

**1 What does the legal term "service of documents" mean in practical terms? Why are there specific rules regarding the "service of documents"?**

In practical terms, service of documents means the delivery to a person or company of the claim or other court documents about legal process issued against them. This allows them the opportunity to defend or answer the claim or proceedings.

Specific rules [1] on the service of documents exist to ensure that all entitled parties receive the legal documents relating to them or their actions and to provide safeguards to ensure that appropriate action can be taken if such documents are not served properly.

[1] CPR part 6 [1] contains the general rules of service, and see further Part 7. The link can be found here;

<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06>

**2 Which documents need to be served formally?**

All court documents, including claim form, applications, judgment orders, petitions etc. need to be served formally, following the various rules, but this can take the form of posting, personal service, bailiff service etc.

**3 Who is responsible for serving a document?**

Generally in County Court matters the County Court is responsible for serving documents; in the High Court, much of the service is effected by the parties.

Where a party prepares a document which is to be served by the court, that party must file a copy for the court, and for each party to be served.

The court may order that someone else should be responsible for service. That could include the issuing party or their agent or solicitor. In addition the court is not responsible for service where a specific rule or practice direction to the rules provides that a party must serve the document in question or the party on whose behalf the document is to be served notifies the court that he wishes to serve it himself.

**4 Address inquiries****4.1 Under Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, does the requested authority in this Member State on its own initiative, try and establish the whereabouts of the addressee of the documents to be served if the addressee no longer resides at the address known to the requesting authority?**

No. The UK does not have a domicile register in the way that many other Member States do; it is not possible for the requested authority in England and Wales to obtain an address for the person on whom the documents are to be served. However where documents are to be served on a company and when recipients at the given address refuse to accept service the receiving agency in England and Wales is able to establish the registered address of the company (if different) and can serve the documents at that address.

**4.2 Do foreign judicial authorities and/or parties to judicial proceedings have access to registers or services in this Member State enabling the establishment of the person's current address? If yes, which registers or services exist and what procedure must be followed? What fee, if any, should be paid?**

As mentioned before, there is no domicile register in the United Kingdom. To find the address of a person it is necessary to use agents who can trace individuals or make use of a number of websites that have some details of addresses. The following list is not exhaustive but shows some examples of the types of websites that are available. Some, such as a search of telephone records (the first link), are free. For others it is necessary to pay a fee.

Phone records from [British Telecommunications](#).

Address finders at [192, UKRoll](#)

Trace people at [Tracesmart](#)

To find the registered office of a company a search can be made of the website of [Companies House](#). Some searches for companies are available for free but more detailed searches require a fee to be paid.

**4.3 How do the authorities in this Member State deal with a request sent under the Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters aimed at discovering a person's current address?**

It would not be possible to request an address in England and Wales via Council Regulation (EC) No. 1206/2001.

**5 How is the document normally served in practice? Are there alternative methods which may be used (other than substituted service referred to in point 7 below)?**

The main method of service in England and Wales is by first class post. Other methods of service that can be used, subject to the relevant rules of court and practice directions, are:

- personal service (by bailiff/process server or by the party issuing the proceedings);
- leaving the document at an approved address (see below);
- through a document exchange; or
- by fax or other means of electronic communication.

Service should be made at the address given by the party to be served, which can include the address of the party's solicitor or agent. Where there is no solicitor acting for the party to be served or the party has not given an address for service the document should be sent or transmitted to, or left at an address as approved in the rules of court - generally the usual or last known place of residence or place of business.

Where the court is to serve a document, it is for the court to decide which of the methods of service should be used.

**6 Is electronic service of documents (service of judicial or extrajudicial documents through remote means of electronic communication, such as e-mail, internet based secured application, fax, sms etc.) permitted in civil proceedings? If so, for which types of proceedings is this method foreseen? Are there restrictions with regard to the availability/access of this method of service of documents depending on who the addressee is (legal professional, legal person, company or other business actor, etc.)?**

Electronic service of documents (including e-mail and fax) is permitted in civil proceedings. There are no restrictions with regard to the availability or access of this method of service of documents depending on who the addressee is. However, the party to be served, or their solicitor, must previously have indicated in writing a willingness to accept service by electronic means.

There are several ways in which parties and solicitors can indicate a willingness to accept service by electronic means. First, when the solicitor has provided a fax number on their writing paper. Second, when an e-mail address has been set out on writing paper and the solicitor has confirmed electronic service as

an option. Finally, electronic service of documents is permitted where a fax number, e-mail address, or other electronic identification, has been set out on a statement of case or a response to a claim filed with a court.

Where a party intends to serve a document by electronic means (other than by fax) they must first ask the party to be served whether there are any conditions that must be met. For example, whether there is a particular format in which the documents are to be sent, or a maximum size of attachments that can be received.

Where documents have been served electronically there is no requirement to send in addition a hard copy.

## **7 'Substituted' service**

### **7.1 Does the law of this Member State allow for other methods of service in cases where it has not been possible to serve the documents to the addressee (e.g. notification to the home address, to the bailiff office, by postal service, or by poster advertising)?**

Full details of the rules and procedures for service in England and Wales can be found in [Part 6 of the Civil Procedure Rules](#). The general rule is that the claimant must provide the defendant's address for service, and that this address is usually their present or last known address or their place of business. If they are unable to ascertain these addresses, the claimant may apply under Part 6.19 for service to be by an alternative method at an alternative address. The precise details will depend on the facts before the court, but the principle is that whatever method is applied for it must be one that is capable of bringing the process to the attention of the defendant, see PD 6A[1].

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[1] [https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd\\_part06a](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06/pd_part06a)

### **7.2 If other methods are applied, when are the documents deemed to have been served?**

Under normal postal service or another delivery method which provides for delivery on the next business day, the documents are deemed to be served the second day after the documents were posted, left with, delivered to, or collected by the relevant service provider provided that day is a business day or the next business day after that day. When service is by fax or other electronic method if it is sent on a business day before 16.30 on that day, or in any other case on the next business day after the day it was sent. Where an alternative method of service is used the court's order will specify the method and the date on which service has deemed to have occurred.

### **7.3 If another method of service is the deposit of the documents in a particular place (e.g. at a post office) how is the addressee informed of that deposit?**

Deposit of documents in a particular place (e.g. a post office) is not usually an alternative method of service. If documents have been served by registered post and not delivered the process by which the addressee is informed is set out in section 8 below.

### **7.4 If the addressee refuses to accept service of the documents, what are the consequences? Are the documents regarded as effectively served if the refusal wasn't legitimate?**

Provided a method of service has been approved by a court, the deemed service date applies whether or not the addressee accepts service.

## **8 Postal service from abroad (Article 14 of the Service Regulation)**

### **8.1 If the postal service delivers a document sent from abroad to an addressee in this Member State in a situation where acknowledgment of receipt is required (Article 14 of the Service Regulation), does the postal service deliver the document only to the addressee himself/herself or may it, in accordance with national rules of postal delivery, deliver the document also to another person at the same address?**

Registered delivery by the Royal Mail (the UK postal service) is to the address rather than the individual. Therefore it is possible that someone other than the addressee will receive the documents if they live at the same address.

### **8.2 Under the rules of postal delivery in this Member State how can the service of documents from abroad, under Article 14 of the Service Regulation No. 1393/2007, be effected if neither the addressee nor any other person authorised to receive the delivery (if possible under national rules of postal delivery – see above) has been reached at the address of delivery?**

If nobody at the requested address is available to sign for the documents they are returned to the local postal office to the address. If they are not collected within the deadlines (see below) they are returned to the sender, service is not deemed effective in this instance.

### **8.3 Does the post office allow a specific period of time for collection of the documents before sending the documents back as undelivered? If yes, how is the addressee informed that there is mail for him to collect at the post office?**

Where delivery has not been possible at the address a card is left with notification of the attempted delivery. This card tells the addressee from where the documents can be collected and the time limit within which he/she should collect them. For registered post originating within the UK the documents should be collected within 1 week. For international registered post the deadline is three weeks.

## **9 Is there any written proof that the document has been served?**

The court records the fact that it has served a particular document. Documents served by post are deemed (or considered) served unless they are returned through the postal system.

Where the claimant serves a document he/she must file a certificate of service at the court within seven days of service. This certificate must state that the document has not been returned undelivered and give details of the method and date of service.

On receipt of a claim form the debtor has 14 days to respond to the claim. If he/she sends in an acknowledgement of service form the time limit to respond is extended to 28 days from service of the particulars of claim.

If documents are personally served a written record in the form of a certificate or affidavit of service is prepared detailing the time and date of service. This can be used as evidence of service if the recipient denies receipt of such documents.

### **10 What happens if something goes wrong and the addressee does not receive the document or the service is effected in violation of the law (e.g. the document is served on a third person)? Can the service of the document nevertheless be valid (e.g. can violations of the law be remedied) or must a new effort to serve the document be made?**

If it comes to the attention of someone that they have not received legal documents they are entitled to receive, they may take action to ensure they do receive such process by either contacting the other party or their solicitors or by contacting the court. If orders or judgments have already been made in the proceedings, applications can be made to set them aside on the basis that the documents have not been served.

If a party accepts service of documents outside the minimum period of notice allowed under the rules, service can still be considered valid. If service of documents is found to be invalid, new efforts can be made to re-serve. The court may also dispense with service of documents in certain circumstances.

### **11 Do I have to pay for service of a document, and if so, how much?**

The cost of service of documents by post is included in normal court fees. If documents are to be served personally by a bailiff or process server, charges vary depending on the type of process and whether a bailiff or process server is used.

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