

## **Civil justice in England and Wales p. 1**

Civil justice in England and Wales is mainly dealt with in the county courts and, in the case of more substantial or complex cases, the High Court. The jurisdiction covers a very wide range – from quite small or simple claims, for example damaged goods or recovery of debt, to large claims between multi-national companies.

Civil cases involve hearings in open court which the public may attend, hearings in the judge's private room from which the public are excluded, and matters decided by the judge in private but on the basis of the papers alone.

Most civil disputes do not end up in court, and those that do often don't go to a full trial. Many are dealt with through mediation (a process taking place outside a court to resolve a dispute) or by using established complaints procedures. But where a case does go through the courts, the aim is to make it as simple as possible. For smaller claims there is a speedy and cheap way of resolving disputes – through the small claims court.

Judges in the civil jurisdiction do not have the power to imprison a losing party. Ordinarily, but not always, they award financial 'damages' to the successful party, the size of which depends on the circumstances of the claim.

### A judge hearing a civil case

Before trying a civil case the judge reads the relevant case papers and becomes familiar with their details.

The vast majority of civil cases tried in court do not have a jury (libel and slander trials are the main exceptions) and the judge hears them on his or her own, deciding them by finding facts, applying the relevant law to them – and there may be considerable argument about what that law actually is – and then giving a reasoned judgment.

Judges also play an active role in managing civil cases once they have started, helping to ensure they proceed as quickly and efficiently as possible.

This includes:

- encouraging the parties to co-operate with each other in the conduct of the case;
- helping the parties to settle the case;
- encouraging the parties to use an alternative dispute resolution procedure if appropriate; and
- controlling the progress of the case.

Occasionally, the parties will have agreed the relevant facts and it will not be necessary for the judge to hear any live evidence. The issues may concern the law to be applied or the terms of the judgment to be given. But more often than not, written and live evidence will be given by the parties and their witnesses and the live witnesses may be cross-examined. The judge ensures that all parties involved are given the opportunity to have their case presented

and considered as fully and fairly as possible. During the case the judge will ask questions on any point he or she feels needs clarification. The judge also decides on all matters of procedure which may arise during a hearing.

## Judgment

Once the judge has heard the evidence from all parties involved and any submissions (representations) they wish to put forward, he or she delivers judgment. This may be immediately, or if the case is complicated, at a later date.

Civil judges do have the power to punish parties if, for example, they are in contempt of court but, generally, civil cases do not involve the imposition of any punishment.

If the judge decides that the claimant is entitled to damages, he or she will have to go on to decide the amount. Or the claimant may have asked for an injunction – for example, to forbid the defendant from making excessive noise by playing the drums in the flat upstairs in the early hours of the morning, or a declaration – an order specifying the precise boundary between two properties about which the parties had never been able to agree. The task of the judge is to decide on what is the appropriate remedy, if any, and on the precise terms of it.

## Costs

When the judgment in the case has been delivered, the judge must deal with the cost of the case. This may include the fees of any lawyers, court fees paid out by the parties, fees of expert witnesses, allowances that may be allowed to litigants who have acted in person (without lawyers), earnings lost and travelling and other expenses incurred by the parties and their witnesses. The general rule is that the unsuccessful party will have to pay the successful party's costs but the judge has a wide discretion to depart from this rule. The judge's decision on this part of the case will be very important to the parties. He or she may decide, for example, that the unsuccessful party should pay only a proportion of the successful party's costs or that each party should bear their own costs. The judge may hear representations about this at the end of the case.

## *Bibliography*

[online], [dostęp 05.10.2018] dostępne w Internecie:

<http://hmcts.courtfinder.justice.gov.uk>; <https://legal-dictionary.thefreedictionary.com>

### I. Complete the sentences with the given terms:

*settle, entitled, expert, remedy, delivering, injunction, proceed, open court, resolved, High Court, apply, jury, mediation, declaration, imposition, considered, judgement, live evidence, hearing, awarded*

1. The majority of disputes are \_\_\_\_\_ by mediation.
2. The \_\_\_\_\_ deals with more serious or complex cases.
3. Civil cases are tried in \_\_\_\_\_ or in a judge's private room.
4. The process of resolving disputes outside a court is called....
5. A successful party is \_\_\_\_\_ financial damages.

6. Libel and slander trials are tried in court with participation of a ....
7. Judges \_\_\_\_\_ the relevant law trying civil cases.
8. Judges also manage civil cases and make sure they \_\_\_\_\_ with efficiency.
9. Judges encourage the parties to use mediation and assists them to the case.
10. Parties and witnesses often give \_\_\_\_\_ in court.
11. All matters of procedure are decided by a judge during a ....
12. The judge makes sure that the case was \_\_\_\_\_ fairly and fully.
13. After hearing the evidence from all parties, the judge delivers .....
14. In civil cases there is no \_\_\_\_\_ of punishment.
15. If the claimant is \_\_\_\_\_ to damages, the judge decides the amount.
16. The claimant may ask for an ..... for the defendant to forbid him doing certain things.
17. An order stating e.g. the precise boundary between 2 properties is called a .....
18. The judge decides on what is the right \_\_\_\_\_ in a given case.
19. After \_\_\_\_\_ the judgement, the judge decides on the costs of the case.
20. These fees are for the lawyers, court fees, fees of \_\_\_\_\_ witnesses.

II. Match the English terms with the Polish ones:

1 damaged goods	A rozstrzygnięcie sporów
2 the judge's discretion to depart from the rule	B być brany w krzyżowy ogień pytań
3 recovery of debt	C zeznawać 'na żywo'
4 open court	D nałożenie kary
5 established complaints procedures	E nakaz/zakaz sądowy
6 resolving disputes	F zniszczone dobra
7 to award damages	G obraza sądu
8 circumstances of the claim	H przedłożyć argumentację
9 to try a civil case	I prowadzenie sprawy
10 libel and slander	J okoliczności pozwu
11 to apply the relevant law	K rozpoznać sprawę cywilną
12 a reasoned judgement	L ponieść wydatki
13 the conduct of the case	M zniesławienie (pismem lub w druku) i oszczerstwo
14 to incur expenses	N jawne posiedzenie

15 live evidence	O ustalone procedury pozwów
16 to be cross-examined	P odzyskanie długu
17 to put forward submissions	R uzasadniony wyrok
18 contempt of court	S stosować istotne prawo
19 the imposition of punishment	T swoboda sędziego do odstąpienia od zasady
20 an injunction	U przyznać odszkodowanie

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