

# Fixed Recoverable Costs Guide

For Fast Track and Intermediate Track Claims

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# Fixed Recoverable Costs

## Changes from 1 October 2023

From 1<sup>st</sup> October 2023, there will be a significant change to Civil Litigation in England and Wales with the introduction of a new Intermediate Track and Fixed Recoverable Costs Rules.

There will also be the introduction of a new 'track' for defended claims. This new Intermediate Track will sit between the Fast Track and Multi Track. Once a claim is defended, it will be allocated to a particular track based on complexity and value. The tracks from 1<sup>st</sup> October will be as follows:

- **Small Claims Track** – Up to £10,000
- **Fast Track** – Claims between £10,000 - £25,000
- **Intermediate Track** – Claims between £25,000 - £100,000
- **Multi Track** – Claims over £100,000

When you apply to the court to make a civil litigation claim, once a defence is received from the other side, your case will be allocated to a particular track. This consists of the small claims track, fast track, or multi-track and from 1 October 2023 there will be the inclusion of the new 'intermediate track'. The track allocated to your claim will depend on the amount in dispute and the complexity of your case.

Before 1 October 2023 FRC usually only applied to the small claims track. For a vast majority of cases, the new FRC will be extended to claims where proceedings are issued on or after 1 October 2023 that are subsequently allocated to the fast track and new intermediate track.

## Fixed Costs and Changes to CPR 45

Fixed Recoverable Costs are predetermined costs that a successful party in a case can recover from the losing party. An amendment to [Civil Procedure Rule 45](#) will introduce FRCs for Fast Track and Intermediate Track claims. It is a significant departure from the traditional method of costs being assessed by a Judge. The key aspects of FRCs are as follows:

1. **Predictability:** FRCs provide greater predictability for litigants, as they know in advance the maximum amount they can recover if they win the case. This predictability reduces the risks associated with litigation and encourages settlement.
2. **Cost Control:** FRCs are intended to control and limit the costs of litigation. By fixing the recoverable costs, the court aims to ensure that the legal expenses incurred by the parties remain proportionate to the value and complexity of the case.
3. **Encouraging Efficiency:** The fixed nature of these costs incentivizes parties to resolve disputes efficiently. Prolonged and unnecessary litigation can result in parties incurring costs beyond what they can recover, thus encouraging early settlement and cooperation.
4. **Reduced Burden on the Courts:** By reducing the scope for protracted cost disputes and detailed assessments, FRCs alleviate the burden on the court system, allowing it to allocate resources more effectively.

## Assessing Case Complexity

The amount of fixed recoverable costs you can recover will depend on the complexity of the case. Each case will be allocated to one of four bands depending on complexity – with band 1 being the simplest and band 4 considered the most complex.

## Part 36 Offers

Part 36 offers are changing with fixed recoverable sums increasing or decreasing in certain circumstances. For example, a claimant who matches or beats its own Part 36 settlement offer at trial may receive a 35% uplift on the fixed recoverable costs. However, if there is unreasonable behaviour during litigation a 50% increase or reduction of fixed recoverable costs may be applied as a penalty.

### How much can you recover?

As mentioned above, the level of fixed recoverable costs you can recover will depend on the complexity of the case. Straight forward debt claims will generally fall into 'band 1'. Full details of the costs recoverable are detailed in the tables below.

## Fixed Recoverable Costs Tables

Note: All amounts are exclusive of VAT

**TABLE 1: Rule 45.8 – Pre-action and interim applications (as proposed)**

**(Fixed cost in fast track and intermediate track)**

A. A claim which would normally be or is assigned to complexity bands 1, 2 of 3 of Table 12 [Fast Track]	£250
B. A claim—(a) which would normally be or is assigned to complexity band 4 of Table 12 [Fast Track]; or (b) to which Table 14 [Intermediate Track] or Table 15 [Noise Induced Hearing loss] applies	£333
C. An application for—(a) summary judgment under Part 24; (b) an interim payment under Part 25; or (c) an interim injunction under Part 25	£750

**TABLE 12: Rule 45.44 – Amount of fixed costs in the fast track (as proposed)**

**Stages A-C figures are the cumulative totals for costs incurred up to and including that stage  
Stage D is a separate sum where the claim is disposed of at trial (final hearing)**

Stage	Complexity Band			
	Band 1	Band 2	Band 3	Band 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 £660 or £120 + an amount equivalent to 20% of the damages	£1,100 + an amount equivalent to 17.5% of the damages	In each case £2,600 + an amount equivalent to 15% of the damages + £510 per extra defendant
(2) Where damages are more than	£Nil	£1,300 + an amount	£2,200 + an amount	

£5,000, but not more than £10,000		equivalent to 15% of damages over £5,000	equivalent to 12.5% of damages over £5,000	
(3) Where damages are more than £10,000	£580	£2,300 + an amount equivalent to 10% of damages over £10,000	£3,000 + an amount equivalent to 10% of damages over £10,000	
<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	£2,100	£1,400 + an amount equivalent to 20% of the damages	£3,200 + an amount equivalent to 20% of the damages	£3,000 + an amount equivalent to 40% of the damages + £760 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	£2,500	£2,300 + an amount equivalent to 20% of the damages	£4,000 + an amount equivalent to 25% of the damages	£6,400 + an amount equivalent to 40% of the damages + £760 per extra defendant
(3) On or after the date that the court lists the claim for trial but before trial	£3,800	£3,200 + an amount equivalent to 20% of the damages	£5,100 + an amount equivalent to 30% of the damages	£7,900 + an amount equivalent to 40% of the damages + £760 per extra defendant
<b>C. If the claim is disposed of at trial</b>				
	£3,800	£3,200 + an amount equivalent to 20% of the damages agreed or awarded	£5,100 + an amount equivalent to 30% of the damages agreed or awarded	£7,900 + an amount equivalent to 40% of the damages agreed or awarded + £760 per extra defendant
<b>D. Trial advocacy fees</b>				
(1) Where the value of the claim is not more than £3,000	£580	£580	£580	£1,600
(2) Where the value of the claim is more than £3,000, but not more than £10,000	£820	£820	£820	£1,600

(2) Where the value of the claim is more than £3,000, but not more than £10,000	£3,800	£3,200 + an amount equivalent to 20% of the damages agreed or awarded	£5,100 + an amount equivalent to 30% of the damages agreed or awarded	£7,900 + an amount equivalent to 40% of the damages agreed or awarded + £760 per extra defendant
(3) Where the value of the claim is more than £10,000, but not more than £15,000	£1,200	£1,200	£1,200	£2,100
(4) Where the value of the claim is more than £15,000	£2,000	£2,000	£2,000	£2,900

**TABLE 13: Rule 45.46 – specialist legal advice (as proposed)**

**(An additional sum is available for fast track claims normally assigned to band 4. For advice or drafting of statement of case from a specialist legal representative /intended advocate where justified. Limit to one advice in writing or conference unless justified)**

A. Providing post-issue advice in writing or in conference	£1,000
B. Drafting a statement of case	£500

**TABLE 14: Rule 45.50 – Amount of fixed costs in the Intermediate Track (as proposed)**

**Figures in stages S1, S3, S4, S5, S6 and S8 are the cumulative totals for costs incurred up to and including that stage**

**Figures in stages S2, S7 and S9 to S15 are separate sums for those steps if carried out.**

Stage	Complexity band			
	Band 1	Band 2	Band 3	Band 4
<b>S1</b> From pre-issue up to and including the date of service of the defence	£1,600 + an amount equivalent to 3% of the damages	£5,000 + an amount equivalent to 6% of the damages	£6,400 + an amount equivalent to 6% of the damages	£9,300 + 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	£2,000	£2,000	(a) £2,300; or (b) £3,500 if counsel is also instructed to draft a defence to a counterclaim	(a) £2,300; or (b) £3,500 if counsel is also instructed to draft a defence to a counterclaim
<b>S3</b> From the date of service of the defence	£4,000+ an amount	£7,700 + an amount	£9,100 + an amount	£13,000 + an amount

up to the earlier of the date set for CMC or the order giving directions under 28.2	equivalent to 10% of the damages	equivalent to 12% of the damages	equivalent to 12% of the damages	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	£4,600 + an amount equivalent to 12% of the damages	£9,400 + an amount equivalent to 14% of the damages	£11,000 + an amount equivalent to 14% of the damages	£16,000 + 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	£5,200 + an amount equivalent to 12% of the damages	£11,000 + an amount equivalent to 16% of the damages	£12,000 + an amount equivalent to 16% of the damages	£20,000 + an amount equivalent to 18% of the damages
<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	£5,900 + an amount equivalent to 15% of the damages	£15,000 + an amount equivalent to 16% of the damages	£16,000 + an amount equivalent to 16% of the damages	£24,000 + 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	£1,400	£1,700	£2,300	£2,900
<b>S8</b> From the end of Stage 6 up to the date of the trial	£6,600 + an amount equivalent to 15% of the damages, less £580 if that party did not prepare the trial bundle	£17,000 + an amount equivalent to 20% of the damages, less £870 if that party did not prepare the trial bundle	£19,000 + an amount equivalent to 20% of the damages, less £1,120 if that party did not prepare the trial bundle	£29,000 + an amount equivalent to 22% of the damages, less £1,400 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	£580	£870	£1,200	£1,400

<b>S10</b> Advocacy fee: day 1	£3,200	£3,500	£4,000	£5,800
<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	£1,400	£1,700	£2,000	£2,900
<b>S12</b> Handing down of a reserved judgment and consequential matters, where dealt with separately from the trial	£580	£580	£580	£580
<b>S13</b> Alternative Dispute Resolution: additional fee payable once only where a mediation or joint settlement meeting takes place	£1,200	£1,200	£1,200	£1,200
<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	£1,400	£1,700	£2,000	£2,300
<b>S15</b> Approval of settlement for child, unless the settlement is approved at trial	£1,200	£1,400	£1,700	£2,000

### **How Lovetts Solicitors can help**

For the last 30 years, Lovetts Solicitors has been campaigning for efficient, accessible, and cost-effective debt recovery. The FRCs gives costs certainty to creditors when they are forced into litigating due to non-payment of debts and Lovetts Solicitors fees will mirror the FRCs to achieve a costs neutral position for our clients in the majority of our clients.

If you would like further information on how we can help you, do not hesitate to contact us here or by email at [info@lovetts.co.uk](mailto:info@lovetts.co.uk). Alternatively, call us on 01483 457500.

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