

A claim has been made against me - What should I do?

This leaflet explains what you can do if someone has issued a claim against you through a county court. Other leaflets referred to are available free from any county court or from our website www.hmcourts-service.gov.uk

Remember that this and other court 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.

What should I do when I receive a claim form?

Do not ignore it - act quickly. You have only a limited time in which to reply to the claim. If you do nothing, it could result in judgment being entered against you without further notice, which could make it difficult for you to obtain credit.

First check the section of the claim form headed 'Particulars of Claim'. If the words 'particulars of claim to follow' are written in this section, **you should not reply** until you receive them (this should be within 14 days of receiving the claim form). If the 'particulars of claim' section is completed or indicates that the particulars of claim are attached, **you must reply within 14 days** of the date you received it (the 'date of service'). Remember to post your reply at least 2 days before the end of the 14 day period if you are sending it by post.

It is important that claimants and defendants talk to each other. Many people think that once a claim process has begun, there should be no contact between parties. That is not the case. Although it is essential that you reply to the claim within the 14 day deadline, you may still find it helpful - even at this stage - to contact the claimant direct in order to discuss how you might settle the dispute.

What will happen if I do nothing?

Judgment may be entered against you. This means that you will be ordered to pay the amount of the claim (or an amount to be decided by the court) and costs. The court will send you a copy of the order saying how much you owe. If judgment is entered against you, your name and address may be entered on the Register of Judgments, Orders and Fines. The credit industry (for example, banks and building societies) use information on the Register to establish people's credit worthiness. If your name is on the list it could lead to you being refused credit.

How do I reply to the claim form?

A 'Response Pack' will be sent with the claim form or with the particulars of claim (if they were served separately). It contains all the forms you will need to reply to the claim.

You have a number of choices:

- pay the amount claimed;
- admit all or part of the claim or liability for the claim, and ask the claimant for time to pay, or offer to settle the claim in some other way;
- dispute ('defend') the claim;
- dispute the claim and offer to sort the matter out without going to a court hearing.

If the claim is for a fixed amount of money (a 'specified amount'), the response pack will contain:

- Form N9 (acknowledgment of service);
- Form N9A (admission form); and
- Form N9B (defence and counterclaim form).

If the claim is not for a fixed amount of money (an 'unspecified amount'), you will receive a Form N9, Form N9C (admission form) and Form N9D (defence and counterclaim form).

Before you complete any of the forms you should read the notes for defendant attached to the claim form.

I owe the money and want to pay it straightaway. How should I do this?

Send or take the money to the claimant at the address shown on the claim form for payments or documents. (This might be the claimant's place of business, residence or solicitor's address.) It is a good idea to ask for a receipt.

You must make sure that your payment arrives with the claimant no later than 14 days after you received the particulars of the claimant's claim. If you do not, the claimant may have requested the court to enter judgment against you.

The amount of money which you should pay is shown in the box on the bottom right-hand corner of the front of the claim form under 'Total amount'.

If the claimant is claiming interest, you will have to **add daily interest to that amount**. The daily rate of interest is shown in the 'particulars of claim'. You multiply the daily rate of interest by the number of days between the date the claim was issued and the date you make the payment. The date of issue is shown on the front of the claim form.

What can I do if I admit I owe the money but cannot afford to pay it all now?

If you admit that you owe the money, but cannot afford to pay it all at once, you can ask for time to pay.

Fill in Form N9A. Give all the details about your income and expenses it asks for and say how you would like to pay. You may want to contact the claimant or claimant's solicitor when completing the form to discuss a payment proposal that would be acceptable.

Take or send Form N9A to the claimant at the address shown on the claim form for payments or documents. Keep a copy for yourself. The leaflet **EX309 The defendant admits my claim - I claimed a fixed amount of money** - explains what may happen next.

If the claimant accepts your offer to pay by instalments you must:

- keep up instalment payments. If not, your goods may be taken away and sold, or a court order may be made affecting your income or property
- let the court know if you are having trouble keeping up the payments; for example, if you lose your job. Court staff will be able to tell you what you can do to prevent further costs being added to what you already owe.

I admit the claim for an unspecified amount - what do I do?

If the claim is for an unspecified amount of money - that is for an amount that is not a fixed amount - you should complete Form N9C and send it to the court. This is called 'admitting liability' (responsibility) for payment.

You may:

- admit liability for the claim without saying how much is admitted; or
- admit liability for the claim and offer a fixed sum of money to settle it; or
- admit liability for the claim, offer a sum of money to settle it and ask to pay that sum by instalments or at a future date.

You can contact the claimant or claimant's solicitor to discuss a sum of money or payment schedule that might be acceptable.

The court will send a copy of your admission form to the claimant. The leaflet **EX308 The defendant admits my claim - I did not claim a fixed amount of money** explains what may happen next.

I want to defend the claim - what do I do?

Whether the claim is for a specified or an unspecified amount, you may either:

- complete the Form N9 (acknowledgment of service); or
- complete the Form N9B (defence and counterclaim if the claim is for a specified amount) or Form N9D (defence and counterclaim if the claim is for an unspecified amount).

Whichever form you complete, you must make sure that it is taken or sent to the court (called 'filing') no later than 14 days from the date the particulars of claim were served on you. If you do not, the claimant can ask the court to enter judgment, that is, make an order that you pay the amount claimed, or that you are liable to pay an amount to be decided by the court.

When you complete the defence form, be sure that you follow all the instructions on it. This is important, especially if the claim is for an unspecified amount. For example, if you do not answer all the points raised ('allegations') in the particulars of claim, it will be assumed that you admit them.

Why would I file an acknowledgment of service rather than a defence form?

Filing the acknowledgment of service allows you more time in which to seek advice and complete your defence. If you file an acknowledgment of service within 14 days of service of the particulars of claim, the time to file a defence will be extended from 14 days to 28 days from the date of service of the particulars of claim.

If you defend the claim, it may be transferred to your local court, i.e. the one nearest to where you live or carry on business, if different from the court shown at the top of the claim form.

What if my defence is that I have already paid the amount claimed?

You should still fill in the defence form N9B and send it to the court. A copy will be sent to the claimant who will be asked to let you and the court know whether:

- it is agreed that the money has been paid and the matter will not be taken further; or
- if it is not accepted that the money has been paid, that the claim should continue as a defended claim.

The claimant must respond within 28 days of receiving the court's notice of your defence.

If you paid the money after the date of issue (shown on the claim form), the claimant may still claim for the court fee and any amount of solicitor's costs, shown on the claim form. You should send the money direct to the claimant.

The claimant owes me money - what can I do?

If you are owed money by the claimant and want to claim this, you can do so by using the defence and counterclaim form. This is called 'making a counterclaim'. Complete the appropriate section of the form and send or take it to the court. You may have to pay a fee for making the counterclaim. Court staff can tell you how much this is.

If you do not pay the fee or an application for a concession of the fee is refused, your counterclaim will automatically be 'struck out' which means that you cannot proceed with it. Leaflet EX160A explains more about making an application for a fee concession.

I do owe some money, but not as much as the amount claimed

If you agree that you do owe some money, but less than is being claimed, this is called 'making a part admission'. Fill in Form N9A and Form N9B, saying how much you do owe and why you consider you do not owe any more than that. Send both forms to the court within 14 days of service of the claimant's particulars of claim and 28 days if you filed an acknowledgment of service.

You can either pay the amount you agree that you owe to the claimant immediately, or you can ask for time to pay either by instalments or at some future date. Copies of the forms will be sent to the claimant asking whether your part admission is accepted in full and final settlement of the claim or whether it is not and the claim should proceed as defended. The claimant must reply to you and the court within 14 days of receiving your part admission.

If the claim is for an unspecified amount use Form N9D if you want to defend the claim or make a counterclaim.

Can I use the Internet to respond to the claim?

If the claim against you has been issued electronically in the name of Northampton County Court you may respond to the court using the Money Claim Online (MCOL) Internet service. Simply log on to www.moneyclaim.gov.uk. MCOL is designed to be easy to use and has help at each stage that you can call up if required. If you use the Internet to respond to the claim you must still reply within 14 days of the date you received it.

Will I need to go to court?

If you defend the claim, or if you and the claimant cannot agree about paying the instalments, you may have to go to court. But even at this stage, there is still opportunity for you and the claimant to agree a settlement.

Before issuing the claim against you, the claimant should have actively considered other ways of settling the dispute. The leaflet **EX301 Making a claim? Some questions to ask yourself** explains some of the alternatives available. It may be that this was tried and was unsuccessful. However, if no attempt was made, it may not be too late for you to suggest to the claimant that you would be willing to resolve the issue without going to court. If you would like to do this, you should contact the claimant or the claimant's solicitor without delay.

How will the claim be dealt with in court?

Most claims for £5,000 or less are dealt with in what is called the 'small claims track'. However, if your claim is for less than £5,000 but includes a claim for personal injury, or for housing disrepair to residential premises and damages arising from the disrepair, your case will not be dealt with in ('allocated to') the small claims track unless the amounts claimed in respect of personal injury, disrepair and damages are each no more than £1,000. The leaflet **EX307 The small claims track** explains more about the allocation of claims to the small claims track and how they are handled.

Claims of more than £5,000 are generally dealt with differently in either the 'fast track' or the 'multi-track'. Leaflets are available which explain about these two tracks.

What happens if I do not pay?

If the court sends you an order to pay, but you do not, the claimant can ask the court to take steps to make you pay (this is called 'enforcing the judgment'). For example, court bailiffs (who are court officials) might remove items belonging to you, or the claimant might ask the court to order your employer to take money from your earnings.

Should I see a solicitor?

Most people who have claims made against them for a fixed sum of money do not use solicitors. Also, if you defend the claim and it is allocated to the small claims track, hearings are designed to be less formal and you may take someone to the court hearing to speak on your behalf. This person is called a 'lay representative' and may be a spouse, relative, friend or an advice worker.

If the claim is for more than £5,000 or includes a claim for personal injury, it is probably advisable to seek the advice of a solicitor.

Further help and advice

Court staff can guide you on court procedures and give you the forms for the process that you decide to start. But they cannot give you legal advice. For example, they cannot tell you what you should do or if you have a good defence. For free legal information, help and advice contact Community Legal Service Direct on 0845 345 4345 or www.clsdirect.org.uk. You may also be able to get free legal advice from a law centre, a Citizens Advice Bureau or a consumer advice centre.

You must tell the court if your address is not correct. If you move while the case is still going on, let the court know.

For free legal information, help and advice contact Community Legal Service Direct on 0845 345 4 345 or www.clsdirect.org.uk

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