

Damages Claims Portal Pilot Scheme: An Overview

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In an attempt to modernise an oft-labelled ‘antiquated’ justice system, a view more compelling in light of the difficulties faced during the recent COVID-19 pandemic, Her Majesty’s Courts and Tribunals Service (HMCTS) has developed a programme of reform, which has been underway since 2016. The most recent measure to be introduced is the Damages Claims Portal pilot scheme (hereinafter DCP) – a digital scheme for the issuing and initial progression of litigation in certain claims. The DCP was established by Practice Direction 51ZB (PD 51ZB), which can be found [here](#), and will run from 28 May 2021 until 30 April 2024.

The DCP is currently available only to a select few firms representing claimants, although it can be used by any defendant who is represented by a registered legal representative to respond to DCP claims against it. In either case, the legal representative must have registered for a MyHMCTS account in order to use the service. This blog is therefore mostly relevant for invitee claimant firms and registered defendant representatives, although it is understood that the pilot will be extended to others in the near future. The authors aim to give a brief overview of how the DCP operates, what its intended benefits are and, finally, to direct readers to useful resources for further guidance.

Scope of the DCP

As the name would suggest, the DCP applies to all *damages only* claims providing that all of the conditions set out in para 1.6 of PD 51ZB are met (in reality para 1.6 is a list of exclusions to the DCP which include claims brought outside the jurisdiction, or by a protected party within the meaning of CPR 21.1(2)(d), and those which ordinarily follow the Part 8 procedure). Thus, the scheme would apply to claims for damages for personal injury and consequential losses but not, for example, a claim for liquidated damages due under a contract, or an injunction.

Starting a Claim

A claimant using the DCP will have to complete a claim form on the portal, upload any documentation required to be filed with a claim form (e.g., particulars of claim or supporting documentation) and pay any prescribed fee for issuing a claim (under Civil Proceedings Fees Order 2008) using the already established “Payment By Account” system (PD 51ZB para 2.1). Notification of receipt of the claim is given by email. However, unlike with claims issued in the usual manner under Part 7, a claim under the DCP is only brought for the purpose of limitation when it is issued not at the earlier date of receipt (thus PD 7A para 5.1 does not apply and is expressly excluded by PD51ZB para 2.2(4)).

Once issued, the court will provide a claimant with the issued claim form via the DCP and it will be the claimant’s responsibility to notify and provide details of the claim to the defendant (see PD 51ZB section 3). Such notification works as service for the purpose of CPR 7.5(1) and so carries the usual 4-month time limit. Failure to comply with the notification requirement will result in dismissal of the claim without further order. This, again, distinguishes the position from claims ordinarily issued under the Part 7 procedure whereby late service of a claim form renders service ineffective without directly altering the status of the claim. Similar provision for automatic dismissal is made for a failure to provide the Defendant with details of a claim (particulars of claim and supporting documentation) within the time limit. At this juncture, a claim will exit the DCP and transfer to the CCMCC if the defendant is not represented by a legal representative who accepts notifications on its behalf via the DCP.

Responding to a Claim

A defendant responding to a claim within the DCP has similar options available, as it would in the ordinary course of litigation. A defendant can:

- acknowledge the claim

- admit all or part of the claim
- bring a counterclaim
- agree an extension of up to 28 days to respond
- dispute jurisdiction (in which case an application under CPR Part 11 must be made and the claim will exit the DCP)
- file a defence.

Where a defence is filed in response to the claim a defendant will also have to complete a directions questionnaire.

Default judgment remains open to a claimant using the DCP where a defendant fails to respond. However, should a defendant fail to respond within 6 months and the claimant does not in this time seek to enter judgment or transfer the claim to Part 7, the claim will not exist in perpetuity. Rather, the claim is automatically dismissed in accordance with PD 51ZB para 6.7.

Initial Case Management

Where a defence is provided the Claimant must provide information on the DCP to facilitate initial case management. Thereafter, the claim will be transferred to a County Court Hearing Centre and continue as if proceedings had been commenced under Part 7.

Comment

The DCP is intended to be a digital, user-friendly way of commencing claims and carrying out early case management, although it is understood that the ultimate aim will be to provide an 'end-to-end' service from pre-action to enforcement.

The scheme shows a continued push by HMCTS towards paperless working. This should in turn facilitate a more timely and efficient system which can meet the rising demand placed on the justice system. Online 'notification' and 'response' to claims is also hoped to provide more flexibility for court users, thereby avoiding the difficulties associated with the physical filing and service of documents. The ability to remain up to date with a claim by following the early stages via notifications may also reduce the number of missed deadlines and consequently the number of applications for relief from sanctions with which the courts are routinely burdened.

In the same vein, the various 'automatic dismissal' provisions in PD 51ZB support the concept of proactive case management; they reduce the amount of unnecessary paperwork for judges, thereby cutting cost for an already under-funded sector. Ultimately, only time will tell as to whether the reforms will achieve their desired objectives.

HMCTS professional users guidance on how to make a claim through the DCP can be found [here](#).

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