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solicitors

Civil Procedure – Post Issue

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1

Civil Procedure – Post Issue

A brief introduction to procedural law ...
(including a detour on sure fire ways to reduce your IQ and Salvador Dali's sleeping patterns)

Page 2



2

Civil Procedure – Post Issue

What you know already ...

Page 3



3

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Service of Proceedings: An UNFORGIVING area of Procedure

You must:

- 1. ensure service takes place well within the time allowed
- 2. ensure service takes place against the correct defendant
- 3. ensure service takes place at the correct address.

4

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Ensuring service takes place well within the time allowed

- 1. How long do you have to serve the Claim Form and accompanying documents once the claim has been issued?
 - 2. Forms of service
 - 3. Method of service

5

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Method of service

Method of service	Step required
First class post, document exchange or other service which provides for delivery on the next business day	Posting, leaving with, delivering to or collection by the relevant service provider
Delivery of the document to or leaving it at the relevant place	Delivering to or leaving the document at the relevant place
Personal service under rule 6.5	Completing the relevant step required by rule 6.5(3)
Fax	Completing the transmission of the fax
Other electronic method	Sending the e-mail or other electronic transmission

6

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Ensuring service takes place against the correct defendant

Check the identify of the defendant prior to issue and service.

7

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Ensuring service takes place at the correct address for service

1. Obligations under PD Part 16
2. If a party gives an address for service within the jurisdiction service must take place at that address
3. If Def gives address for service as the Def's solicitors address, service must take place there
4. If the Solicitor has written stating that they are authorised to accept proceedings then service must take place on that solicitor. However, the fact a solicitor is acting for a party and has written on the Def's behalf prior to issue does not mean that authority is inferred. Service on the solicitor without express confirmation that they can accept service is not good service

8

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Defendant's likely grounds for contesting jurisdiction:

1. Service of a photocopy of a CF
2. Service by an inappropriate method
 3. Service is out of time
4. Inappropriate extension of time
5. Service upon the wrong person
6. Service at the wrong address

9

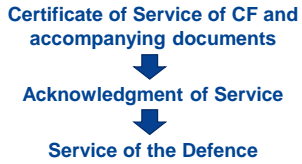
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Not all bad news ...

- 1. *Abeala v Baadarani*
- 2. *United Utilities Group PLC v Hart*
- 3. *CPR 6.15*
- 4. *Bending the rules*

10

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11

Directions Questionnaire

- Notice to file the Directions Questionnaire alongside draft Directions
- Directions Questionnaire (Form N181)
- Draft Directions

NOTE: I am not discussing costs budgets as you have a separate talk on this – but in practice they must be considered at the same time as completing your DQ.

12

Draft directions

Standard disclosure

31.6 Standard disclosure requires a party to disclose only–

- (a) the documents on which he relies; and
- (b) the documents which –
 - (i) adversely affect his own case;
 - (ii) adversely affect another party's case; or
 - (iii) support another party's case; and
- (c) the documents which he is required to disclose by a relevant practice direction.

Inspection

13

Draft Directions



14

EXPERT MEETINGS (1)

- CPR 35.12
- Not mandatory
- Purpose?
- When?
- Representatives not to attend
- Drafting agendas

15

EXPERT MEETINGS (2)

- Preparing your expert
- Review of the joint statement
- What next?

QUESTIONS ?
