

Glasgow Tribunals Centre

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**Guidance on a Request for Service by Advertisement**

**This document explains the process for submitting the form to request service by advertisement on a party where their address is unknown; the evidence you will have to provide; and what the further process will be.**

The first part of the guidance note is structured to match the different sections of the request form, and gives details of what information you need to provide.

The second part of the note give some further information about how requests will be dealt with by the administration, and what the possible outcomes from the Tribunal could be.

**Part 1: The Request form**

**1. TYPE OF APPLICATION**

In this section of the form, you should inform us of what kind of service you are seeking.

You should select option **1 a)** if you are required to serve pre-application notices before making an application to the Tribunal but have not been able to do so because:

* you do not have an address for the other party and have not been able to initiate service or
* you attempted service and have discovered that the other party is no longer at the address.

If you select option **1 a)** you will need to complete **all** sections of the form.

You should select option **1 b)** if the address of a party is required for making an application and is not known to you and either:

* you were able to successfully serve any required notices on the other party but their address is now unknown or
* you do not require to serve any pre-application notices on the other party but you cannot provide an address for the other party

Selecting option **1 b)** means that you do not have to complete Section 2 of the form, and can instead go straight to **Section 3**.

# 2. NOTICES WHERE THERE HAS BEEN ATTEMPTED SERVICE

If you selected option **1 a)** above, you will need to complete **Section 2** by providing details of the notices you have attempted to serve but have been unable to do so, the notice period that applies to them, and the efforts you have already made to serve the documents.

In Section **2 a)** you should list the required notices under the Tribunal Rules which you have attempted to serve, as well as the amount of notice you are required to give for each one. Where service has to be carried out before the ish of a tenancy you must provide the ish date and tell us how far in advance of the ish that service must be undertaken.

The ish date of a tenancy is the termination or end date.

You must also enclose a copy of each notice you refer to with the request form. Failure to provide valid notices may result in your application for service being refused and your main application being rejected.

In Section **2 b)** you are required to give details of the attempts you have made to serve the notices. This will include telling us the method by which service was attempted and the outcome. You should include any documentary evidence relating to the attempted service. If the application is in respect of a notice required in connection with an application for an order for possession, evidence of service by sheriff officers will usually be required.

**3. STEPS TAKEN TO ASCERTAIN THE ADDRESS**

In this section, you should tell us what you have done to find the address of the other party, after you became aware that their address was unknown. You should enclose any written evidence of the steps you have taken and evidence that attempted service was unsuccessful. Steps taken here can be as a result of failed attempts at service of documents, where you have taken further action to try and locate the party.

The Tribunal may direct that further steps should be taken before the application will be accepted, so you should give as much detail as possible of what action you have taken so far, and the results of your enquiries.

# 4. DETAILS OF PARTIES

Finally, you should give us your name and address, and the last known address of the other party. You should also specify the property for which the application is being made. These details will form part of the advertisement if the Tribunal accepts the request for service.

# 5. SIGNATURE

You should sign and date the application form where shown.

**PART 2: Guidance on the process**

**Who can make a request for service by advertisement?**

Anyone who is making an application to the Tribunal under one of the main application types referred to in parts 2 or 3 of the Chamber Procedural Rules is entitled to request service by advertisement where the address of other party is unknown.

**How do I submit a request for service by advertisement?**

The request for service by advertisement can only be made as part of a main application to the Tribunal.

When you have completed your main application form and gathered the supporting documents and required attachments that relate to it, you should then complete the request form for service by advertisement and supply any supplementary evidence/documentation to support the request for service. Both forms and related documentation should then be sent together to the Tribunal.

**What happens when my request is received?**

Since a request for service can only be made as part of a valid application to the Tribunal, the main application will go through the normal checks to confirm the application can proceed. If the application is in some way defective, then the Tribunal will require this to be remedied. Only when the application has passed these initial checks will consideration be given to the request for service.

The Tribunal must then consider the request for service in terms of Rule 5 (4-6) of the Tribunal Rules. The Rules state:

5(4) Where the address of a party is not known to the person making an application under these Rules, the applicant must state this in the application and complete a request for service by advertisement in accordance with paragraph (5).

5(5) Any request for service by advertisement must provide details of any steps taken to ascertain the address of the party and be accompanied by a copy of any notice required under these Rules which the applicant attempted to serve on the other party and evidence of any attempted service.

5(6) The First-tier Tribunal may direct any further steps which should be taken before the request for service by advertisement will be granted.

If the Tribunal directs that further steps should be taken, failure to comply with this Direction will lead to the request being refused.

**What happens if the request for service is refused?**

Where the Tribunal is not satisfied that the appropriate steps have yet been taken, the request will not be granted.

Where the request for service by advertisement is refused the Tribunal may also consider that the main application should be rejected. For example, if a party has requested service of a pre-application notice, the refusal to serve by advertisement means the applicant has not been able to serve the required documentation.

**What happens if the request for service is accepted?**

Where the request for service by advertisement has been made because the address of a party is required for making an application and is not known and the Tribunal is satisfied that the steps taken by the applicant are sufficient, the request for service by advertisement will be granted and the details of the application will be advertised on the tribunal website.

Where the request for service by advertisement relates to a pre-application notice which the applicant unsuccessfully attempted to serve on the other party and the Tribunal are satisfied that the notice supplied with the application arguably complies with the statutory requirements and decide to accept the application, the Tribunal will direct that the notice be served by advertisement on the tribunal website. The notice will be publicised on the website for the duration of the relevant period of the notice. For example, if the applicant is required to give 2 months’ notice to the other party, the advertisement will remain on the website for the full 2 months.

Some notices contain particular dates and timescales that apply from the date of service. If the notice provided with the application for service is out of date the Tribunal may require the applicant to provide a new version of the notice that is validly dated allowing for service by advertisement. If a party provides a defective document at this stage, the request for service will be refused and the application will be rejected.

While service of the pre-application notice is being undertaken by advertisement the case cannot proceed any further, and will be placed on hold until the required notice period has been completed. After this date, the application will be returned to the Chamber President or legal member with delegated powers for a final check before a decision is made as to whether or not the main application can be accepted.

It should be noted that even although a notice is accepted for advertisement, the validity of a notice can still be challenged at a later stage in the proceedings. The Tribunal at the pre-advertisement stage considers whether the notice arguably is valid and arguably meets the statutory requirements.