

# Judgment handed down in Coal Pension Properties Limited v Mace Living Limited and others [2026] EWHC 1248 (TCC)

This note summarises the judgment in *Coal Pension Properties Limited v Mace Living Limited and others* [2026] EWHC 1248 (TCC), handed down on 26 May 2026. The case concerned the service of a Claim Form on the last day of its period of validity; specifically whether the Claim Form had been validly served and if not, whether the Court should permit alternative service under CPR 6.15 and grant relief from sanctions for service of the particulars of claim under CPR 3.1 or 3.9.

[Sean Brannigan KC](#) and [Alice Carse](#) acted for the successful Defendants, several Mace entities and obtained a declaration that the Court did not have jurisdiction to try the claim.

## *No authority to accept service*

The Claim Form had been issued on 23 December 2021 and stated that the Defendants' address for service was its registered office. A series of stays extended the date for service of the claim form. Nowhere in correspondence between the firms of solicitors for the Claimant and Defendants did the Claimant's solicitors ask whether (a) the Defendants' solicitors, Clyde & Co. LLP ('Clyde & Co'), were authorised to accept service; or (b) Clyde & Co was willing to accept service by electronic means. At 16:46 on the last day of validity of the claim form the Claimants' solicitors purported to serve by email on Clyde & Co.

The Judge held that the Claim Form had not been validly served on Clyde & Co, because it did not have authority to accept service. The Claimant's argument that authority to accept service could be established by communication between solicitors regarding a draft N244 form in respect of the date for provision of the Letter of Claim and the date for service of the Claim Form, was rejected. The Judge stressed the fundamental importance of clarity as to whether a defendant's solicitor has authority to accept service.

Whilst this conclusion was sufficient to establish that the purported service of the Claim Form was not valid, the Judge went on to consider whether Mace, through Clyde & Co, had accepted that service could be effected electronically.

## *Electronic service*

The Judge found that even if Clyde & Co did have authority to accept service, valid electronic service had not been effected. Whilst an email footer in circulation during the Covid-19 pandemic had stated that service of claim forms and other documents should be made by email, this was expressly stated to be "*until further notice*". This further notice came in the form of a subsequent email footer which expressly stated that "*where you have agreed with the lawyer with the conduct of the case that email service is appropriate, please use this address ...*"

The purported service failed to comply with this in that the relevant email attempting to make service was not sent to the identified service address. Also, the Claimant failed to comply with paragraph 4.2 of PD 6A in that no enquiries were made of Clyde & Co in respect of any limitations regarding electronic service.

In addition, the Judge rejected the Claimant's submission that the notification on the email footer in circulation during the Covid-19 pandemic that service could be effected electronically, could not be withdrawn. There was no support for this proposition in the CPR and there are many practical reasons why retraction or amendment of previous notice would be appropriate.

#### *CPR 6.15*

Given that purported service of the Claim Form was not valid, the Claimant sought an order under CPR 6.15 effectively retrospectively validating the mode of service adopted. Applying the factors set out by Carr LJ in *The Queen ex p. The Good Law Project v. The Secretary of State for Health and Social Care* [2022] EWCA Civ 355, the Judge found that:

(i) The Claimant had not taken reasonable steps to effect service in accordance with the CPR, in large part on the basis that the Claimant had not taken the step of asking Clyde & Co whether it had authority to accept service. Further, the Claimant had left service until a very late stage.

(ii) Whilst the Defendants and Clyde & Co were aware of the contents of the Claim Form at the time when it expired, without more this did not constitute a good reason for validating service.

(iii) Validating service would result in prejudice to the Defendants in that they would be deprived of the opportunity to advance a limitation defence. The Claimant contended that it could still pursue the claim on an alternative basis under the Defective Premises Act 1972 ('DPA'); but this did not advance its case and could be considered a factor against it. If the claim could proceed under the DPA in whole or part, then the Claimant would not be prejudiced (or in a large part would not be prejudiced) by an inability to pursue a claim in contract or tort.

Overall, the Judge did not identify any facts or circumstances which meant that the Claimant's application under CPR 6.15 should be granted.

#### *CPR 3*

Given that the Claim Form had not been validly served and the Claimant's application under CPR 6.15 had failed, the Claimant's application in respect of service of the particulars of claim did not fall to be considered.

#### *No jurisdiction to try the claim*

It followed that the Defendants' application for a declaration that the court did not have jurisdiction to try the claim was successful.

#### *Analysis*

This case shows that the Court attaches great importance to ensuring that claimants comply with the rules for serving a claim form and commencing proceedings. It will not indulge claimants who fail to ensure that service is made validly in accordance with the rules. If there is any doubt about who should be served and by what means, this judgment shows it is the responsibility of the claimant to resolve that doubt and discover the true position. The judgment should also discourage claimants and their solicitors from leaving service until the last available moment.

Sean Brannigan KC and Alice Carse are instructed by Clyde & Co LLP.

Read the full judgment [here](#).

Article written by [Jonathan Marks KC](#).