

Glossary of Legal Terms

A

Accused

The person charged. The person who has allegedly committed the offence

Acknowledgement of service

When the particulars of a claim form (outlining details of the claim) are served on (delivered to) a defendant, they receive a response pack including a form which they must use to acknowledge they have received the claim. The defendant must file (return) the acknowledgment form within 14 days of receiving the particulars of the claim. The particulars can be served with, or separately from the claim form.

Acquittal

Discharge of defendant following verdict or direction of not guilty

Act

Law, as an act of parliament

Action

see CLAIM

Adjourned generally or sine die

Temporary suspension of the hearing of a case by order of the Court (maybe for a short period, e.g. to next day or sine die). See LATIN TERMS

Adjournment

the postponing of the hearing of a case until a later date.

Adjudication

A judgment or decision of a court, tribunal or adjudicator in alternative dispute resolution (ADR) cases where disputes are resolved outside of the court

Administrative Court

the Administrative Court is part of the High Court. It deals with applications for judicial review.

Administration order

An order by a County Court directing a debtor to pay a specified monthly installment into Court in respect of outstanding debts. The Court retains the payments made and at intervals distributes it between the creditors on a pro-rata basis

Admiralty Court

Part of the High Court. An admiralty claim is a claim for the arrest of a ship at sea to satisfy a debt.

Admission (including part admissions)

A party involved in a claim may admit the truth of all or part of the other party's case, at any stage during proceedings. For example, a defendant may agree that he or she owes some money, but less than the amount being claimed. If the defendant makes an admission, the claimant may apply for judgment, on the admission.

Adoption

An act by which the rights and duties of the natural parents of a child are extinguished and equivalent

rights and duties become vested in the adopter or adopters, to whom the child then stands in all respects as if born to them in marriage

Adultery

Voluntary sexual intercourse between a married person and another person who is not the spouse, while the marriage is still valid. This is a common fact relied on for divorce

Advocate

A barrister or solicitor representing a party in a hearing before a Court

Adversarial

Arrangements designed to bring out the truth of a matter, through adversarial (conflict based) techniques such as cross-examination.

Affidavit

(see Statement) A written statement of evidence confirmed on oath or by affirmation to be true and taken before someone who has authority to administer it

Affirmation

Declaration by a witness who has no religious belief, or has religious beliefs that prevent him/her taking the oath. They declare by affirmation that the evidence he/she is giving is the truth

Allocation

The process by which a judge assigns a defended civil case, to one of three case management tracks, the small claims track, the fast track or the multi-track

Allocation questionnaire

A case (claim) is allocated to a case management track, when an allocation questionnaire has been returned completed by the people involved (parties) in the case. Responses to the questionnaire provide a judge with information on case value and other matters, to assist him or her to allocate the case to the correct track

Alternative dispute resolution

These are schemes such as arbitration and mediation which are designed to allow parties to find a resolution to their problem, without legal action. A party's refusal to consider ADR could lead to sanctions (penalties) against that party, by a judge, even if the party wins the case

Amendment

The process by which corrections to court documents, such as statements of case, can be made. A statement of case can be amended at any time, before it is served or with permission of all other parties or the court, (once served). The court may reject the amendment, even if the party concerned has permission of other parties to the case

Ancillary relief

Additional claims (e.g. in respect of maintenance) attached to the petition for divorce/judicial separation/nullity

Amount offered in satisfaction

An amount of money offered by a defendant to pay a debt or to settle another type of claim, for example in a personal injury case

Annul

To declare no longer valid

Appeal

Application to a higher court or other body for review of a decision taken by a lower court or tribunal. The higher court may overturn or uphold (i.e. reject) the lower court's decision. Often, permission (leave) is required, to for an appeal to occur.

Appellant

A person appealing to a higher court or body against a decision made in a lower court or body

Applicant

Person making the request or demand, e.g. person who issues an application

Application

The act of applying to a civil court to ask it to do something, for example to start proceedings

Appraisement or appraisal

Valuation of goods seized under warrant of control prior to sale

Apportioning

To place or assign

Appraisement or appraisal

Valuation of goods seized under warrant of control prior to sale

Arbitrator or Arbitration

A process in which both sides agree to use an independent arbitrator (an impartial person) who gives a binding decision in the matter. The person making the claim (claimant) has to choose between going to arbitration and court – it is not usually possible to take a claim to court after it has been through arbitration

Assisted person (legally)

A party to legal proceedings who is receiving legal aid

Assured tenancy

A tenancy defined by the Housing Act 1996 where the tenant enjoys security of tenure

Attachment of earnings order

An order that instructs an employer to deduct a regular amount, fixed by the court, from a debtor's earnings and to pay that money into court. The court pays the money to the person or people to whom it is owed

Automatic transfer

Providing that a number of criteria are met, proceedings must be transferred automatically to the court nearest to the defendant's home.

Award

Result of an arbitration hearing or the amount of damages assessed by a Court

B**Bail**

Release of a defendant from custody, until his/her next appearance in Court, subject sometimes to security being given and/or compliance with certain conditions

Bailiff

Bailiffs and enforcement officers are people authorised to remove and sell possessions in order to pay the money a debtor owes to a person or an organisation. They may also conduct evictions, and arrest people.

A bailiff can also serve (deliver) court documents on people

Bankrupt

Insolvent - unable to pay creditors and having all goods/effects administered by a liquidator or trustee and sold for the benefit of those creditors; as a result of an order under the Insolvency Act 1986

Bar

The collective term for barristers

Barrister

(see Counsel; Silk) A member of the bar: a lawyer entitled to represent clients in all the courts

Bench warrant

A warrant issued by the judge for an absent defendant to be arrested and brought before a Court

Bill of costs

(see Taxation of costs, Summary assessment and Detailed assessment.

Bill of indictment

A written statement of the charges against a defendant sent for trial to the Crown Court, and signed by an officer of the Court

Bind over

In the Crown Court or (more usually) the Magistrates Court, and signed by an officer of the Court

Bind over for sentence

An order which requires the defendant to return to Court on an unspecified date for sentence. Failure to observe this order may result in a forfeit or penalty to be enforced

Bound / binding

A binding decision is one that must be obeyed by the people concerned. For example, it is not possible to go to court after a binding decision has been issued by an arbitrator

Brief

Written instructions to counsel to appear at a hearing on behalf of a party prepared by the solicitor and setting out the facts of the case and any case law relied upon

Bulk Centre

See Northampton Bulk Centre

Business address

Premises or place from which business activities take place

C**Case**

An action, suit or claim in a court of law. It can also mean the arguments put forward by parties in a court of law

Case disposal

The case is taken out of the court process (see Disposal).

Case Management Conference (CMC)

This is a meeting between all parties to a case and the Judge to check the progress of the case, with regards to costs and other matters. The numbers of CMCs held depend on the complexity of the case

Case management tracks

Civil cases are allocated to one of three case management tracks, depending on financial value, issues of law and the likely duration (length) of the case. The three tracks are (i) the small claims track in which cases to the value of five thousand pounds can be considered and the claimant does not have to have legal representation (ii) the fast track for cases of value between five and fifteen thousand pounds and (iii) the multi-track for cases of value over fifteen thousand pounds. Legal representation is advisable in the fast and multi-tracks

Case number

A unique reference number allocated to each case by the issuing Court

Case value

The financial value of a case - known as case value - is one of the factors used to assess which track a case (claim) should be allocated to. See also case management tracks

Caution

- i) Notice given to the Land Registry by any person with an interest in particular land to ensure that no action is taken in respect of the land without the person's knowledge
- ii) Warning, given by a Police Officer, to a person charged with an offence
- iii) Warning, given by a Police Officer, instead of a charge

Caveat

A notice given to the registrar that effectively prevents action by another party without first notifying the party entering the caveat

Centralised Attachment of Earnings Payments (CAPS)

A computer system that manages attachments of earnings orders in bulk.

Certificate of Legal Aid Costs

A certificate of costs allowed following taxation by a judicial or taxing officer (Previously referred to as an Allocatur)

Certificate of service

A document stating the date and manner in which the parties were served (given) a document. For example where a claim form is served by the claimant court rule requires the claimant to file a certificate of service within seven days of service of the claim form otherwise he may not obtain judgment in default.

Cessate

A grant of representation of limited duration which has ceased and expired

Chambers

- i) Private room, or Court from which the public are excluded in which a District Judge or Judge may conduct certain sorts of hearings
- ii) Offices used by a barrister

Chancery Division

The Chancery Division is part of the High Court. It deals with cases involving land law, trusts and company law.

Charge

A formal accusation against a person that a criminal offence has been committed (see also Charging order)

Charging Order

A court order directing that a charge be put on the judgment debtors' property, such as a house or piece of land to secure payment of money due. This prevents the debtor from selling the property or land - without paying what is owed to the claimant

Circuit Judge

A judge between the level of a High Court Judge and a District Judge, who sits in the County Court and/or Crown Court

Citizen's Advice Bureau (CAB)

A charity which can offer free legal and financial advice to the general public.

Civil

Matters concerning private rights and not offences against the state

Civil case or claim

A civil dispute that involves court action. See claim

Civil Justice or civil law

A branch of the law which applies to the rights and dealings of private citizens, (including such matters as unpaid debts, negligence and the enforcement of contracts). It does not include criminal, immigration, employment or family matters

Civil Justice Reforms

The result of the Access to Justice report by Lord Woolf. The aim is to provide more effective access to Justice through quicker, cheaper and more proportionate justice for defended cases. It introduced a unified set of Rules and Practice Directions for the County and High Courts, and Judicial Case Management. The reforms came into effect on 26 April 1999

Civil Procedure

The rules and procedures to be followed for civil cases in the county courts and High Court

Civil Procedure Rules

The rules and procedures for proceedings in civil courts England and Wales. An important feature is active case management by the courts.

Claim

Proceedings issued in the County or High Court. Previously known as an Action. See also Civil case or claim

Claimant

The person issuing the claim. Previously known as the Plaintiff

Claim form

Proceedings in a civil court start with the issuing of a claim form. The form, which is issued by the court (after the claimant has filed the form in court), includes a summary of the nature of the claim and the remedy (compensation or amends) sought

Claim Production Centre (CPC)

See Northampton Bulk Centre

Codicil

An addendum signed and executed which amends or adds something to a will

Coercion

Coercion exists when an individual is forced to behave in a particular way, by threats of violence, for example. The person concerned does not act freely

Collaboration / collaborative

Working together to solve a problem

Commercial Court

Part of the Queen's Bench Division of the High Court.

Commissioner of Oaths

Solicitors authorised by the Lord Chancellor to administer oaths and affirmations to a statement of evidence

Committal

- i) Committal for trial: Following examination by the Magistrates of a case involving an indictable or either way offence, the procedure of directing the case to the Crown Court to be dealt with
- ii) Committal for Sentence: Where the Magistrates consider that the offence justifies a sentence greater than they are empowered to impose they may commit the defendant to the Crown Court for sentence to be passed by a judge
- iii) Committal Order: An order of the Court committing someone to prison
- iv) Committal Warrant (see WARRANT OF COMMITTAL)

Common Law

The law established, by precedent, from judicial decisions and established within a community

Compensation

Usually a sum of money offered in recompense (to make amends) for an act, error or omission that harmed someone. The harm suffered may have been loss, personal injury or inconvenience

Complainant

A person who makes a complaint

Complaint

Expressing discontent for something

Concurrent Sentence

A direction by a Court that a number of sentences of imprisonment should run at the same time

Concurrent Writ

A duplicate of the original writ bearing the same date and expiring at the same time as the original

Conditional Discharge

A discharge of a convicted defendant without sentence on condition that he/she does not re-offend within a specified period of time

Conduct Money

- i) Money paid to a witness in advance of the hearing of a case as compensation for time spent

attending Court ii) Commonly used to describe expenses paid to a debtor to cover the costs of traveling to Court

Consecutive Sentence

An order for a subsequent sentence of imprisonment to commence as soon as a previous sentence expires. Can apply to more than two sentences

Contempt of Court

Disobedience or wilful disregard to the judicial process.

In civil cases, for example, failing to appear as a witness without informing the court or the party that called you. A person found to be in civil contempt of court could be fined.

Contents of trial (civil)

see trial contents

Contributory Negligence

Partial responsibility of a claimant for the injury in respect of which he/she claims damages

Controlled Goods

A signed agreement by a debtor not to remove goods levied by a bailiff under the authority of a warrant of control and to allow the bailiff access at any time to inspect the goods, in consideration of which the bailiff leaves the goods in the possession of the debtor

Co-respondent

A person named as an adulterer (or third person) in a petition for divorce

Corroboration

Evidence by one person confirming that of another or supporting evidence, for example forensic evidence (bloodstain, fibres etc) in murder cases

Costs (civil)

In civil proceedings the general rule is the person who wins the case is entitled to his or her costs. The court may decide to reduce the costs to be paid by the losing side if it feels that the winner has behaved unreasonably. The award of costs is at the court's discretion

Counsel

A Barrister or solicitor in legal proceedings

Count

An individual offence set out in an indictment

Counterclaim

A claim made by a defendant against a claimant in an action. There is no limit imposed on a counterclaim, but a fee is payable according to the amount counterclaimed

County Court

County courts deal with civil matters such as disputes over contracts, unpaid debts and negligence claims. County courts deal with all monetary claims up to £50,000. There are 218 county courts in England and Wales. The county court is a court of the first instance – where civil cases start

County court judgment (CCJ)

A judgment of the county court that orders a defendant to pay a sum of money to the claimant. CCJs are recorded on the Register of County Court Judgments for six years and can affect a defendant's ability to borrow money

Court

Body with judicial powers (see also Courtroom)

Court of Appeal

Divided into:

- i) civil and
- ii) criminal divisions and hears appeals:
 - i) from decisions in the High Court and county courts and,
 - ii) against convictions or sentences passed by the Crown Court, (see also Public trustee Monies held in Court, in the name of the Accountant General, for suitors, minors, Court of Protection patients etc)

Court of Protection

The branch of the High Court with jurisdiction over the estates of people mentally incapable of handling their own financial affairs

Court fees

The County Court will charge to issue a claim in a civil case and to launch enforcement proceedings if the defendant ignores the judgment of the court. You will also be charged if you make applications to the court

Courtroom

The room in which cases are heard

Court sanction

See sanction

Covenant

A formal agreement or a contract constituting an obligation to perform an act

Creditor

A person to whom money is owed by a debtor

Criminal

Person who has been found guilty of a criminal offence

Cross-examination

The questioning of a witness for the other side in a case.

Crown Court

The Crown Court deals with all crime committed for trial by Magistrates Courts. Cases for trial are heard before a judge and jury. The Crown Court also acts as an appeal Court for cases heard and dealt with by the Magistrates. The Crown Court can also deal with some civil and family matters.

The Crown Court is divided into tiers, depending on the type of work dealt with.

First Tier

- Defended High Court Civil work.
- All classes of offence in criminal proceedings.
- Committals for sentence from the Magistrates' Court.
- Appeals against convictions and sentences imposed at Magistrates' Court.

Second Tier

- All classes of offence in criminal proceedings.
- Committals for sentence from Magistrates' Court.
- Appeals against convictions and sentences imposed at Magistrates' Court.

Third Tier

- Class 4 offences only in criminal proceedings.
- Committals for sentence from Magistrates' Court.
- Appeals against convictions and sentences.

D

Damages

An amount of money claimed as compensation for physical/material loss, e.g. personal injury, breach of contract

Date of service (civil claims)

The date of service of the claim is the date upon which the defendant receives the claim form issued by the court on behalf of the claimant. If the 'particulars of claim' section is completed or the particulars of claim are attached, the defendant must acknowledge receipt within 14 days

Debt recovery after judgment

See Enforcement

Debtor

A person who owes money to someone or to an organisation

Decree

An order of the Court in proceedings commenced by petition

Decree Absolute

A final certificate, resulting from an application, dissolving a marriage

Decree Nisi

Order for divorce unless cause to contrary is shown within a set period

Declaration

Court order setting out the rights of a party in the form of a statement

Deed

A legal document which sets out the terms of an agreement, which is signed by both parties

Default Judgment

May be obtained without a hearing by the claimant if the defendant fails to reply or pay within a 14 day period after service of the claim. A claimant can apply for a default judgment if the amount claimed is specified or for a judgment on liability if the amount claimed is unspecified.

Defence or defending a claim (civil)

When the defendant disputes the claim made by the claimant

Defendant (civil)

The person who has a claim made against them. They can defend (dispute the claim) or admit liability, in part or in full

Defendant (criminal)

Person standing trial or appearing for sentence

Deponent

Person giving evidence by affidavit

Deposition

A statement of evidence written down and sworn on oath, or by affirmation

Designated Civil Judge

A Judge designated to deal with the Civil Justice Reforms for a group of courts

Detailed Assessment (of costs)

When a court makes a costs order it may make a detailed assessment of costs, usually at the conclusion of proceedings. A costs officer would carry out the assessment. See also Summary assessment.

Determination (criminal)

Act of scrutinising a bill of costs in criminal proceedings to see if the work done and amount claimed is reasonable

Determination (civil)

If the defendant offers to pay to the claimant an amount by instalments and the claimant refuses the offer, an officer of the court will make an assessment of what would be reasonable for the defendant to pay

Devi

Person to whom freehold land is given by a will

Directions (civil)

case management instructions given by the judge which give a time-table for pre-trial procedures. In cases allocated to the small claims track the judge will usually give standard directions, in cases allocated to the multi-track, there may be several hearings on directions

Disability

The inability of a person to handle their own affairs (e.g. through mental illness or a minor under 18 years of age) which prevents involvement in civil legal proceedings without representation

Disclosure

Parties to a civil case must disclose (show to the other party) documents they intend to rely on in court to support their case

Discovery of documents

(see INSPECTION OF DOCUMENTS) Mutual exchange of evidence and all relevant information held by each party relating to the case

Discontinuance

Notice given by the Court, on instruction by the claimant, that they no longer wish to proceed with the case

Dismissal

To make order or decision that a claim be ceased

Disposal

See Case disposal

Dispute

A civil problem not dealt with in court, (a civil dispute which comes to court is called a civil case); challenging the views of the opposing party in a civil case

District Judge

A judicial officer of the Court whose duties involve hearing applications made within proceedings and final hearings subject to any limit of jurisdiction Previously known as Registrars

District Registry

see High Court

Divisional Court

As well as having an original jurisdiction of their own, all three divisions of the High Court have appellate jurisdiction to hear appeals from lower Courts and tribunals. The Divisional Court of the Chancery Division deals with appeals in bankruptcy matters from the County Court. The Divisional Court of the Queen's Bench Division deals largely with certain appeals on points of law from many Courts. The Divisional Court of the Family Division deals largely with appeals from Magistrates Courts in matrimonial matters a 'next friend' or 'guardian ad litem'

Divorce

Dissolution or nullity of marriage

Dock

Enclosure in criminal Court for the defendant on trial

E**Either-way Offence**

(see Indictable Offence, Summary Offence) An offence for which the accused may elect the case to be dealt with either summarily by the magistrates or by committal to the Crown Court to be tried by jury

Enforcement

Method of pursuing a civil action after judgment has been made in favour of a party. Process carried out by Magistrates Court to collect fines and other monetary orders made in the Crown Court

Enforcement / enforcing a judgment

When a judgment/order has not been paid or terms obeyed with, enforcement proceedings can be issued to ensure compliance. A court can order such action as the seizure of a defendant's property for sale

Entering judgment on admission

The claimant can ask the court to enter judgment on admission when the defendant has admitted all or part of the case and offered payment or other restitution

Entry of Judgment

Decision of the Court in favour of one or other of the parties

Estate

The rights and assets of a person in property

Evidence

Documentary or other material which is used to support a person's case in a court of law

Execution

(see taking control of goods) Seizure of debtors goods following non payment of a Court order

Executor

A person or persons specified to carry out the provisions of a will

Exempt

To be freed from liability or allegiance

Exhibit

Item or document referred to in an affidavit or used as evidence during a Court trial or hearing

Expert Witness

Person employed to give evidence on a subject in which they are qualified or have expertise

F**Family Division**

see High Court

Fast Track

The path to which defended claims of not more than £15,000 are allocated. See also: Allocation; Case Management tracks

Fees and costs

see Court fees

Fiat

A decree or command

Filing

The process of delivering or presenting forms and other documents to a court. For example a claim or a defence to a claim must be filed

Fixed costs

Costs in civil cases that are set at a certain level and can be claimed in specific circumstances. For example, if a defendant does not acknowledge a claim, the claimant can obtain judgment and an order for fixed costs to offset the cost of beginning the claim

G**Garnishee**

A summons issued by a plaintiff, against a third party, for seizure of money or other assets in their keeping, but belonging to the defendant

Group Litigation Orders

A Group Litigation Order can be made in a claim in which there are multiple parties or claimants. The order will provide for the case management of claims which give rise to common or related issues of fact or law

Guarantor

Someone who promises to make payment for another if payment is not made by the person responsible for making the repayments of a loan or hire purchase agreement

Guardian

A person appointed to safeguard/protect/manage the interests of a child or person under mental disability (see Next Friend)

H**Hearing**

A hearing is the trial of the case. Hearings are usually held in public

High Court

A civil Court which consists of three divisions:-

- i) Queen's Bench (can be known as King's Bench Division if a King is assuming the throne) - civil disputes for recovery of money, including breach of contract, personal injuries, libel/slander;
- ii) Family - concerned with matrimonial matters and proceedings relating to children, e.g. wardship;
- iii) Chancery - property matters including fraud and bankruptcy

High Court Enforcement Officers

An enforcement officer appointed by the Lord Chancellor to enforce High Court judgments and orders

High Court Judge

see Judge and High Court

Home court (civil)

The court nearest to the defendant's home or place of business

Housing claim

The procedure that a landlord may use in a county court to recover land or property (and money for arrears of rent or damage to property, if applicable). See also Possession Claim Online (PCOL)

I**Impartial**

Not having or showing any favouritism to one side in a dispute

Independent

Person or organisation not connected to any of the parties in a dispute or legal case

Indictable Offence

A criminal offence triable only by the Crown Court. The different types of offence are classified 1, 2, 3 or 4. Murder is a class 1 offence

Infant

Also known as a minor: A person under 18 years of age which prevents them from acting on their own behalf in legal proceedings (see Next Friend)

Injunction

A court order which either restrains a person from a course of action or behaviour, or which requires a person to follow another course of action.

Insolvency

see Bankrupt

Inspection of Documents

(see Disclosure of documents) Arrangements made by the parties to allow mutual exchange and copying of documents

Instalments

A method of paying a debt in several parts at intervals. Payment by instalments is agreed to make the burden of repayment lighter

Interest

A charge for borrowed money, a percentage of the sum borrowed

Interlocutory

Interim, pending a full order/decision, e.g. interlocutory judgment for damages pending further hearing to assess amount to be awarded and entered as final judgment

Interpleader

A claim by a third party to ownership of goods levied upon under a warrant of execution which is disputed by a creditor. The Court then issues an interpleader summons for the parties to attend Court to adjudicate on rightful ownership

Intestate

Without leaving a will

Interim order

An order made during proceedings which is not a final order

Issue / issuing

To initiate legal proceedings in pursuit of a claim

J**Judge**

An officer appointed to administer the law and who has authority to hear and try cases in a court of law

Judgment

The decision or sentence issued by a court in legal proceedings

Judgment set aside

A judgment or order can be set aside (made void) at the request of a party to the case in certain circumstances, for example if they were too ill to attend court on the day of the judgment

Judgment on liability

See Default judgment

Judicial/Judiciary

i) Relating to the Administration of justice or to the judgment of a Court ii) A judge or other officer empowered to act as a judge

Judicial directions

See directions

Judicial discretion (civil)

Judges have the power to decide how best to manage the case on the individual facts. They do not

necessarily have to look at how similar cases are managed. The judge has very wide case management powers under Rule 3 of the civil procedure rules to decide on the evidence parties produce how best to manage their case

Judicial review

The High Court can review decisions of inferior (lower) courts, public bodies and other bodies to ensure that the decision making process has been lawful

Junior Counsel

(see Counsel; Silk) A member of the bar: the branch of the legal profession which has rights of audience before all Courts

Jurat

A statement contained at the conclusion of an affidavit which states the name of the person giving the evidence, the name of the person before whom and the place where the oath or affirmation was taken

Jurisdiction

The area and matters over which a court has legal authority

Juror

(see Jury) A person who has been summoned by a Court to be a member of the jury

Jury

Body of jurors sworn to reach a verdict according to the evidence in a Court

Justice of the Peace

A lay magistrate - person appointed to administer judicial business in a Magistrates Court. Also sits in the Crown Court with a judge or recorder to hear appeals and committals for sentence

Jurisdiction

The area and matters over which a Court has legal authority

Juvenile

Person under 17 years of age

L**Landlord**

A person or organisation which owns land and / or buildings which are leased to tenants

Landlord and Tenant Act

Act which empowers applications (seeking extension of a lease or some other action concerning tenancy

Law

The system made up of rules established by an act of parliament, custom or practice enjoining or prohibiting certain action (see also Common Law)

Law Lords

Describes the judges of the House of Lords who are known as the Lords of Appeal in ordinary

Lawyer

The legal profession in the UK is divided into two branches. Barristers have the right to represent

clients in higher courts whereas most solicitors are restricted to represent their clients in the lower courts

Lay representative

A person, not legally qualified, who accompanies another during a court hearing. The person may be a colleague, friend or spouse.

Leading junior counsel

A senior barrister who deals with more serious cases, but not a QC.

Lease

The letting of land or tenements, e.g. rent etc, for property for a prescribed period

Leave

Leave means 'permission'. Some steps in legal action require the permission of the court. For example a losing party may be granted leave to appeal.

Legal advice

Advice about the law and your options from a qualified legal representative or advice centre

Legal Aid / Public Funding

State funded assistance, for those on low incomes, to cover legal fees.

Legal counsel

See Counsel, Barrister, Solicitor

Legal representation

See Counsel, Barrister, Solicitor

Legal Personal Representative

The person to whom a grant of probate or letters of ADMINISTRATION has been issued

Legatee

Person to whom personal estate is given by will

Letters of Administration

Authority granted by a Probate Registry to someone interested in the estate of a person who has died without leaving a will. The order allows the 'administrator' to carry out the duties relating to the estate

Liability

Responsibility or obligation. For example, a debt is a liability or responsibility.

Libel

A written and published statement/article which infers damaging remarks on a persons reputation

Licence

Permission to carry out an act that would otherwise be considered illegal

Lien

A legal right to withhold the goods/property of another until payment is made

Listing Questionnaire

This form is used to ensure that all issues are resolved and that the parties are ready for trial. Used for Fast track and Multi track claims only

Litigant in person

A person who starts or defends a case without legal representation. Such a person is entitled to be accompanied by another person who may advise them, but may not address the court

Litigation

Legal proceedings or court action. Litigation can be either civil or criminal proceedings.

Litigation friend

A person who conducts legal proceedings on behalf of a child or a mentally incapacitated person

Lodging

The process of filing (delivering) documents to a court. See also filing

Long Vacation

Period between 1 August and 30 September in each year during which there are only restricted High Court sittings for urgent matters

Lord Chancellor

The cabinet minister who acts as speaker of the House of Lords and oversees the hearings of the Law Lords. Additional responsibilities include supervising the procedure of Courts other than Magistrates or Coroners Courts and selection of judges, magistrates, queens counsel and members of tribunals

Lord Chief Justice

Senior judge of the Court of Appeal (Criminal Division) who also heads the Queens Bench Division of the High Court of Justice)

Lord Justice of Appeal

Title given to certain judges sitting in the Court of Appeal

M**Magistrates Court**

A Court where criminal proceedings are commenced before justices of the peace who examine the evidence/statements and either deal with the case themselves or commit to the Crown Court for trial or sentence. Also has jurisdiction in a range of civil matters (see also Stipendiary Magistrate)

Maintenance Pending Suit

A temporary order for financial provision made within divorce proceedings until such time as the proceedings are finalised (i.e. by issue of the Decree Absolute)

Maladministration

Maladministration is administration that leads to injustice because of such factors as excessive delay, bias or arbitrary decision-making.

Master

(see Registrar) Judicial officer of the High Court in the Royal Courts of Justice who normally deals with preliminary matters before trial

Master of the Rolls

Senior judge of the Court of Appeal (Civil Division)

Matter

(see Originating Application) Proceedings commenced by way of originating application

Mediation

A process for resolving disagreements in which an impartial third party (the mediator) helps people in dispute to find a mutually acceptable resolution. If mediation fails court proceedings can be initiated or re-activated

Mesne Profits

Sum of money claimed by the owner of property against someone not legally entitled to be in possession. Calculated from the date the notice to quit expires until the date possession is given up

Minor

Someone below 18 years of age and unable to sue or be sued without representation, other than for wages. A minor sues by a next friend and defends by a guardian

Mitigation

Reasons submitted on behalf of a guilty party in order to excuse or partly excuse the offence committed in an attempt to minimise the sentence

Money Claim

A claim for money only in the county court. The claim can be for a fixed or unspecified amount. See also unspecified amount of money

Money Claim Online (MCOL)

An online Service that allows claimants to start legal proceedings which relate to money. Defendants can use the service to respond to a claim against them also

Mortgage

A loan of money advanced to purchase property. The transfer of the property is withheld as security for payment

Mortgagor

The party obtaining the loan

Mortgagee

The party that advances the loan

Motion

An application by one party to the High Court for an order in their favour

Multi Track

The path that defended claims over £15000 are allocated to

N**Next Friend**

(see GUARDIAN) A person representing a minor or mental patient who is involved in legal proceedings

Non-Molestation

An order within an injunction to prevent one person physically attacking another

Non-Suit

Proceedings where the plaintiff has failed to establish to the Court's satisfaction that there is a case for the defendant to answer

Northampton Bulk Centre

Bulk users in court actions are businesses and local authorities. Their claims are issued by this centre in the name of Northampton County Court. This centre deals with administrative casework on a larger scale than most courts. For example, they will issue debt recovery and hire purchase claims in multiples for businesses

Notary Public

Someone who is authorised to swear oaths and certify the execution of deeds

Notice of Issue

Notice sent by a Court to the claimant giving notification of the case number allocated to their action and details of fees paid. Confirms date of service

Notice to Quit

Gives prior notice, when served in possession proceedings, of termination of a tenancy

Nullity

Application to the Court for a declaration that a marriage be declared 'void' or be annulled i.e. declared never to have existed or to have subsisted until the Court dissolved it

O**Oath**

To call upon God to witness that what you say at the hearing is the truth or binding. (see affirmation)

Objection

Disagreement with an argument or set out by another at the hearing

Official Receiver

A civil servant who works for the Department of Trade and Industry and is appointed by the Court to act as:-

- i) a liquidator when a company is being wound up;
- ii) a trustee when an individual is made bankrupt. The duties of an official receiver will include examining the company/bankrupt's property which is available to pay the debts and distributing the money amongst the creditors

Official Solicitor

A solicitor or barrister appointed by the Lord Chancellor and working in the Lord Chancellor's Department. The duties include representing, in legal proceedings, people who are incapable of looking after their own affairs i.e. children/persons suffering from mental illness

Ombudsman

Independent 'referees' who consider complaints against public and private organisations in a wide range of fields including housing, health and banking. They are often used as a last resort when complaints cannot be resolved through an organisation's own complaints procedure. Ombudsman services are free to use. Recommendations made by ombudsmen are not binding on the person making the complaint (complainant). They can still go to court even if the ombudsman decided against them

Oral evidence

Evidence given to a court, verbally rather than in writing

Oral Examination

A method of questioning a person under oath before an officer of the Court to obtain details of their financial affairs

Order

A direction by a Court

Oral evidence

Evidence given to a court, verbally rather than in writing

Originating Application

(see MATTER) A method of commencing proceedings under the authority of a specific act of parliament, e.g. Landlord and Tenant Act, whereby the applicant asks the Court to grant an order in their favour

Ouster

An order within an injunction to force a person to leave a property

P**Part 8 Claim**

An alternative procedure for issuing a claim to the court

Part admission

See admission

Particulars of claim

This document contains details of the claimant's claim which must be contained in the claim form or served shortly after the claim form has been served. The particulars should be a concise statement of the facts of the claim

Party / parties

People involved in court proceedings either as the defendant(s) or claimant(s)

Party and Party

Costs that one party must pay to another

Patient

A person who is deemed incapable of handling his/her own affairs by reason of mental incapacity and who is under the jurisdiction of the Court of Protection

Penal Notice

Directions attached to an order of a Court stating the penalty for disobedience may result in imprisonment

Permission

See leave

Personal Application

Application made to the Court without legal representation

Personal injury claim

A civil claim, which relates to physical or mental harm suffered by a claimant, due to the defendant's alleged negligence

Personal Service

Personal delivery (i.e. not by mail) of a claim, summons or notice

Personal Support Unit (PSU) Royal Courts of Justice and Wandsworth County Court

A charity based at the Royal Courts of Justice and Wandsworth County Court. They give guidance and support for litigants in person, but not legal advice

Petition

A method of commencing proceedings whereby the order required by the petitioner from the Court is expressed as a prayer, e.g. the petitioner therefore prays that the marriage be dissolved (divorce proceedings)

Petitioner

A person who presents the petition

Plaintiff

see CLAIMANT

Plaint Note

see NOTICE OF ISSUE

Plaint Number

Old-fashioned term for Claim Number

Plea

A defendant's reply to a charge put to him by a court; i.e. guilty or not guilty

Pleading

Documents setting out claim/defence of parties involved in civil proceedings

Possession Claim Online (PCOL)

An online Service which allows claimants to start legal proceedings related to property online. Defendants can use the service to respond to a claim against them also

Possession Proceedings

Legal proceedings by a landlord to recover land or property such as a house or flat.

Power of Arrest

An order attached to some injunctions to allow the police to arrest a person who has broken the terms of the order

Practice Directions

These are steps to be followed by parties to a dispute prior to legal action. The aim of the to increase co-operation between parties and therefore the chances of an early settlement

Pre-action protocols

These are steps to be followed by parties to a dispute prior to legal action. The aim is to increase co-operation between parties and therefore the chances of an early settlement

Precedent

The decision of a case which established principles of law that act as an authority for future cases of a similar nature

Preliminary hearing

A hearing in which the Judge ensures that the parties understand what they must do to comply with any directions and offers guidance on such matters as the use of an expert witness. This hearing is before the final hearing

President of the Family Division

Senior judge and head of the family Division of the High Court of Justice

Pre-trial checklist

A pre-trial checklist is completed before the trial. The checklist is for the parties and the Judge, as a reminder of the issues to be considered. The checklist will then be reviewed at a pre-trial review just before the final hearing.

Pre-trial Review

A meeting at which the Judge considers the issues before the timetable for the trial /final hearing date is finalised

Probate

The legal recognition of the validity of a will

Process

The document commencing a claim or subsequent action

Prosecution

The institution or conduct of criminal proceedings against a person

Prosecutor

Person who prosecutes (see PROSECUTION)

Public trustee

A person (usually a barrister or solicitor) appointed by the Lord Chancellor as

- i) trustee for trusts managed by the Public trust Office;
- ii) Accountant General for Court Funds;
- iii) Receiver (of last resort) for Court of Protection patients

Puisne Judge

(Pronounced Puny) High Court judge. Any judge of the High Court other than the heads of each division. The word puisne means junior and is used to distinguish High Court judges from senior judges sitting at the Court of Appeal

Putative Father

The alleged or supposed father of an illegitimate child

Q**QC**

See Queen's Counsel

Quash

To annul; i.e. to declare no longer valid

Quasi-judicial functions

A quasi-judicial function is an executive function that involves the exercise of discretion (judgment). Court staff perform quasi-judicial executive functions such as managing the issuing of claims, serving

court documents and deciding what would be reasonable for the defendant to pay – for example, see determination.

Quantum

In a damages claim the amount to be determined by the court

Queens Bench Division

A division of the High Court. The QBD has jurisdiction (reasonability for) civil disputes involving the recovery of money, including breach of contract; personal injuries; libel and slander

Queen's Counsel

Barristers of at least ten years standing may apply to become queen's counsel. QCs undertake work of an important nature and are referred to as 'silks' which is derived from the Courts gown that is worn. Will be known as king's counsel if a king assumes the throne

R**Re-allocation**

Transferring the case from one allocated track to another. This can happen if the value of the case increases

Receiver

Person appointed by the Court of Protection to act on behalf of a patient

Recognisance

An undertaking before the Court by which a person agrees to comply with a certain condition, e.g. keep the peace/appear in court. A sum of money is normally pledged to ensure compliance

Recorder

(also Assistant Recorder) Members of the legal profession (barristers or solicitors) who are appointed to act in a judicial capacity on a part time bases. They may progress to become a full time judge

Redeterminaion (civil)

If the defendant or claimant objects to the rate of repayment set by a court officer, the judge will decide on the matter. See Determination.

Redetermination (criminal)

An application by a solicitor or counsel for amounts assessed by determination to be reconsidered

Register of judgments, orders and fines

A public register containing details of county court and High Court judgments, fines enforced by magistrates' courts and county court administration orders

Registrar

(see DISTRICT JUDGE) Registrars and deputy registrars were renamed DISTRICT Judges and Deputy DISTRICT Judges respectively in the Courts and Legal Services Act 1990

Registry Trust Limited (RTL)

The company contracted to the Ministry of Justice to maintain the Register of Judgments Orders and Fines. You can find out if an individual or a company at a particular address has unsatisfied (unpaid) court judgments against them by searching the Register of Judgments, Orders and Fines. There is a small fee for this. You can get further information about searching the Register from: Registry Trust Ltd, 73-75 Cleveland Street, London, W1 6QR

Released

A witness is released (freed from an obligation or duty) by the court, when he or she has given evidence in a case

Remand

To order an accused person to be kept in custody or placed on bail pending further Court appearance

Representation

See Legal representation

Respondent (Family)

The person on whom a petition or originating application is served

Respondent (Civil & Crime)

The defending party (person) in an appeal or in a petition to the courts. See also Appellant

Response pack

A response pack is sent to the defendant in a civil claim with the claim form or with the particulars of claim (if they were served separately). The pack contains all the forms needed to reply to the claim

Restitution

Where a defendant who has been evicted by a bailiff illegally re-enters the property the claimant must issue a warrant of restitution with the court in order to regain possession

Right of Audience

Entitlement to appear before a Court in a legal capacity and conduct proceedings on behalf of a party to the proceedings

S**Sanction**

A penalty imposed on a person involved in a case if he or she, for example, fails to comply with directions or refuses to consider an alternative to court. Even though a person wins a case, the judge may order them to pay the other party's costs

Satisfaction

Paying a debt or settling an obligation by an act or deed

Security of tenure

A period in which something is held

Service

Delivery by post, or in person, of the claim form, or other court documents

Set aside judgment

See judgment set aside

Settlement

A voluntarily agreement by the claimant and defendant to settle their civil case.

Sheriff

An officer of the Crown whose duties, amongst other things, consist of the enforcement of High Court writs of control

Skeleton argument

A written summary of the main points of a case to be heard by an appeal court.

SILK

Queens Counsel, a senior barrister sometimes referred to as a leader or leading counsel

SLANDER

Spoken words which have a damaging effect on a person's reputation

Small Claims Track

The path that defended claims of no more than £5,000 (and personal injury and housing disrepair claims of no more than £1,000) are allocated to

Solicitor

Member of the legal profession chiefly concerned with advising clients and preparing their cases and representing them in some Courts. May also act as advocates before certain Courts or tribunals

Specified amounts of money

A specific and easily calculable amount of money, such as a debt owed to a claimant

Specified Claim

A type of claim which is issued for a fixed amount of money allegedly owing. Previously known as a liquidated claim

Squatter

A person occupying land or property without the owners consent

Squatting

The occupation of land or property without the owner's consent

Standard directions

See directions

Statement

A written account by a witness of the facts of details of a matter

Statement of case

The statement of case contains the outline of the claimant's case and includes: (i) a claim form, (ii) the particulars of claim – where these are not included in the claim form; (iii) the defence and (iv) a reply to the defence (v) any counterclaim

Statement of truth

Every statement of case must be verified by a statement of truth, signed by the parties involved. A statement of truth is a statement that says that a party believes the facts they have written down are true

Statutory Instrument

A document issued by the delegated authority (usually a Government Minister or committee) named within an act of parliament which affects the workings of the original Act, e.g. The County Courts Act 1984 confers authority on to the County Court Rule Committee to make rules relating to the operation of the County Courts act

Stay

A suspension of court proceedings. This remains in effect until an order has been followed. No action

may be taken in the case other than an application to have the stay lifted. A case can also be stayed when an offer of payment is accepted or if the court feels it is necessary

Stay of Execution

An order following which judgment cannot be enforced without leave of the court

Striking a case out (striking out)

The court can strike out a case (prevent all further proceedings) if a party fails to comply with a rule, practice direction or court order. It can also happen if it appears there are no reasonable grounds for bringing or defending a claim. Either party (the defendant or the claimant) can ask the court to strike a case out

Subpoena

A summons issued to a person directing their attendance in Court to give evidence

Suit

Legal proceedings commenced by petition

Suitor

Person bringing a suit before the Courts

Summary Assessment (of costs)

When a court makes a cost order it may make a summary assessment of costs immediately after it has made the order. The court will usually make a summary assessment

Summary Judgment

A judgment obtained by a claimant where there is no defence to the case or the defence contains no valid grounds. A summary judgment can be obtained without a trial or hearing. A defendant can also obtain summary judgment if he or she can establish that the claimant has no real prospect of succeeding on the claim. You have to apply to the court for a summary judgement hearing to take place

Summary Offence

(see INDICTABLE, EITHER WAY OFFENCE) A criminal offence which is triable only by a Magistrates Court

Summary procedure

A procedure by which the court when making an order about costs, orders payment of a sum of money instead of fixed costs or detailed assessment

Summing-up

A review of the evidence and directions as to the law by a judge immediately before a jury retires to consider its verdict

Summons

Order to appear or to produce evidence to a court

Summons (Jury)

Order to attend for jury service

Summons (Witness)

Order to appear as a witness at a hearing

Supreme Court of Judicature

Collective name encompassing - High Court of Justice, Crown Court and Court of Appeal

Surety

A person's undertaking to be liable for another's default or non-attendance at Court

Suspended Sentence

A custodial sentence which will not take effect unless there is a subsequent offence within a specified period

T**Taking control of goods**

(see Execution and writ of control) A duty carried out by a bailiff or sheriff under the authority of a warrant or writ of control, for a sum of money whereby goods of value belonging to the debtor are claimed with a view to removal and sale at a public auction in an attempt to obtain payment

Taxation of Costs

(see SUMMARY ASSESSMENT and DETAILED ASSESSMENT) An examination of a solicitor's bill in civil proceedings by a Court to ensure that all charges against the legal aid fund are fair and reasonable (see also PARTY AND PARTY COSTS which are also examined by a Court)

Technology and Construction Court

A specialist court which deals with disputes in the construction industry. It is part of the Queen's Bench Division of the High Court.

Telephone hearing

Hearings which can be conducted by telephone unless otherwise ordered are:

- all allocation hearings
- listing hearings
- case management hearings
- and interim applications.

They are under an hour. Any other application, requires the consent of all the parties and the agreement of the court

Tenant

A person which holds land or property under a lease

Testor

A person who makes a will

Third party

Person who is not party to a legal case, but may be relevant because he or she owes the defendant money. In that case the defendant can issue a third party notice against such a party

Third party debt order

An order issued by a Claimant, against a third party, to seize money or other assets in their keeping, but belonging to the debtor. Orders can be granted preventing a defendant from withdrawing money from their bank or building society account. The money is paid to the claimant from the account. A third party debt order can also be sent to anyone who owes the defendant money

Tipstaff

An officer of the Supreme Court whose duties involve the enforcement of High Court arrest warrants

Tort

An action in tort is a claim for damages to compensate the claimant for harm suffered. Such claims arise from cases of personal injury, breach of contract and damage to personal reputation. As well as damages, remedies include an injunction to prevent harm occurring again

Track allocation

See Allocation Case management tracks Allocation questionnaire

Trial

A public hearing in which the evidence in a case, and the law which applies, are examined

Trial (civil)

Civil trials are generally held before one or more judges without a jury. The form and length of a civil trial will depend on the track to which the case has been allocated

Trial bundles

These are the documents that are likely to be referred to in a trial or tribunal hearing. Identical bundles are prepared for the judge and the parties to the case

Trial contents

The contents of the trial include any written statements and documents in trial bundles

Trial Window

A period of time within which the case must be listed for trial

Tribunal

A tribunal is a body outside of the court structure. They hear disputes relating to specific areas such as immigration, employment and some tax matters and adjudicate on them. Tribunals are thought to be cheap and fast and allow expert knowledge to be applied

Trust

Property legally entrusted to a person with instructions to use it for another person (or persons benefit)

Trustee

A person who holds or administers property in a trust for another (or others)

U**Undertaking**

A promise, which can be enforced by law, made by a party (person) or their legal representative during legal proceedings

Unspecified amount of money

An unspecified amount of money is one which is not precise. For example, if you are claiming damages (compensation) for loss or injury, you might not be able to work out exactly what those damages are

Unspecified Claim

A claim where the amount to be awarded is left to the Court to determine, e.g. damages to be assessed for personal injuries. Previously known as an unliquidated claim

V

Varied order

If a defendant has been ordered to pay an amount in full or by instalments, which they cannot afford, they can ask the court to vary the order to allow payment by instalments or by reduced instalments

Verdict

The finding of guilty or not guilty by a jury

Vexatious litigant

A person who regularly brings court cases which have little chance of succeeding. The Attorney General can apply to the High Court for an order to prevent such a person from starting legal proceedings without permission.

Vice Chancellor

Senior judge and head of the Chancery Division of the High Court of Justice (although the Lord Chancellor is the nominal head)

Voluntary

Something is voluntary when it is entered into without compulsion, as a result of the free choice of the person(s) concerned

W**Ward of Court**

The title given to a minor who is the subject of a wardship order. The order ensures that custody of the minor is held by the Court with day to day care of the minor being carried out by an individual(s) or local authority. As long as the minor remains a ward of Court, all decisions regarding the minor's upbringing must be approved by the Court, e.g. transfer to a different school, medical treatment etc

Wardship

High Court action making a minor a ward of court

Warrant of Committal

Method of enforcing an order of the Court whereby the penalty for failing to comply with its terms is imprisonment; the bailiff is authorised to carry out the arrest and deliver the person to prison (or in some instances the Court)

Warrant of Delivery

Method of enforcing a judgment for the return of goods (or value of the goods) whereby a bailiff is authorised to recover the goods (or their value) from the debtor and return them to the creditor

Warrant of Control

A method of enforcing a judgment, The bailiff is authorised to remove goods belonging to a defendant from their home or business for sale at public auction.

Warrant of Possession

This gives court bailiffs the authority to take possession of a property and evict the defendant in cases, where an order for possession has been granted by a court.

Warrant of Restitution

A remedy available following illegal re-entry of premises by persons evicted under a warrant of possession. The bailiff is authorised to evict all occupants found on the premises and re-deliver the premises to the plaintiff

Will

A declaration of a person's intentions to distribute his/her estate and assets

Winding up

The voluntary or compulsory closure of a company and the subsequent realisation of assets and payment to creditors

Witness

A person who gives evidence in Court, called to give evidence because they witnesses an event (see also Expert witness)

Witness summons

A document issued by a court which requires a person to give evidence in court or to produce a report or other documentation for the court

Writ of Control

(see Sheriff) High Court version of warrant of control in County Court. A directive by a High Court to a sheriff to seize sufficient goods of a debtor to satisfy judgment debt

Writ of Summons

(see CLAIM)

Written evidence / statement

A written statement of relevant facts which is submitted to the court.