

# Responding to a claim

If you have been served with a claim either by the Court or by a Claimant, it's important that you do not ignore it or delay, as you will only have a short period of time in which to reply if you wish to defend the claim. If you fail to respond within these timeframes, you risk the Claimant entering default judgment against you and having a County Court or High Court judgment in your name, which could affect your credit rating.

A Defendant can either admit the claim (or part of it), defend the claim (or part of it), or file an acknowledgment of service, which then allows them further time to prepare a defence. In most cases, a defendant will file an acknowledgment of service.

## TIMEFRAME FOR RESPONDING TO A CLAIM

The Civil Procedure Rules set out that a Defendant has 14 days from the date they are deemed served with the Particulars of Claim to acknowledge receipt. As such, it is important to check if the Claim Form that you have received has Particulars of Claim attached, or whether they are to follow by way of a separate document. If it is the latter, then you do not need to respond until you are served with the Particulars of Claim.

It is also important to calculate when you are deemed to have been served with either the Claim Form or Particulars of Claim, as the timeframe for responding will be calculated from the deemed date of service for the Particulars of Claim.

If the Court has served the claim upon you, it may be worth contacting them to find out when the deemed date of service is. If the Claimant or their solicitors have served the claim, you should contact them to agree a deemed date of service. Agreeing a deemed date of service may help prevent any arguments arising in the future as to whether the Defendant has responded in time.

## ACKNOWLEDGEMENT OF SERVICE

In order to acknowledge receipt of the Particulars of Claim and to set out whether you intend to defend all or part of the claim, a Defendant needs to complete the Acknowledgment of Service Form (N9) and send a copy to the Court and the Claimant. The form should be contained amongst the papers you receive with the Claim Form, but if not, a copy is available online.

## DEFENCE

By filing an Acknowledgment of Service, a Defendant is then afforded further time in which to prepare, file and serve any defence to the claim.

The Acknowledgment of Service allows the Defendant a further 14 days to file their defence, meaning that in total, a Defendant has 28 days from the date of deemed service of the Particulars of Claim to file their defence. As such, it is often best to file an Acknowledgment of Service as early as possible, to allow a Defendant time to prepare their Defence.

It may be possible for the Defendant to obtain an extension of time for the filing of their defence. The Defendant should contact the Claimant in the first instance to see if an extension can be agreed, and if the parties are able to agree an extension of up to 28 days without needing to inform the Court (although if agreed, the Defendant should notify the Court of the extension). If the Claimant refuses, or the Defendant requires a longer period to respond, the Defendant will need to make a separate application to the Court for an extension of time, setting out their reasons as to why they need the additional time. The Court will then determine whether to grant the extension or not.

## CONTENTS OF THE DEFENCE

In the Defence, the Defendant should seek to address every allegation that is contained in the Particulars of Claim and confirm which of the allegations they admit, which allegations they deny, and which allegations they are unable to admit or deny, but require the claimant to prove. If you are denying a particular allegation, you should state the reasons as to why it is denied. You cannot simply state that it is denied and provide no reasoning. Similarly, if you do not agree with the Claimant's version of events of a particular matter, the Defendant should state their own version within the Defence.

As with the Particulars of Claim, it is advisable to use numbered paragraphs in the Defence, as this allows you to easily refer to a paragraph number in the Particulars of Claim and say whether you admit or deny the same.

The Defence, like with the Particulars of Claim, also needs to be verified with a Statement of Truth, as set out below:

*"[I believe] / [the [Defendant or as may be] believes] that the facts stated in this Defence (and Counterclaim) are true. [I understand] /*

*[The (Defendant 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.'*

Again, the Defendant needs to be aware that if they sign a statement of truth verifying the truth of the Defence when they intentionally know it not to be true, they may face proceedings for contempt of Court, so it's important that the Defendant reads the Defence carefully before signing the Statement of Truth.

## COUNTERCLAIMS

If the Defendant believes they have their own claim against the Claimant which arises out of the same facts as the claim, they may wish to include a counterclaim as part of their Defence. In this instance, the Defence and Counterclaim should form one document, with the Defendant setting out the Defence first, followed by the counterclaim.

If a Defendant has a counterclaim, it is treated by the Courts as a claim in its own right, and the Defendant will be required to pay an issue fee for the counterclaim. The issue fee will be calculated in accordance with the value of the counterclaim.

## REPLIES AND DEFENCE TO COUNTERCLAIM

If a Defendant has served a Defence, the Claimant is afforded an opportunity to reply to it. This is known as a Reply to Defence. A Reply to Defence needs to be filed at the same time as the Court requests that the parties file the Directions Questionnaires.

If a counterclaim has been served on the Claimant, then they should also file a Defence to the counterclaim, if they wish to defend the same.

Strictly speaking, any Defence to the counterclaim needs to be served within 14 days of receipt of the counterclaim.

(Note: the Claimant is not able to file an Acknowledgment of Service to the Counterclaim and to extend this deadline). However, the Court rules provide that the Reply to Defence and Defence to Counterclaim should be in the same document. If the date by which you need to file a Defence to Counterclaim is earlier than the date by which you need to file your Reply to Defence, the Court would usually order that the Defence to Counterclaim be filed at the same time as the Reply (i.e with Directions Questionnaires). There is, however, no guarantee that the Court will automatically order this, so it's always worth checking with the Court or agreeing with your opponent as to when any Defence to Counterclaim needs to be filed and served.

If the Claimant files a Defence to Counterclaim, the Defendant is provided with one further opportunity to provide a reply to that Defence to Counterclaim. This should also be filed at the same time as the Directions Questionnaire.

The Particulars of Claim, Defence, and Replies are called Statements of Case, but are often referred to as 'pleadings'.

No further statements of case are allowed without the Court's permission once the Claimant has filed a Reply to the Defence (or where there is a Counterclaim, the Defendant has filed a Reply to the Defence to Counterclaim).

## 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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