

Possession Claims Online

What is it?

Possession Claims Online or PCOL is a web-based system that allows parties to issue claims or warrants relating to possession based on rent (or in some cases mortgage) arrears using the PCOL website¹. It was introduced under Part 55 of the Civil Procedure Rules.

A claim may be started online if it is brought under Section 1 of Part 55 which includes a possession claim for residential property by a landlord against a tenant on the grounds of arrears of rent. It also includes claims made against mortgagees on the grounds of default in mortgage payments. One of the key stipulations of using PCOL is that the defendant must have an address in England or Wales where they can be served and the claimant has to provide a postcode for the property.

The PCOL system is open to use by Individuals, Government, Businesses and their legal representatives, who wish to issue either a claim, a warrant or certain other processes related to possession claims.

How does it work?

Starting the claim:

A claimant may request the issue of a claim form by completing an online claim form at the PCOL website. Followed by paying the appropriate issue fee electronically at the PCOL website or other means approved by Her Majesty's Court Service.

Following this, the particulars of claim must be included in the online claim form and must not be filed separately. The particulars of claim must include a history of the rent or mortgage account, in a schedule form setting out;

- The dates and amounts of all payments due and payments made under the tenancy agreement, mortgage deed or mortgage agreement either from the first date of the default if that date occurred less than two years before the date of issue, for a period of two years immediately preceding the date of issue.
- A running total of the arrears, where if the claimant wishes to rely on a history of arrears, which is longer than two years, this should be stated in the particulars
- In the case of the latter, a full schedule must be exhibited with a witness statement.

¹ <https://www.possessionclaim.gov.uk/pcol/>

When this online claim form is received, an acknowledgement of receipt will automatically be sent to the claimant, however, it must be understood that even though the form has been received, it does not mean that the claim form has been issued or served.

The Next Step:

When the Court issues the claim form they then serve a printed version of the claim form and a defence form on the defendant and send the claimant a notice of issue by post or, if possible, by electronic means.

On the fifth day after the claim was issued the claim form will be served.

What about the defendant?

This follows similar lines to the claimant using PCOL. The steps a defendant needs to take when submitting a defence are:

- File a defence or a counterclaim through PCOL if the system was used to issue the claim – this can be done using the online forms available on the PCOL website.
- If forms are submitted electronically, they are **not** to be sent in hard-copy to the court.
- When this online defence form is received, an acknowledgement of receipt will automatically be sent to the defendant but this does not, however, constitute to the notice as being served.
- From this, the online defence form will be treated as filed, this is so when the Courts have received it

The Statement of truth:

Part 22 of the Civil Procedure Rules requires that any statement of case must be verified by a statement of truth, this applies to any online claims and defences and application notices. The rules also require that if an applicant wishes to rely on matters set out by his application notice as evidence, then a statement of truth must be included.

The statement of truth must then be 'signed' by one of three parties:

- The party him or herself
- His or her litigation friend
- The legal representative of either the party or their litigation friend

If the form is to be submitted online, it is sufficient for an individual to enter their name on the relevant form for it to be considered as signed.

The Statement of Truth is worded as follows:

For a statement of case, a response, an application notice or notice of objections:

“I believe [the (*claimant or as may be*) believes] that the facts stated in this [name of document being verified] are true”

For a witness statement:

“I believe that the facts stated in this witness statement are true”

What do I need to remember?

- The PCOL system can be used by individuals, government, businesses and solicitors acting on behalf of a claimant or defendant.
- Certain documents need to be ‘electronically signed’ and accompanied by a statement of truth – it is important to make sure that the signatory has the right to do so
- Electronic communications can be used but it is important to ensure that the court accepts them
- Particulars of Claim must include a history of the rent (or mortgage) account
- In order to keep track of a case, there is the facility to view the status of a claim and all information filed by the parties online
- In the main, forms received before 4p.m. will be treated as being received on that day
- Any forms received after 4p.m. will be treated as being received the next working day