Harper James Solicitors video transcript: The Process of Court Proceedings

I’m Ian Carson, a senior dispute resolution solicitor, at Harper James.

People talk about court but have little idea of what this actually involves. They think of a trial but have little idea of what it takes to actually get there. The civil litigation process is broadly the same, whether you’re in the County Court for claims under £1,000 or in the High Court for larger and more complicated claims.

Before litigants can start court action, the Civil Procedure Rules require a Claimant to set out its case in what’s known as a letter before claim. The Defendant then has a reasonable time in which to respond, usually 14 to 28 days.

The court expects the parties to explore settlement at the pre-action stage. However, if pre-action discussions fail then litigation is started through the issue and service of a Claim Form accompanied by a separate written document known as the Particulars of Claim. This summarises the Claimant’s factual and legal case. The Defendant then has at least 28 days in which to serve its Defence and the Claimant then has at least 14 days to serve a reply dealing with any new points in the Defence. The court then sets out the timetable for the rest of the steps to trial. This is designed to ensure that all the evidence is exchanged between the parties in advance of the trial. The court adopts a strict ‘cards on the table’ approach so that there should be no surprises in terms of the evidence when the case finally gets to trial.

The first evidential stage is called disclosure. This involves the exchange of all relevant documents between the Claimant and Defendant. In today’s digital age, this can be an expensive and lengthy task involving the review of many thousands of emails and other documents. However, technology can assist with this process.

Once the parties are armed with all the relevant documentation, each witness then has to provide a written witness statement. Generally, a witness can’t give evidence at trial without first providing a written witness statement to the other side. These are exchanged simultaneously between the parties on a date ordered by the court well in advance of the trial.

If a dispute involves technical issues, such as the valuation of a company or a defective building, the court may also make provision for expert evidence. Expert reports are drawn up after exchange of disclosure of witness statements so the expert has all the relevant evidence to provide his opinion and again the expert reports are exchanged in advance of the trial.

At the trial, the Judge will have in front of him the relevant documentary evidence that has been provided through the disclosure process or the written witness statements and expert reports. Each witness will be cross-examined on the evidence in his witness statement by the other side’s Barrister. All the Claimant’s witnesses go first and then the Defendant’s. The Judge may well then hear from the expert and, finally, each Barrister will sum up each party’s case. The Judge then

retires to consider his Judgment and Judgment is usually delivered in written form after about four to six weeks after the trial. Overall, the process which I’ve described usually takes between six and twelve months.