

How to make a claim

Before issuing a claim you may find it useful to read the leaflet **EX301 - Making a claim? Some questions to ask yourself**. It sets out some important things to consider before you use the courts e.g. alternatives to court action. If after reading the leaflet you decide you want to issue a claim, this leaflet will tell you what you have to do.

Remember that this and other leaflets can only give you a general idea of what is likely to happen. They cannot explain everything about court rules, costs and procedures which may affect different types of claim in different ways.

Where do I start my claim?

You can issue (start) your claim On Line by visiting www.moneyclaim.gov.uk

or in any court in England and Wales. You can find the address and phone number in the phone book, under Courts, or our website www.hmcourts-service.gov.uk. Most court offices are open between 10am and 4pm.

Although the procedure and forms are the same, you will need to consider whether you want to issue your claim in the High Court (the High Court means either a District Registry (attached to a county court) or the Royal Courts of Justice in London). Most 'litigants' (people involved in court actions) acting for themselves will choose to issue in a county court.

There are restrictions on claims which may be issued in the High Court. You may only issue in the High Court if one or more of the following apply.

- your claim is expected to be for more than £15,000.00;
- your claim includes a claim for personal injuries and the value of the claim is £50,000 or more;
- your claim needs to be in a specialist High Court list;
- there is an Act that provides that your claim needs to be issued in the High Court.

If you wish to issue in the High Court, or must do so by law, then you will need to state which of the above apply to your claim.

If you have delayed issuing proceedings for any reason, you may wish to seek legal advice before issuing your claim.

How do I start my claim?

Depending on the type of claim you wish to make, you will need to complete a specific form. The forms are free from any county court, or you can download them from our website www.hmcourts-service.gov.uk If you decide to start your claim online you should log on to www.moneyclaim.gov.uk

Although you can start a claim in any county court, it may be transferred to another court if it is disputed ('defended'). Transfer will take place if:

- your claim is for a fixed amount of money; and
- the defendant is an individual who resides or carries on business in another court's area.

The county court will give you notes for guidance for yourself (the claimant) on how to complete the form, and notes for guidance for the defendant (the person, firm or company against whom the claim is being made). Once you have filled in the form, you should photocopy it and the defendant's notes for guidance so that you have:

- one copy for yourself;
- one copy for the court; and
- one copy for **each** defendant you are claiming from.

You must send to the court one copy for each defendant and one copy for the court.

If you are using the online service you will find all you need at www.moneyclaim.gov.uk

Help in filling in the forms

If you are using the Internet to issue your claim you will find a helpful user guide online. Money Claim Online is supported by a telephone Help Desk, should you require any additional assistance.

If you are issuing your claim in the county court the claimant's notes for guidance will help you to fill in the form. Each heading in the form has separate notes relating to it; for example, for 'Claimant', 'Defendant', 'Details of claim', 'Value', and so on. It is important that you read these notes carefully **before** you start to fill in the claim form. Court staff cannot advise you. For free legal information help and advice contact Community Legal Service Direct on 0845 345 4345 or www.clsdirect.org.uk. You can also seek help from a Citizens Advice Bureau or a consumer advice centre.

Interest

You can claim interest on the money the defendant owes you. If you want to claim interest, you must include it in your 'particulars of claim'. Write your claim in the following way: 'The claimant claims interest under section 69 of the County Courts Act 1984 at the rate of 8% a year, from [date when the money became owed to you] to [the date you are issuing the claim] of £ [put in the amount] and also interest at the same rate up to the date of judgment or earlier payment at a daily rate of [enter the daily rate of interest].'

Working out interest

To work out the amount of interest you are owed up to the date you start the claim, you first need to work out the daily rate of interest. Using a calculator do the following:

0.00022 x the amount of your claim.

This gives you the daily rate of interest.

You then need to work out the amount of interest you are owed up to the date you issue your claim. Count how many days have passed since the money became owed to you and multiply that number by the daily rate of interest.

For example,

If you are owed £1,000, the rate of interest would be as follows:

$$0.00022 \times 1,000 = 0.22$$

So the daily rate of interest is 22p.

If the debt became owed to you on 7 March and you are filling in the claim form on 26 April, 50 days have passed.

$$\text{So, } 50 \times 0.22 = 11.$$

You can add £11 to the amount you are claiming.

The total figure for interest and the amount you are claiming must be entered in the 'Amount claimed' box in the bottom right-hand corner of the claim form. The fee you will have to pay to issue your claim will be based on this figure.

Please note the rate of interest depends on the type of claim that you wish to make. If you are unsure you should seek legal advice before issuing your claim.

For free legal information, help and advice contact Community Legal Service Direct on 0845 345 4345 or www.clsdirect.org.uk

How much will it cost and what if I cannot afford it?

The fee you will have to pay to the court will depend on the amount you are claiming, including interest.

You will have to pay a court fee unless:

- you receive Income Support
- you receive State Pension Guarantee Credit
- you receive income-based Jobseeker's Allowance
- you receive Working Tax Credit with no element of the Child Tax Credit. Court staff will explain this to you.
- your gross annual income does not exceed a specified limit. See booklet EX160A for more details.

If you show that a payment of a court fee would involve undue hardship to you, you may be eligible for a part remission. The amount decided will be based on a detailed means-test to assess your disposable income. Court staff will calculate what contribution you should make towards the fee.

For further information, or to apply for a fee concession, ask court staff for a copy of the combined booklet and form **EX160A - Court fees - Do I have to pay them?** This is also available from any county court office, or a copy of the leaflet can be downloaded from the internet at <http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do>. You will have to make a separate application for each fee that is payable.

If you are paying part or all of the court fee, you may pay in cash, by postal order or cheque. Credit and debit cards can only be accepted by Money Claim Online. Make your cheque payable to HMCS. For your own safety, do not send cash through the post.

If you are using Money Claim Online (MCOL) the court fee will be calculated automatically for you.

You will be asked to pay the fee by credit card or debit card.

What happens next?

Whether your claim has been issued online or through the county court a copy of the claim form and a 'response pack' will be posted to the defendant. The response pack contains the forms which the defendant can use to reply to your claim.

These are:

- an admission form;
- a defence and counterclaim form, and
- an acknowledgment of service.

The court will send the claim form and the response pack to the defendant by first class post.

What happens if the defendant's copy of my claim is returned to the court?

If the defendant's copy of your claim form and the response pack is returned to the court, the court will send you Form N216 (Notice of returned document). The claim form will nevertheless be treated as having been served if the address of the defendant given on the claim form is the correct address as required by the court rules (the 'Civil Procedure Rules'). That might be, for example, the usual or last known residence of the defendant.

What can the defendant do when the claim form is received?

The defendant can:

- do nothing, that is, not reply to your claim at all

If this happens you should read the leaflet **EX304 - No reply to my claim - what should I do?**

- admit that the whole or part of your claim is owed

If this happens you should read the leaflet **EX309 - The defendant admits my claim - I claimed a fixed amount of money**

- dispute ('defend') the whole or part of your claim

If this happens you should read the leaflet **EX306 - The defendant disputes all or part of my claim** - which will tell you what will happen and what you have to do.

What additional help is available for court users with a disability?

If you have a disability which makes going to court or communicating difficult, please contact the Customer Service Officer of the court concerned who may be able to help you. If the Customer Service Officer of the court cannot help you, you can contact the Disability Helpline on 0800 358 3506 between 9am and 5pm Monday to Friday. Calls to this number are free. If you are deaf or hard of hearing, you can use the Minicom service on 0191 478 1476.