

GUIDANCE ON SETTING ASIDE A DEFAULT JUDGMENT

(For N244, Draft Order and Witness Statement)

These notes explain how to correctly complete and use the documents in your Default Judgment Set-Aside Pack.

They help you avoid mistakes and ensure your application is clear, accurate, and ready for court.

1. Things You MUST Change in All Documents:

A. Text in Blue (if shown in your version)

- Read it carefully
- Change it to match your situation
- OR delete it if it does not apply

B. Text in Italics

- These are instructions
- Remove the italics
- Replace them with your own information
- OR delete the instruction if it does not apply

C. Text in Square Brackets [like this]

- Read the text inside the brackets
- Change the information that suits your situation, or what has happened to you.

Examples:

- [Date of judgment] → replace with the actual date of the Judgment you received
- [Explain why you did not receive the claim form] → replace with your own explanation

D. Exhibit to Your Witness Statement

- “JP1” is simply the exhibit label for your evidence bundle. It must match your own initials, followed by the number 1, because this is your first witness statement.

Example:

- If your name is *Jonathan Pierce* → JP1
- If your name is *Sarah Khan* → SK1
- If your name is *Michael Brown* → MB1
- After renaming the exhibit to match your initials, you must add all supporting documents behind the exhibit cover sheet at the end of the statement.

- Number every page in the exhibit bundle clearly and in order.
- Then, go back to your witness statement and insert the correct page numbers next to each paragraph you are keeping, so the judge can easily find the evidence.
- The evidence must follow the chronological order of the paragraphs in your witness statement.

For example:

- Paragraph about service/sent to wrong address → attach tenancy agreement/council tax/proof of address
 - Paragraph about dates → attach screenshots or letters
 - Paragraph about confusion → attach correspondence
 - Paragraph about draft defence → attach your own draft defence. This document is *not* included in this pack because a draft defence is highly individual and must be written to reflect the specific facts of your case. You must prepare your own draft defence separately and include it in your exhibit bundle behind the exhibit cover sheet.
- Every paragraph that relies on evidence must point to the correct page number in your exhibit bundle.

2. Sections That Only Apply to Some People

Some parts of the witness statement are optional.

You must keep only the ones that strictly apply to your situation.

If you are keeping the paragraphs about having a real prospect of successfully defending the claim and about prejudice, remember that these apply to most applicants but you must only rely on them if they genuinely apply to your case. Do not state that you have a real prospect of success unless your draft defence actually raises a proper, arguable defence that the court could consider at trial.

Examples of optional sections:

- Service problems (only if you did not receive the claim form)
- Premature judgment (only if judgment was entered before the deadline)
- Confusion caused by the claimant you were dealing with
- Real prospect of defending the claim
- Good reason under CPR 13.3(1)(b)

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- If a section does not apply to you:
- Delete the whole paragraph
- If a paragraph is followed by the word “OR”, you must choose the paragraph that applies to your situation and delete the other one completely.

3. CPR Grounds You MUST Review and Delete if Not Relevant

Your witness statement includes all possible grounds under:

- CPR 13.2 (mandatory set-aside)
- CPR 13.3 (discretionary set-aside)

You cannot keep all of them.

You must:

- Read each CPR ground
- Decide if it applies to your case
- Keep only the ones that are true
- Amend to fit your situation
- Delete the rest completely

Keeping irrelevant grounds will weaken your application.

4. Paragraph 7 – How to Check if Judgment Was Entered Too Early

If you are relying on premature judgment, you must understand and apply the correct dates.

To work out whether default judgment was entered too early, you look at three dates. First, the law adds two working days to the issue date of the claim form (first page of the claim and has a date) to work out when it is treated as having been served. Second, you add 14 days to that service date to find the deadline for filing an Acknowledgment of Service (AOS). If no Acknowledgment of Service is filed, the Defence must be filed within the same 14-day period from the date of service. Only if an Acknowledgment of Service is filed does the Defence deadline extend from 14 to 28 days from the date the claim was served.

You must:

- Insert your own dates
- Show the calculation clearly
- Attach evidence if available or provide a clear explanation and calculation

- If the claimant requested judgment before the correct deadline, the judgment is irregular and must be set aside under CPR 13.2.
- If this does not apply to you → delete the paragraph.

5. N244 Application Form

The only things a user must change are:

- Their own personal details
- The court name, claim number, party names, dates, and contact details
- Whether they want a hearing or not (if different)
- Whether they are the Claimant or Defendant (you are usually the Defendant/Applicant)

6. Draft Order

- If the principal sum claimed (excluding interest and costs) is over £10,000, the claim will not be allocated to the small claims track. It will normally be allocated to the fast track instead. In that situation, you must keep the fast track section of the draft order and delete the small claims section. Do not leave both sections in the order unless you are genuinely unsure which track applies, and if you are unsure, you should say so clearly.

7. Things You MUST NOT Remove

These sections are legally required and must stay:

- Statement of Truth
- Your name and address
- The date of your application
- The request to set aside judgment
- The explanation of promptness
- The draft order
- The reference to your exhibits
- The overall structure of the witness statement

These protect your application and show the court you understand the process.

8. Information You MUST Add Yourself

Every application must include:

- Your full name
- Your address
- The date you discovered the judgment
- The date you file the N244, for example 4 May 2026 as seen in the N244 application

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- Your explanation of what happened
- Evidence (emails, letters, screenshots, tenancy documents, etc.)
- A draft defence (if relying on CPR 13.3)
- A clear explanation of why the judgment should be set aside

9. Keep All Documents Consistent

Make sure:

- The dates match across all documents
- Exhibits are labelled correctly
- You use the same address throughout
- You remove all unused CPR grounds

Consistency helps the judge understand your case quickly.

8. Final Checklist Before Sending

Ask yourself:

- Have I removed all brackets?
- Have I removed all instructions which will be in blue?
- Have I deleted CPR grounds that do not apply?
- Have I added my own dates and facts?
- Have I included evidence?
- Have I explained promptness?
- Have I attached a draft defence, which is highly recommended?

If yes, your application is ready for court.