

# Issuing and serving a Court claim

If you have decided that the only way to resolve your dispute is to issue formal Court proceedings, there are a number of steps you need to take to formally issue a claim at Court.

This guide deals with the issue of claims under Part 7 of the Civil Procedure Rules, which is the procedure used for the majority of claims. There is an alternative procedure under Part 8 of the Civil Procedure Rules (often used in cases that do not involve a substantial dispute of fact). Part 8 claims are often able to be dealt with a lot quicker than Part 7 claims as the parties set out their positions at an early stage, before proceeding to a determination by a judge. However, this note only deals with Part 7 claims.

A claim is commenced by the party who wishes to bring the claim, known as the Claimant, filing a Claim Form at Court. This can be done by sending the claim form to the Court by post, by attending in person, or more commonly, by using one of the online systems for issuing a claim.

## THE CLAIM FORM

The Claim Form (Form N1) is relatively straightforward and comes with guidance notes for how to complete it. If you are bringing the claim, you will need to put in your details as Claimant, and your opponent's details under the section marked 'Defendant'. You will then need to set out the basic details of your claim and the amount you are seeking to recover. The value of your claim will also determine the amount of the issue fee you need to pay to the Court.

## THE PARTICULARS OF CLAIM

On the second page of the Claim Form is a section headed 'Particulars of Claim'. This is where you can set out in more detail a concise statement of the facts that you seek to rely on as the Claimant. The Particulars of Claim can either be written in the section on the second page of the claim form, or perhaps more commonly, are contained within a separate document. By way of good practice, the Particulars of Claim should be in numbered paragraphs or sentences and should:

- Identify the parties - identifying the names of the parties and the nature of their business (if relevant)
- Confirm the cause of action - for example, breach of contract, negligence claim

- Provide the facts upon which your claim is based, for example, details of when a breach of contract occurred and how
- Detail any remedy that is being sought; e.g. damages
- Confirm if interest is being claimed and if so, at what rate
- State whether the parties have complied with any pre-action protocols

Part 16 of the Civil Procedure Rules and Practice Direction 16 set out in more detail what should be included in the Particulars of Claim, including specific information in certain types of claim, such as personal injury claims.

## STATEMENT OF TRUTH

The Claim Form and Particulars of Claim should both be verified by a Statement of Truth that states as follows:

*'[I believe] / [the (Claimant or as may be) believes] that the facts stated in this Claim Form / Particulars of Claim are true. [I understand] / [The (Claimant or as may be) understands] that proceedings for contempt of Court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.'*

As stated in the Statement of Truth, if a person signs a Claim Form or Particulars of Claim in the knowledge that they contain a false statement, they could have contempt of Court proceedings issued against them, which in turn lead to a prison sentence. It is therefore vitally important that anything that is stated in the Claim Form and Particulars of Claim is true and accurate.

## ISSUE FEE

A Claimant has to pay a fee to the Court to issue a claim. The level of the fee to be paid depends on the value of the claim and as set out in the Government's guidance booklet EX50 (<https://www.gov.uk/government/publications/fees-in-the-civil-and-family-courts-main-fees-ex50>). As of December 2022, the issue

fees are as set out below:

Claim value:

- Up to £300 – £35.00 issue fee
- Greater than £300 but no more than £500 – £50 issue fee
- Greater than £500 but no more than £1,000 – £70 issue fee
- Greater than £1,000 but no more than £1,500 – £80 issue fee
- Greater than £1,500 but no more than £3,000 – £115 issue fee
- Greater than £3,000 but no more than £5,000 – £205 issue fee
- Greater than £5,000 but no more than £10,000 – £455 issue fee
- Greater than £10,000 but no more than £200,000 – 5% of the value of the claim issue fee
- Greater than £200,000 – £10,000 issue fee

If you are unable to pay the issue fee, it may be possible to get assistance with your payment, and the Court Service have produced a guide detailing this.

It is possible to issue a Claim Form without accompanying Particulars of Claim, if for example you need to issue quickly due to limitation. However, as a Claimant, you only have four months in which to serve a claim (once it has been issued). The Particulars of Claim need to be finalised so they can be served with the claim before the expiry of the four-month period.

As mentioned above, the Claim Form (and Particulars of Claim, if appropriate) are sent to the Court to be issued. The Court will then formally issue the claim and give it a Claim Number.

### SERVICE OF THE CLAIM

The Court will either serve the claim itself, by sending it to the Defendant at the address on the Claim Form, or will send back a copy of the Claim Form to the Claimant, for them to serve on the Defendant themselves.

The Court will usually send claims to Defendants by first class post. There are, however, other methods of service that can be used and are recognised by the Court. These include electronic forms of service, such as fax and email, and personal service. However, specific rules apply to the service of claims using these methods, so it is best to check the Court rules when serving claims in this way. It is also worth noting that Defendants may not have agreed to accept service of the claim by electronic methods.

As such, first class post is generally considered to be the best form of service for a Claim Form. It is also advisable to track the post if possible, so you have a record of the claim reaching the Defendant's address, in case the Defendant later argues that he/she did not receive the claim.

### DEEMED SERVICE

In order to ensure that all parties to a claim are working to the same timetable for various procedural matters, the concept of deemed service has arisen. The date of deemed service is the date on which service of a particular document is treated as having taken place. It could be that a person received the document earlier or later than the deemed date, but the Courts will use the date of deemed service for procedural matters. As such, it is very important that you are aware of dates of deemed service of documents in your claim, as this will determine the time limits your opponent needs to comply with when replying to the claim.

There are different rules in relation to service of a Claim Form compared to service of other documents under the Civil Procedure Rules.

### DEEMED SERVICE OF THE CLAIM FORM

A Claim Form is deemed served within the UK on the second business day after one of the steps below has been taken, depending on the method of service:

Method of service	Step required
First class post, document exchange or other service that provides for delivery on the next business day	Posting, leaving with, delivering to, or collection by the relevant service provider
Delivery of the document to or leaving it at the relevant place	Delivering the document to or leaving it at the relevant place
Personal service under rule 6.5	Completing the relevant step required by rule 6.5(3)
Electronic method	Sending the e-mail or other electronic transmission

Therefore, if you are intending to serve a Claim Form by first class post, the Claim Form will be deemed served on the Defendant on the second business day after you put the Claim Form in the post box.

As mentioned above, a Claim Form must be served within four months of it being issued by the Court. Therefore, if you are serving by first class post, the Claim Form must be placed in the post box before midnight on the calendar day four months after the date of issue of the Claim Form.

### DEEMED SERVICE OF OTHER DOCUMENTS, OTHER THAN THE CLAIM FORM

The deemed date of documents other than a Claim Form is slightly different, and it is important to check these dates when serving other documents. This is especially true when you serve separate Particulars

of Claim to the Claim Form, as time for the Defendant to reply will only start running from when the Particulars of Claim are deemed served upon them.

A document, other than a Claim Form, served in the UK is deemed to be served on the day shown in the table below:

Method of service	Deemed date of service
First class post (or other service that provides for delivery on the next business day)	The second day after it was posted, left with, delivered to, or collected by the relevant service provider, provided that day is a business day, or if not, the next business day after that day
Document exchange	The second day after it was left with, delivered to, or collected by the relevant service provider, provided that day is a business day, or if not, the next business day after that day
Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30pm on that day, or in any other case, on the next business day after that day
Fax	If the transmission of the fax is completed on a business day before 4.30pm on that day, or in any other case, on the next business day after the day on which it was transmitted

Other electronic method	If the email or other electronic transmission is sent on a business day before 4.30pm on that day, or in any other case, on the next business day after the day on which it was sent
Personal service	If the document is served personally before 4.30pm on a business day on that day, or in any other case, on the next business day after that day

It is important to note that if you are drafting separate Particulars of Claim (i.e., they are not contained in the Claim Form), these Particulars of Claim need to be served within 14 days of service of the Claim Form. Further, Particulars of Claim must be served no later than the latest time for serving the Claim Form (i.e., within four months of being issued). As such, if you are going to wait until the end of the four-month period to serve your claim, you do not then have a further 14 days to serve the Particulars of Claim. These should be served with the Claim Form itself.

By way of summary, the rules on service of Claim Forms and other documents, including Particulars of Claim, can be quite confusing. In order to avoid falling foul of the rules on service, it is better not to leave the issuing of your claim and service of the Claim Form and Particulars of Claim until the last minute, as you may misinterpret a deadline and then be prevented from pursuing your claim.

## GET IN TOUCH



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The lawyers have incomparable client service skills. They are very clear and always make sure they understand the picture, even if it is a complicated one.

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