

# Factsheet: What happens if I receive a Local Court Statement of Claim?

This factsheet looks at what you can do when someone claims you owe them money and you have been served with a Local Court Statement of Claim. It covers the following topics:

- What is a Statement of Claim?
- What if I don't owe the money claimed?
- How do I defend the claim?
- What if I agree I owe the money but cannot afford to pay it all at once?
- What if I only owe part of the amount claimed?
- What if the person claiming money also owes me money?
- What happens if I do nothing?
- What if I was not given or sent the Statement of Claim?

## What is a Statement of Claim?

A **Statement of Claim** is a court document used to start a court case about a debt or other legal dispute. A person who claims they are owed money and starts a case is called the Plaintiff. The person who is alleged to owe the money is called the Defendant. The Statement of Claim sets out the details of the Plaintiff's claim.

If you get a Statement of Claim you must act quickly, especially if you disagree with the claim. You only have **28 days** from the date you received the Statement of Claim to file a **Defence**. A Defence is a court document stating that you do not owe all or part of the money claimed.

If you do not file a Defence within 28 days, the Plaintiff can get a **default judgment** against you.

It is against the law for someone to give you a document that looks like a Statement of Claim if it is not a real Statement of Claim. If you are not sure if the document you have received is a genuine Statement of Claim issued by the court, get legal advice immediately.

If the person claiming money from you is an ex-partner, you should get legal advice from a family lawyer.

## What if I don't owe the money claimed?

If you don't owe all the money claimed in the Statement of Claim, you will need to defend the claim.

You should get legal advice quickly before deciding to defend a claim. Remember, you only have **28 days** from the date that you received the Statement of Claim to file a Defence with the court.

If you did owe all the money claimed, but you have already paid it to the Plaintiff, you need to let the Court know by filing a Notice of Payment. To file a Notice of Payment, you need to complete Form 34 – Notice of Payment. You can get a copy of the form from any local court or the [Uniform Civil Procedure Rules \(UCPR\) website](https://www.ucprforms.nsw.gov.au/) (<https://www.ucprforms.nsw.gov.au/>).

### **How do I defend the claim?**

You need to fill out a Defence and file it at the court with two copies. You can get the Defence form from any Local Court or from the [Uniform Civil Procedure Rules \(UCPR\) website](https://www.ucprforms.nsw.gov.au/).

You can also complete and file the Defence form online using the [NSW Online Registry](https://www.nswcourts.gov.au/online-registry).

If you file the Defence in person at the court, the court will send a copy of your Defence to the Plaintiff and return a copy to you with the court stamp on it, which is known as a "sealed copy" of the Defence.

If there is more than one Plaintiff you will have to file extra copies of your Defence.

When you have filed a Defence, you will be notified by the court of the date you have to attend court.

You may have to go to court a few times before the case is finally heard and a decision made as to whether you owe the money claimed by the Plaintiff.

A solicitor from Legal Aid or a community legal centre may be able to help you fill out your Defence form and prepare for a hearing.

You can also get information about [filling out a Defence form](#) and preparing for a hearing from the [LawAccess](#) website and in particular, the section entitled Responding to a Statement of Claim. Also see RLC's **"How do I defend a claim in the Local Court" Factsheet**.

If you lose the case, you may be ordered to pay all or some of the amount claimed, plus interest and some of the legal costs of the Plaintiff. Together this amount is called the judgment debt. See RLC's **"Enforcement of a judgment debt" Factsheet** for more information about enforcing judgment debts.

If you win the case, you will not have to pay the money claimed by the Plaintiff. If you had a solicitor represent you, the Plaintiff may be ordered to pay some of your legal costs.

### **What if I agree I owe the money but cannot afford to pay it all at once?**

If you agree you owe the money claimed in the Statement of Claim you can try to negotiate with the Plaintiff. You may be able to negotiate to pay off the debt in instalments, or to pay a lump sum to settle the claim. You may also be able to negotiate to avoid a default judgment being entered against you. The Plaintiff may agree to sign a Consent Order for the claim to be dismissed, or withdraw the claim by filing a Notice of Discontinuance.

You should get legal advice about ways to finalise a claim when you have negotiated an agreement with the Plaintiff.

If the Plaintiff will not negotiate with you, another option is to file a form at court called an Acknowledgement of Liquidated Claim along with a Notice of Motion to pay by Instalments.

Click on these links for more detailed information about making an application to the court to [pay by instalments](#), and for information about [filing an Acknowledgement of Liquidated Claim](#).

### **What if I only owe part of the amount claimed?**

You still need to file a Defence. You should deny the part of the debt that you do not owe and admit to the part that you do owe. Remember that if you admit to part of the debt, you should arrange payment of that part.

### **What if the person claiming money also owes me money?**

You can file a document called a **Statement of Cross Claim**. This is done at the same time your Defence is filed, that is, within 28 days of being served with the Statement of Claim. You must serve a copy of the Statement of Cross Claim on the Plaintiff.

You should get legal advice before filing a cross claim as you can be ordered to pay legal costs to the other party if your claim is not successful. You can get the Statement of Cross Claim Form – Form 9 from any Local Court, the [Uniform Civil Procedure Rules \(UCPR\) website](#) or from the [Online Registry website](#). You can get information about filing a Cross Claim from the LawAccess website's section on [Cross Claims](#).

### **What happens if I do nothing?**

If you do not file a Defence and you do not attend the hearing, the Plaintiff can seek a **default judgment** against you. This means that the court will make an order that you must pay the money claimed by the Plaintiff. The court will make the order without a hearing and without notifying you.

Once a default judgment is made against you, the Plaintiff has up to 12 years to enforce it. See **RLC's "Enforcement of a judgment debt" factsheet** for more information on enforcement.

**You should never ignore a Statement of Claim.** You can get legal advice about a Statement of Claim from a [community legal centre](#), a [Legal Aid office](#) or [LawAccess](#).

There is detailed information about how to respond to a Statement of Claim on the LawAccess website, and you can access this information by clicking [here](#).

### **What if I did not receive the Statement of Claim?**

Sometimes a default judgment is made against a person who was never served with the Statement of Claim. In these cases, the defendant was not aware of the claim and could not respond to it.

In some situations, you can apply to the court to have the default judgment set aside. The court can make an order cancelling the default judgment, giving you the opportunity to defend the claim. Click on the link to see more [information about applying to set aside a default judgment](#), available on the LawAccess website.

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