



North Eastern

P · R · O · C · E · S · S

Process Servers & Legal Services

PRE-SERVICE CHECKLIST

When instructing North Eastern Process, it is important the legal documents you provide are legally valid, legible, and accurate.

Make sure we have enough time for service – if the deadline for service is less than 3 days away, please make contact with us by telephone so we can plan ahead to deal with your instruction as quickly and diligently as possible.

Make sure the name of the person being served is correct - if it is not, you must take the document back to the Court and ask them to amend it. Only a Court Officer can make the amendment - changing it yourself can render the document invalid. Failing to amend it can result in the service being invalid as the person served can argue they are not the person named on the document.

Make sure the service address is completed fully - although an incorrect or incomplete address does not invalidate your documents, it can cause unnecessary delays in effecting service. It is preferable to include the postcode to avoid any confusion.

Include any other useful information in your instructions - by providing information such as, times when the subject is likely to be home, or a work address, any details of any vehicle owned, a physical description or photo, age or date of birth. This can ensure we attend at the right times, and speak with the right people.

LEGAL AID

We regularly carry out instructions on behalf of legally aided clients, and our fees are agreeable to the Community Legal Service and Criminal Defence Service.

We offer an extended payment term of 60 days in all legally funded cases, ensuring you have sufficient time to make an application for interim payment, and be in receipt of those funds, before our invoice becomes due.

We are fully conversant with Civil Procedure Rules (CPR) for Service, and can arrange additional services such as Court Collection and lodgement with local police when requested.

Your clients can hold a wealth of information about the subjects of service, which can be invaluable to our process servers allowing us to effect service quickly and smoothly. We are therefore always welcome of additional information including: - working hours, times the subject is usually at home, vehicle details, physical description or photograph.

RULES OF SERVICE

Below is some basic information covered by the Civil Procedure Rules (CPR), a full copy of which can be found at the Department of Constitutional Affairs website. The rules below are intended as a guide only. As professional process servers we will be aware of any specific issues relating to the documents you have.

A document must be personally served unless CPR Rules allow otherwise (such as a Statutory Demand) or you have an Order from the issuing Court allowing substituted service i.e. service by another means other than personal service.

A document must be served within the standard timescales allowed by the Court, unless you have an Order from the issuing Court.

The document can be served at any time of the day or night, on any day of the week, and is not limited to the address of the subject shown on the document. It is generally best practice to serve a limited company during normal business hours or during their usual working hours if they are different. We also discourage clients from requesting us to serve on important dates such as Christmas Day unless there is a very specific need to do so.

A legal document should NOT be personally served in an envelope as the contents should be clearly visible to the subject of service. In some cases a standard letter can be served in an envelope, but the process server must have seen its contents.

Only a Court can make an amendment to an issued document. Attempting to amend it yourself can invalidate it.

Where personal service is required on a husband and wife, the personal service should be effected on both parties. It is not acceptable to leave both sets of documents with one person.

Documents for persons under 18 years of age should be served upon their parent or guardian, or the person with whom the child resides with or whose care they are in.

Documents for Patients who by reason of mental disorder are incapable of managing their own affairs should be served upon the person authorised under the Mental Health Act 1983 to conduct proceedings in their name, or on the person with whom the patient resides with or is in the care of.

What is Personal Service?

X WRONG - The documents must be placed in the subject's hand

X WRONG - The document must touch the subject of service

X WRONG - The subject of service must 'accept' the documents

X WRONG - You cannot personally serve documents on a Sunday

In an ideal world, all parties would be served by handing them the documents, and in most cases, once confronted the subject of service will usually take the documents from the process server without too much fuss. However, some people believe they can 'avoid' service by not opening the door, refusing to touch the papers, or stating they do not accept them. But what they don't realise is that if a process server can confirm the following information, and then personal service has legally taken place.

The subject has been personally advised as to the content of the documents, and the process server is confident the subject heard (this may be through a closed door, an open window etc)

The documents have been left in a convenient place so that the process server knows the subject will receive them (i.e. through the letterbox of a house when we know they are standing on the other side of the door)

The subject of service has been advised as to where the documents have been left (i.e. the process server will advise the subject who is standing on the opposite side of a closed front door that he is posting the documents through the letterbox of that door)

SERVICE TIMESCALES

Due to the vast amount of documents which can require service, it is not possible for us to list them all here. If you are unable to find what you are looking for, please contact us via email and we will be happy to advise you.

Claim Form-within 4 months of the date of issue (or amendment), or within 6 months if it is served out of the Jurisdiction.

Particulars of Claim-within 14 days of service of the Claim Form.

Application Notice-As soon as possible, and not less than 3 days before the hearing

N39 Order to Attend Court for Questioning-Not less than 14 days before the date appointed for the examination to take place

N79a Suspended Committal Order-Not less than 14 days before the date appointed for the examination to take place

Claim for Possession of Land Residential - Not less than 5 clear days before hearing.

Other Land - not less than 2 clear days before hearing.

Notice of Application for Attachment of Earnings-It is recommended that if personally served, it is at least 8 clear days before the hearing.

Notice of Application for Injunction-Not less than 3 days before the Court is due to hear the application

Divorce Petition-No set timescale

Judgment Summons-Personal service not less than 10 days before the hearing. Debtor is entitled to a reasonable sum to cover travelling expenses.

Family Law - Applications with Notice-Not less than 2 business days before the date on which the Application is being heard

Family Law - Application without Notice-As soon as possible

Statutory Demand-No set time limit

Winding up Petition-It should be dealt with as a matter of urgency, and in any case at least 21 days before the date of the Hearing.

Bankruptcy Petition-Not less than 14 clear days before the Hearing

Magistrates Court Summons-Where circumstances permit it should be served at least 7 days before the Hearing

STATEMENTS, AFFIDAVITS & OTHER PROOFS OF SERVICE

Statement or Certificate of Service - a document signed by the process server, as testament to the service of your documents. The Statement will show a Statement of Truth reading similar to 'I believe the facts contained in this Statement are true'.

Sworn Affidavit - requires the process server to attend at the offices of a Commissioner for Oaths (or a County Court if relevant), and swear on Oath that the information contained in his Affidavit is true. This is why you will see a signature of the process server, and a further signature of the person who he/she has sworn in front of.

As there is more work involved in the producing of an Affidavit of Service (and usually a charge by the Commissioner for Oaths), we do make a charge for the provision of an Affidavit.

Notarised Affidavit - Documents originating from outside of the UK may require us to swear Affidavit in the presence of a Notary Public, and not a Commissioner for Oaths. They can charge highly for their time and any attendance by a process server may be by appointment only, therefore if you require this service we recommend you contact us.

NOTE

If you are unsure which document you require (some documents only require a Statement, others always require an Affidavit) please just include 'supply the relevant confirmation of service' on your instructing letter to us. We will always provide you with a free of charge Statement if it is acceptable in your case.