a separate cost estimate for the work which will be charged at £200 plus VAT per hour.

## Issuing a claim

Once the Pre-Action protocol is concluded and if the matter is not resolved to your satisfaction, a claim can be prepared and lodged with the court, which includes a Claim Form and Particulars of Claim (Particulars). Those documents must be completed in a prescribed format, contain information about the debt, a breakdown of the sum claimed and any supporting evidence. The Court will then process the claim and issue the documents to the defendant.

The defendant is then given a period of 14 days from the date of service of the Particulars to complete and file an Acknowledgement of Service and, if the debt is disputed, the defendant then has another 14 days to serve a defence. Alternatively, the debtor may admit the debt (or a proportion of it) and provide information on proposals for paying the same.

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Upon receipt of the documents from the defendant, we will review them with you and advise on the defendant's position and your approach going forward. If the debt remains disputed and a resolution is not found, then the court will proceed to schedule a hearing.

**As part of our service, we will provide you with regular updates and carefully monitor the progress of your case:**



# Issuing a claim

## Track allocation

The court will then allocate the case to one of three case management tracks: the small claims track, fast track and multi-track.

The allocation reflects the complexity and value of the claim as well as the resources required to try it proportionately.

<b>Small Claims Track</b>	<ul style="list-style-type: none"><li>• Claims valued at &lt;£10,000</li><li>• No expert witnesses required</li><li>• Hearing expected to last no more than one day</li><li>• Recoverable costs are very limited (legal fees not recoverable)</li></ul>
<b>Fast Track</b>	<ul style="list-style-type: none"><li>• Claims between £10,000 and £25,000</li><li>• Expert evidence limited to one expert, per party per field</li><li>• Hearing expected to last no more than one day</li><li>• Recoverable costs extend to legal fees</li></ul>
<b>Intermediate Track</b>	<ul style="list-style-type: none"><li>• Claims between £25,000 and £100,000</li><li>• Hearing expected to last no more than three days</li><li>• Oral expert evidence limited to two experts per party.</li></ul>
<b>Multi-Track</b>	<ul style="list-style-type: none"><li>• Claims valued at &gt;£100,000</li><li>• Multiple experts can be replied upon by both parties</li><li>• Hearing expected to last more than one day</li><li>• Witness statements can be filed</li></ul>



# Issuing a claim

## Courts fees

The table below sets out the court issue fees which must be paid before the claim form can be issued. The court issue fee is dependent on the value of your claim.

It is also important to consider the recoverable costs and whether it is proportionate and commercially viable to pursue the claim.

Debt Amount	Court Fee*	Our Fees for Preparing the Claim Form and Particulars (plus VAT)	Fixed Commencement Costs
Up to £500	£35 - £50	£100	£50
£500.01 - £1,000	£70	£200	£70
£1,000.01 - £5,000	£80 - £205	£400	£80
£5,000.01 - £10,000	£455	£600	£100
£10,000.01 - £200,000	5% of the claim	Time spent basis on hourly rate of £200 plus VAT	£100
More than £200,000	£10,000	Time spent basis on hourly rate of £200 plus VAT	TBD

For more complex and/or high-value cases and/or disputed claims we reserve the right to provide a separate cost estimate for preparing the Claim Form and Particulars of Claim and such work will be charged at an hourly rate of £200 plus VAT.

If the debtor does not respond to the claim within 14 days or admits all of part of the claim, then you are entitled to enter judgment.

## Our fees for entering judgment are as follows:

Claim Amount	Our Fee	Fixed Costs
£25 - £5,000	£200	£22 - £55
£5,000.01 +	£400	£30 - £70

\*The court fees are subject to legislative change and increase. We will keep you apprised of any increase(s).

# Claim process

## Pre-hearing

After the claim form has been issued and the case has been allocated to a track, the court will progress to pre-hearing preparation. At a very high level, this stage includes the following steps:

- 1) The court will make directions:
  - i. standard directions require parties to file and serve witness statements and any supporting evidence the parties intend to rely on, in advance of the hearing; and
  - ii. the court can also make special directions where necessary.
- 2) Parties are then required to complete and submit questionnaires:
  - i. a Directions questionnaire is used on the Small Claims Track; and
  - ii. a Listing questionnaire is used on the Fast Track and Multi-Track.
- 3) Expert evidence can be submitted:
  - i. the court's permission is needed to rely on experts on the Small Claims Track;
  - ii. on the Fast Track and Multi-Track, experts can be selected and their reports commissioned.
- 4) The court can fix a pre-trial review if it considers this necessary or where the claim can be dealt with without a full hearing.

## Hearing

Where the court fixes a hearing date to consider the case, you will have the following options:

- You can represent yourself;
- Instruct a solicitor to barrister to represent you;
- Ask someone to advise you in court (this does not need to be a lawyer); or
- Ask someone to speak on your behalf.

In circumstances where the claim is high value or the facts of the case are complex, we would suggest that you have legal representation.

5) The court will then fix a hearing date and the hearing will be held. The extent of pre-hearing preparation is case specific and depends on the complexity of the case as well as the directions made by the Judge. We will advise you on our costs and expenses depending on the level of work required, which will be charged at £200 plus VAT per hour.

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We will advise you of the costs and expenses for the hearing and arranging representation depending on the complexity of the matter and level of representation required.

Our costs will be charged at £200 plus VAT per hour and will be in addition to the barrister or the agent's fee.

# Claim process

## Fixed Recoverable Costs

The general rule in small claims track cases is that no costs may be awarded against the losing party, except for the fixed costs which the successful party had to pay for issuing the claim and other court fees.

The extent of costs that can be recovered from your opponent if your claim is successful in respect of matters allocated to the fast track and intermediate track are fixed and are dependent on the stage of the claim and the complexity band to which the court allocates the claim.

## Post-hearing

After the hearing, you will receive a decision or judgment in the form of a court order. If the ruling is favourable, it will order the debtor to pay you the amount specified. If the debtor does not adhere to the order, it can be enforced as set out in point 6 below.

If the ruling was adverse, you may have the right to appeal if you have grounds to do so, but this must be done within 21 days of receiving the ruling from the first hearing.

At Appendix 1 are the fixed costs which are recoverable in respect of a Fast Track matter and at Appendix 2 are the fixed costs which are recoverable in respect of an Intermediate Track matter.

If you require us to represent you at an appeal, we will provide you with a separate cost estimate based on the grounds of appeal, complexity and value.

## Enforcement

Once you have obtained judgment against a debtor we can assist you in enforcing that judgment with a view to obtaining payment from the debtor where they fail to adhere to the court order. We can discuss enforcement options with you and advise on the best and most cost-effective measures subject to the circumstances surrounding your debtor and the value of the debt.

It is important to consider whether it is proportionate and commercially viable to incur these enforcement costs.

Enforcement Action	Purpose	Court Fees	Our Fees (plus VAT)
Warrants (for control, delivery & possession)	Apply for an enforcement officer to attend the debtor's premises and seize assets to repay the debt. A warrant can be used to recover a sum of money, property or land or to request delivery up of goods where the debt is £600 or lower.	£83 - £130	£300
High Court Writ (for control, delivery & possession)	Apply for a High Court enforcement officer to attend the debtor's premises and seize assets to repay the debt. A writ is used to recover a sum of money, property or land or to request delivery up of goods where the debt is £600 and above.	£78	£300
Attachment of Earnings Order	Send an order to the debtor's employer to deduct money from the debtor's wages to repay the debt.	£119	£300
Enforcing an award in the County Court or High Court	Apply to register and enforce an award for a sum of money.	£47 or £71	£300
Charging Order	Make an application to the court to register a charge against the debtor's land or property.	£119 plus Land Registry fees	£600
Third Party Debt Order	Apply to the court to freeze assets or money in an account. The court will then determine whether this sum can be used to repay the debt.	£119	£600



# Insolvency

We are also well placed to advise you on your options for threatening and/or commencing bankruptcy proceedings against an individual or compulsory liquidation proceedings against a company, if appropriate.

Our advice in this regard will be charged at £250 plus VAT per hour.

## Bankruptcy procedure and costs

Where protracted correspondence and/or negotiations is entered into during the bankruptcy process, we will charge our

hourly rate for this work and a separate cost estimate will be provided.

Procedure	Our Fees (plus VAT)	Disbursements (plus VAT)
Conduct a legal and factual investigation of the documents to identify the parties, liability, and value of the claim	£200	N/A
Drafting Statutory Demand	£600	
Service of a statutory demand on the debtor allowing 21 days to respond	£200	£130 process server
Debtor can apply to set aside the statutory demand	£2,000 (but dependent on complexity of grounds of application)	£2,000 counsel fees
If the debtor does not pay the debt and does not apply to set the statutory demand aside, then prepare and issue the bankruptcy petition	£600	£302 Court fee £1,500 Official Receiver's deposit
Service of the petition on the debtor	£200	£130 process server
Attend first petition hearing (with legal representation)	£600	£300 - £2,000 agent/counsel fees

# Insolvency

## Compulsory liquidation (winding up) procedure and costs

Where protracted correspondence and/or negotiations is entered into during the winding-up process, we will charge our

hourly rate for this work and a separate cost estimate will be provided.

Procedure	Our Fees (plus VAT)	Disbursements (plus VAT)
Conduct a legal and factual investigation of the documents to identify the parties, liability, and value of the claim	£1,000 - £1,600	N/A
Drafting letter before action to threaten winding-up proceedings and allowing the debtor a 'reasonable time' to pay		
Debtor can apply for an injunction to prevent the presentation of a winding-up petition	£4,000	£2,000 counsel fees
Service of a statutory demand at the company registered address (if required)	£600	£130
Preparing and issuing the winding-up petition	£1,600	£302 Court fee £2,600 Official Receiver's deposit
Service of the winding-up petition at the company's registered address	£300	£130 Process server
Advertise winding-up petition in the London Gazette	£300	£70 - £100
Attend first petition hearing (with legal representation)	£600	£300 - £2,000 agent/counsel fees

# Fixed Recoverable Costs in the Fast Track

## Appendix 1

Fixed Recoverable costs have been extended to the Fast Track and are dependent on the stage at which the claim concludes. The court will allocate the claim to a complexity band when it is assigned to the track.

The table below outlines the total costs recoverable at each stage (i.e. the stages are not added together).

Complexity Band				
Stage	1	2	3	4
<b>A. If Parties reach a settlement prior to the claimant issuing proceedings under Part 7</b>				
(1) Where damages are not more than £5,000	£Nil	The greater of £681 or £124 + an amount equivalent to 20% of the damages	£1,136 + an amount equivalent to 17.5% of the damages	In each case — £2,684 + an amount equivalent to 15% of the damages + £526 per extra defendant
(2) Where damages are more than £5,000, but not more than £10,000	£Nil	£1,342 + an amount equivalent to 15% of damages over £5,000	£2,271 + an amount equivalent to 12.5% of damages over £5,000	
(3) Where damages are more than £10,000	£599	£2,374 + an amount equivalent to 10% of damages over £10,000	£3,097 + an amount equivalent to 10% of damages over £10,000	

## Fixed Recoverable Costs in the Fast Track

Complexity Band				
Stage	1	2	3	4
<b>B. If proceedings are issued under Part 7, but the case settles or is discontinued before trial</b>				
(1) On or after the date that the court issues the claim, but before the date that the court allocates the claim under Part 26	£2,168	£1,445 + an amount equivalent to 20% of the damages	£3,303 + an amount equivalent to 20% of the damages	£3,097 + an amount equivalent to 40% of the damages + £785 per extra defendant
(2) On or after the date that the court allocates the claim under Part 26, but before the date that the court lists the claim for trial	£2,581	£2,374 + an amount equivalent to 20% of the damages	£4,129 + an amount equivalent to 25% of the damages	£6,607 + an amount equivalent to 40% of the damages + £785 per extra defendant
(3) On or after the date that the court lists the claim for trial but before trial	£3,923	£3,303 + an amount equivalent to 20% of the damages	£5,265 + an amount equivalent to 30% of the damages	£8,155 + an amount equivalent to 40% of the damages + £785 per extra defendant



## Fixed Recoverable Costs in the Fast Track

Complexity Band				
Stage	1	2	3	4
<b>C. If the claim is disposed of at trial</b>				
	£3,923	£3,303 + an amount equivalent to 20% of the damages agreed or awarded	£5,265 + an amount equivalent to 30% of the damages agreed or awarded	£8,155 + an amount equivalent to 40% of the damages agreed or awarded + £785 per extra defendant
<b>D. Trial advocacy fees</b>				
(1) Where the value of the claim is not more than £3,000	£619	£619	£619	£1,652
(2) Where the value of the claim is more than £3,000, but not more than £10,000	£877	£877	£877	£1,652
(3) Where the value of the claim is more than £10,000, but not more than £15,000	£1,342	£1,342	£1,342	£2,168
(4) Where the value of the claim is more than £15,000	£2,168	£2,168	£2,168	£2,994
(5) Where the claim is listed for trial, but is removed from the list or settled - on the day of trial; or not more than 1 day before the date listed for trial	100% of the applicable trial advocacy fee			
(6) Where the claim is listed for trial, but is removed from the list or settled more than 1 day, but not more than 2 days, before the date listed for trial	75% of the applicable trial advocacy fee			

# Fixed Recoverable Costs in the Intermediate Track

## Appendix 2

The amount of recoverable costs in the Intermediate Track depends on the complexity and stage at which the claim concludes. Once a claim has been allocated to the Intermediate Track, the court will assign the claim to a band according to the complexity of the claim.

The table below sets out the total recoverable costs associated with each stage. (i.e. the stages are not added together).

<b>Complexity Band (<i>shaded amounts may be additional if relevant</i>)</b>				
<b>Stage</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>S1</b> From pre-issue up to and including the date of service of the defence	£1,652 + an amount equivalent to 3% of the damages	£5,162 + an amount equivalent to 6% of the damages	£6,607 + an amount equivalent to 6% of the damages	£9,601 + an amount equivalent to 8% of the damages
<b>S2</b> Specialist legal representative providing post-issue advice in writing or in conference or drafting a statement of case	£2,065	£2,065	(a) £2,374; or (b) £3,613 if counsel is also instructed to draft a defence to a counterclaim	(a) £2,374; or (b) £3,613 if counsel is also instructed to draft a defence to a counterclaim
<b>S3</b> 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 + an amount equivalent to 10% of the damages	£7,949 + an amount equivalent to 12% of the damages	£9,394 + an amount equivalent to 12% of the damages	£13,420 + an amount equivalent to 14% of the damages
<b>S4</b> From the end of Stage 3 up to and including the date set by the court for inspection of documents	£4,749 + an amount equivalent to 12% of the damages	£9,704 + an amount equivalent to 14% of the damages	£11,356 + an amount equivalent to 14% of the damages	£16,517 + an amount equivalent to 16% of the damages
<b>S5</b> 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 + an amount equivalent to 12% of the damages	£11,356 + an amount equivalent to 16% of the damages	£12,388 + an amount equivalent to 16% of the damages	£20,647 + an amount equivalent to 18% of the damages

# Fixed Recoverable Costs in the Intermediate Track

Complexity Band ( <i>shaded amounts may be additional if relevant</i> )				
Stage	1	2	3	4
<b>S6</b> 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 + an amount equivalent to 15% of the damages	£15,485 + an amount equivalent to 16% of the damages	£16,517 + an amount equivalent to 16% of the damages	£24,776 + an amount equivalent to 18% of the damages
<b>S7</b> Specialist legal representative advising in writing or in conference following the filing of a defence	£1,445	£1,755	£2,374	£2,994
<b>S8</b> From the end of Stage 6 up to the date of the trial	£6,813 + an amount equivalent to 15% of the damages, less £599 if that party did not prepare the trial bundle	£17,550 + an amount equivalent to 20% of the damages, less £898 if that party did not prepare the trial bundle	£19,614 + an amount equivalent to 20% of the damages, less £1,239 if that party did not prepare the trial bundle	£29,938 + an amount equivalent to 22% of the damages, less £1,445 if that party did not prepare the trial bundle
<b>S9</b> Attendance of a legal representative (other than the trial advocate) at trial per day, less an amount equivalent to 50% per day where, on any day, the trial lasts no more than half a day	£599	£898	£1,239	£1,445
<b>S10</b> Advocacy fee: day 1	£3,303	£3,613	£4,129	£5,988
<b>S11</b> Advocacy fees for subsequent days, less an amount equivalent to 50% per day where, on any subsequent day, the trial lasts no more than half a day	£1,445	£1,755	£2,065	£2,994
<b>S12</b> Handing down of a reserved judgment and consequential matters, where dealt with separately from the trial	£599	£599	£599	£599

# Fixed Recoverable Costs in the Intermediate Track

Complexity Band ( <i>shaded amounts may be additional if relevant</i> )				
Stage	1	2	3	4
<b>S13</b> Alternative Dispute Resolution: additional fee payable once only where a mediation or joint settlement meeting takes place	£1,239	£1,239	£1,239	£1,239
<b>S14</b> 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
<b>S15</b> Approval of settlement for child, unless the settlement is approved at trial	£1,239	£1,445	£1,755	£2,065
<b>S16</b> <b>Advocacy fee</b> (a) where the claim is listed for trial, but is removed from the list or settled on the day of trial; or not more than 1 day before the date listed for trial;	100% of the applicable advocacy fee in S10			
(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 the date listed for trial	75% of the applicable advocacy fee in S10			



# About Wright Hassall

## ***The law might be the same, but do your lawyers have to be?***

At Wright Hassall we dare to be different. Our clients tell us that, as well as being exceptional lawyers, we are proactive, diligent, commercial, provide value for money and, above all, we have great people who are fun to work with.

We pride ourselves on the satisfaction levels of our clients. We have a defined way of working across the business, "The Wright Hassall way", which sets the service levels to which we aspire.

At the end of every matter, we will ask you whether we have met these standards and, if not, we will work with you to ensure that any short-comings are addressed immediately. We do not stand still, we aim to continually improve in everything we do.

## Your key contacts



### **Caroline Benfield**

Partner  
01926 884671  
[caroline.benfield@wright Hassall.co.uk](mailto:caroline.benfield@wright Hassall.co.uk)

Caroline advises on all aspects of contentious and non-contentious personal and corporate insolvency matters.



### **Ikra Shabir**

Paralegal  
01926 880754  
[ikra.shabir@wright Hassall.co.uk](mailto:ikra.shabir@wright Hassall.co.uk)

Ikra specialises in debt recovery claims.