

# PRACTICE DIRECTION – SERVICE

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 6

### METHODS OF SERVICE

- 1.1 The various methods of service are set out in rule 6.2.
- 1.2 The following provisions apply to the specific methods of service referred to.

### SERVICE BY NON-ELECTRONIC MEANS

#### Service by Document Exchange

- 2.1 Service by document exchange (DX) may take place only where:
  - (1) the party's address for service<sup>1</sup> includes a numbered box at a DX, or
  - (2) the writing paper of the party who is to be served or of his legal representative<sup>2</sup> sets out the DX box number, and
  - (3) the party or his legal representative has not indicated in writing that they are unwilling to accept service by DX.
- 2.2 Service by DX is effected, unless the contrary is proved, by leaving the document addressed to the numbered box:
  - (1) at the DX of the party who is to be served, or
  - (2) at a DX which sends documents to that party's DX every business day.

### SERVICE BY ELECTRONIC MEANS

#### Service by Facsimile

- 3.1 Subject to the provisions of paragraph 3.2 below, where a document is to be served by facsimile (fax):
  - (1) the party who is to be served or his legal representative must previously have indicated in writing to the party serving –
    - (a) that he is willing to accept service by fax, and
    - (b) the fax number to which it should be sent.
  - (2) if the party on whom the document is to be served is acting by a legal representative, the fax must be sent to the legal representative's business address, and

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<sup>1</sup> See rule 6.5.

<sup>2</sup> See rule 2.3 for the definition of legal representative.

(3) a fax number

- (a) provided in writing expressly for the purpose of accepting service where the party to be served is acting in person, or
- (b) set out on the writing paper of the legal representative of the party who is to be served, or
- (c) set out on a statement of case or a response to a claim filed with the court,

shall be taken as sufficient written indication for the purposes of paragraph 3.1(1).

3.2 A legal representative's business address must be within the jurisdiction and is the physical location of his office. Where an electronic address or identification is given in conjunction with the business address, the electronic address will be deemed to be at the business address.

3.3 Service by other electronic means may take place only where:

- (1) the party serving the document and the party on whom it is to be served are both acting by legal representative,
- (2) the document is served at the legal representative's business address, and
- (3) the legal representative who is to be served has previously expressly indicated in writing to the party serving his willingness to accept service by this means and has provided
  - (a) his e-mail address, or
  - (b) other electronic identification such as an ISDN or other telephonic link number.

3.4 Where a document is served by fax or other electronic means, the party serving the document is not required in addition to send a copy by post or document exchange, but if he does not do so and the document is proved not to have been received then the court may, on any application arising out of that non-receipt, take account of the fact that a hard copy was not sent.

## **SERVICE ON CERTAIN INDIVIDUALS**

### **Personal Service on Partners**

- 4.1 Where partners are sued in the name of a partnership, service should be in accordance with rule 6.4(5) and the table set out in rule 6.5(5) where it refers to an 'individual who is suing or being sued in the name of a firm'.
- 4.2 A claim form or particulars of claim which are served by leaving them with a person at the principal or last known place of business of the partnership, must at the same time have served with them a notice as to whether that person is being served:
  - (1) as a partner,

- (2) as a person having control or management of the partnership business, or
- (3) as both.

## **Service on Members of H.M. Forces and United States Air Force**

- 5 The Lord Chancellor's Office issued a memorandum on 26 July 1979 as to service on members of H.M. Forces and guidance notes as to service on members of the United States Air Force. The provisions annexed to this practice direction are derived from that memorandum and guidance notes.

## **SERVICE GENERALLY**

### **Personal Service on a Company or other corporation**

- 6.1 Personal service on a registered company or corporation in accordance with rule 6.4(4) service is effected by leaving a document with 'a person holding a senior position'.
- 6.2 Each of the following persons is a person holding a senior position:
  - (1) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation, and
  - (2) in respect of a corporation which is not a registered company, in addition to those persons set out in (1), the mayor, chairman, president, town clerk or similar officer of the corporation.

## **CHANGE OF ADDRESS**

- 7 A party or his legal representative who changes his address for service shall give notice in writing of the change as soon as it has taken place to the court and every other party.

### **Service by the court**

- 8.1 Where the court effects service of a document in accordance with rule 6.3(1) and (2), the method will normally be by first class post.
- 8.2 Where a party receives a notice of non-service of a document by the court, he should take steps to effect service of the document himself as the court is under no further duty to effect service.
- 8.3 Where the court effects service of a claim form, delivers a defence to a claimant or notifies a claimant that the defendant has filed an acknowledgment of service, the court will also serve or deliver a copy of any notice of funding that has been filed provided -

- (a) it was filed at the same time as the claim form, defence or acknowledgment of service, and
- (b) copies were provided for service.

## CONTENT OF EVIDENCE

### **The following applications relating to service require evidence in support**

- 9.1 An application for an order for service by an alternative method<sup>3</sup> should be supported by evidence stating:
  - (1) the reason an order for an alternative method of service is sought, and
  - (2) what steps have been taken to serve by other permitted means.
- 9.2 An application for service of a claim form relating to a contract on the agent of a principal who is overseas should be supported by evidence setting out:
  - (1) full details of the contract and that it was entered into within the jurisdiction with or through an agent who is either an individual residing or carrying on business within the jurisdiction, or a registered company or corporation having a registered office or a place of business within the jurisdiction,
  - (2) that the principal for whom the agent is acting was, at the time the contract was entered into and is at the time of making the application, neither an individual, registered company or corporation as described in (1) above, and
  - (3) why service out of the jurisdiction cannot be effected.

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<sup>3</sup> See rule 6.8

# Annex

## Service on Members of H.M. Forces

1. The following information is for litigants and legal representatives who wish to serve legal documents in civil proceedings in the courts of England and Wales on parties to the proceedings who are (or who, at the material time, were) regular members of Her Majesty's Forces.
2. The proceedings may take place in the county court or the High Court, and the documents to be served may be both originating claims, interim applications and pre-action applications. Proceedings for divorce or maintenance and proceedings in the Family Courts generally are subject to special rules as to service which are explained in a practice direction issued by the Senior District Judge of the Principal Registry on 26 June 1979.
3. In these instructions, the person wishing to effect service is referred to as the 'claimant' and the person to be served is referred to as the 'serviceman'; the expression 'overseas' means outside the United Kingdom.

## ENQUIRIES AS TO ADDRESS

4. As a first step, the claimant's legal representative will need to find out where the serviceman is serving, if he does not already know. For this purpose he should write to the appropriate officer of the Ministry of Defence as specified in paragraph 10 below.
5. The letter of enquiry should in every case show that the writer is a legal representative and that the enquiry is made solely with a view to the service of legal documents in civil proceedings.
6. In all cases the letter should give the full name, service number, rank or rating, and Ship, Arm or Trade, Regiment or Corps and Unit or as much of this information as is available. Failure to quote the service number and the rank or rating may result either in failure to identify the serviceman or in considerable delay.
7. The letter should contain an undertaking by the legal representative that, if the address is given, it will be used solely for the purpose of issuing and serving documents in the proceedings and that so far as is possible the legal representative will disclose the address only to the court and not to his client or to any other person or body. A legal representative in the service of a public authority or private company should undertake that the address will be used solely for the purpose of issuing and serving documents in the proceedings and that the address will not be disclosed so far as is possible to any other part of his employing organisation or to any other person but only to the court. Normally on receipt of the required information and undertaking the appropriate office will give the service address.

8. If the legal representative does not give the undertaking, the only information he will receive will be whether the serviceman is at that time serving in England or Wales, Scotland, Northern Ireland or overseas.
9. It should be noted that a serviceman's address which ends with a British Forces Post Office address and reference (BFPO) will nearly always indicate that he is serving overseas.
10. The letter of enquiry should be addressed as follows:

**(a) Royal Navy Officers**

**The Naval Secretary**

Room 161  
Victory Building  
HM Naval Base  
Portsmouth  
Hants PO1 3LS

**RN Ratings**

**Commodore Naval Drafting**

Centurion Building  
Grange Road  
Gosport  
Hants PO13 9XA

**RN Medical and Dental Officers**

**The Medical Director General**

(Naval)  
Room 114  
Victory Building  
HM Naval Base  
Portsmouth  
Hants PO1 3LS

**Officers of Queen Alexandra's Royal Naval Nursing Service**

**The Matron-in-Chief**

QARNNS  
Room 139  
Victory Building  
HM Naval Base  
Portsmouth  
Hants PO1 3LS

**Naval Chaplains**

**Director General Naval**

**Chaplaincy Service**

Room 201  
Victory Building  
HM Naval Base  
Portsmouth  
Hants PO1 3LS

**(b) Royal Marine Officers and Ranks****Personnel Section**

West Battery  
 Whale Island  
 Portsmouth  
 Hants PO2 8DX

**RM Ranks HQRM****(DRORM)**

West Battery  
 Whale Island  
 Portsmouth  
 Hants PO2 8DX

**(c) Army Officers and other ranks****Ministry of Defence**

Army Personnel Centre  
 Secretariat, Public Enquiries  
 RM CD424  
 Kentigern House  
 65 Brown Street  
 Glasgow G2 8EH

**(d) Royal Air Force Officers and Other Ranks.**

Personnel Management Agency (RAF)  
 Building 248  
 RAF Innsworth  
 Gloucester GL3 1EZ

**ASSISTANCE IN SERVING DOCUMENTS ON SERVICEMEN**

11. Once the claimant's legal representative has learnt the serviceman's address, he may use that address as the address for service by post, in cases where this method of service is allowed by the Civil Procedure Rules. There are, however, some situations in which service of the proceedings, whether in the High Court or in the county court, has to be effected personally; in these cases an appointment will have to be sought, through the Commanding Officer of the Unit, Establishment or Ship concerned, for the purpose of effecting service. The procedure for obtaining an appointment is described below, and it applies whether personal service is to be effected by the claimant's legal representative or his agent or by a court bailiff, or, in the case of proceedings served overseas (with the leave of the court) through the British Consul or the foreign judicial authority.
12. The procedure for obtaining an appointment to effect personal service is by application to the Commanding Officer of the Unit, Establishment or Ship in which the serviceman is serving. The Commanding Officer may grant permission for the document server to enter the Unit, Establishment or Ship but if this is not appropriate he may offer arrangements for the serviceman to attend at a place in the vicinity of the Unit, Establishment or Ship in order that he may be served. If suitable arrangements cannot be made the legal

representative will have evidence that personal service is impracticable, which may be useful in an application for service by an alternative method.

## GENERAL

13. Subject to the procedure outlined in paragraphs 11 and 12, there are no special arrangements to assist in the service of process when a serviceman is outside the United Kingdom. The appropriate office will however give an approximate date when the serviceman is likely to return to the United Kingdom.
14. It sometimes happens that a serviceman has left the service by the time that the enquiry is made. If the claimant's legal representative confirms that the proceedings result from an occurrence when the serviceman was in the Forces and he gives the undertaking referred to in paragraph 7, the last known private address after discharge will normally be provided. In no other case however will the Department disclose the private address of a member of H.M. Forces.

## SERVICE ON MEMBERS OF UNITED STATES AIR FORCE

15. In addition to the information contained in the memorandum of 26 July 1979, the Lord Chancellor's Office, some doubts having been expressed as to the correct procedure to be followed by persons having civil claims against members of the United States Air Force in this country, issued the following notes for guidance with the approval of the appropriate United States authorities:
16. Instructions have been issued by the U.S. authorities to the commanding officers of all their units in this country that every facility is to be given for the service of documents in civil proceedings on members of the U.S. Air Force. The proper course to be followed by a creditor or other person having a claim against a member of the U.S. Air Force is for him to communicate with the commanding officer or, where the unit concerned has a legal officer, with the legal officer of the defendant's unit requesting him to provide facilities for the service of documents on the defendant. It is not possible for the U.S. authorities to act as arbitrators when a civil claim is made against a member of their forces. It is, therefore, essential that the claim should either be admitted by the defendant or judgment should be obtained on it, whether in the High Court or a county court. If a claim has been admitted or judgment has been obtained and the claimant has failed to obtain satisfaction within a reasonable period, his proper course is then to write to: Office of the Staff Judge Advocate, Headquarters, Third Air Force, R.A.F. Mildenhall, Suffolk, enclosing a copy of the defendant's written admission of the claim or, as the case may be, a copy of the judgment. Steps will then be taken by the Staff Judge Advocate to ensure that the matter is brought to the defendant's attention with a view to prompt satisfaction of the claim.