

## Clear guidance

Starting a claim in England & Wales,  
Northern Ireland or Scotland



# Court structure

## England & Wales (E&W)

### First instance civil claims:

- County Court (sitting throughout E&W)
- High Court (London and district registries)

### Senior Courts of E&W:

- Court of Appeal of E&W (London)
- High Court of E&W (London and district registries)

The UK Supreme Court (London) is the final appeal court on points of law<sup>1</sup>

There is a tribunal system for specialised jurisdictions e.g. tax

Precise court or tribunal depends on value, complexity, subject-matter and location

## Scotland

### First instance civil claims:

- Sherriff Courts (39 sitting throughout Scotland)
- Outer House of the Court of Session (Edinburgh)

### Senior Courts of Scotland:

- Sheriff Appeal Court (Edinburgh)
- Inner House of the Court of Session (Edinburgh)

The UK Supreme Court (London) is the final appeal court on points of law<sup>1</sup>

There is a tribunal system for specialised jurisdictions e.g. tax

Precise court or tribunal depends on value, complexity, subject-matter and location

## Northern Ireland (NI)

### First instance civil claims:

- County Court (sitting throughout NI)
- High Court (Belfast)

### Senior Courts of NI:

- Court of Appeal of NI (Belfast)
- High Court (Belfast)

The UK Supreme Court (London) is the final appeal court on points of law<sup>1</sup>

There is a distinct tribunal system for specialised jurisdictions e.g. lands tribunal and, most notably, employment tribunals

Precise court depends on value, complexity and subject-matter



<sup>1</sup> Subject to any right to appeal to European courts; this position is in flux as a result of Brexit although it is not anticipated that there will be any change to the right to escalate Human Rights issues to the European Court of Human Rights

# Starting a civil claim at court

## England & Wales (E&W)

### Civil Procedure Rules 1998 (CPR)

- Apply to all civil claims in the County Court, High Court and the Court of Appeal

### Rules of the Supreme Court 2009

- Apply to all civil appeals in the Supreme Court

Pre-action protocols (general or claim-specific) will apply

Issue fees vary according to the value and type of claim but can be up to £10,000

## Scotland

### Sheriff Courts – Civil Procedure Rules

- Various Rules depending on the type of court action, made under Acts of Sederunt, e.g. Sheriff Court Ordinary Cause Rules 1993

### Rules of the Court of Session 1994

### Rules of the Supreme Court 2009

- Apply to all civil appeals in the Supreme Court

The nature and extent of pre-action requirements vary depending on the type of case

There may be no pre-action requirements

Parties can lodge caveats at court to ensure advance notice of applications for certain orders (e.g. an interim winding up application or interim interdict)

Lodging fees tend to be significantly lower than in E&W. For example, the fee for raising an action in the Court of Session is currently less than 5% of the fee in E&W, irrespective of case value

## Northern Ireland (NI)

### County Court Rules (Northern Ireland) 1981

- Apply to all claims in the County Court

### Rules of the Court of Judicature (NI) 1980

- Apply to all claims in the High Court and Court of Appeal

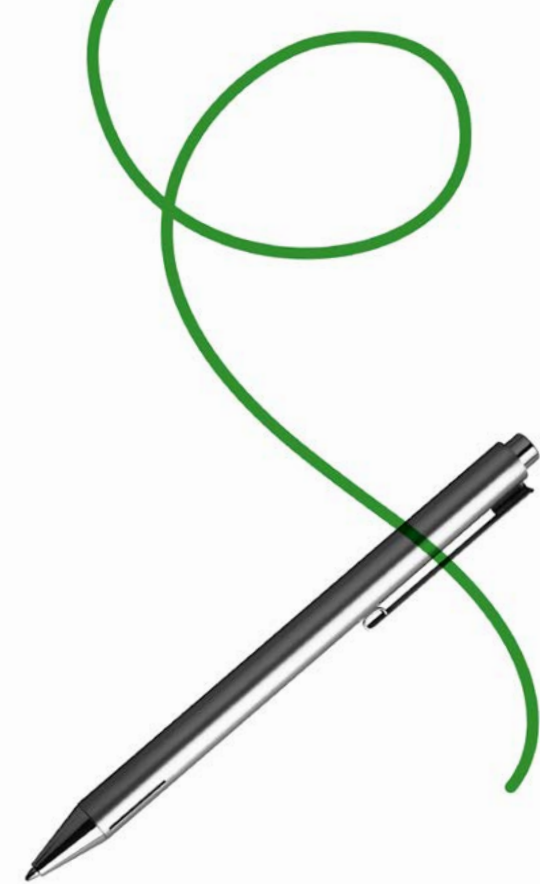
### Rules of the Supreme Court 2009

- Apply to all civil appeals in the Supreme Court

Pre-action protocols (general or claim-specific) will often apply albeit there are fewer than in E&W

Issue fees are much lower than in E&W. For example, the typical fee for a writ of summons is less than 5% of the fee in E&W

Fees have increased by 5-10% in the last couple of years



# Limitation

## England & Wales (E&W)

Governed by Limitation Act 1980

Standstill agreements are commonly used

## Scotland

Governed by Prescription and Limitation (Scotland) Act 1973

The new Prescription (Scotland) Act 2018 has received Royal Assent but is not yet in force

Notable differences to E&W and NI are that:

- the prescriptive period for breach of contract claims is generally five years
- standstill agreements are not generally used

## Northern Ireland (NI)

Governed by Limitation (Northern Ireland) Order 1989

Standstill agreements are not widely used



# Terminology

## England & Wales (E&W)

Claimant and defendant

Barristers

An action can be stayed

Disclosure

Claim form

Claim

Issue

Costs hearing

## Scotland

Pursuer and defender/ Claimant and respondent (depending on the type of procedure)

Advocates / Solicitor Advocates

An action can be sisted

Specification of documents or commission and diligence

Writ/Summons/Claim Form (depending on the type of procedure)

Action

Lodge

Taxation

## Northern Ireland (NI)

Plaintiff and defendant

Barristers

An action can be stayed

Discovery

Writ

Claim/action

Issue

Taxation



# Contacts

## England & Wales (E&W)



**Paul Worth**

*Co-Head of Global Litigation*

**T:** +44 207 919 0686

[paulworth@eversheds-sutherland.com](mailto:paulworth@eversheds-sutherland.com)

## Scotland



**Heidi Archibald**

*Principal Associate*

**T:** +44 131 476 8373

[heidiarchibald@eversheds-sutherland.com](mailto:heidiarchibald@eversheds-sutherland.com)

## Northern Ireland



**Matthew Howse**

*Partner*

**T:** +442 895 6801 39

[matthewhowse@eversheds-sutherland.com](mailto:matthewhowse@eversheds-sutherland.com)



**eversheds-sutherland.com**

© Eversheds Sutherland 2019. All rights reserved.  
Eversheds Sutherland (International) LLP is part of a global legal practice, operating through various separate and distinct legal entities, under Eversheds Sutherland. For a full description of the structure and a list of offices, please visit [www.eversheds-sutherland.com](http://www.eversheds-sutherland.com).  
DTUK002342\_05/19