

132nd UPDATE – PRACTICE DIRECTION AMENDMENTS

New Practice Direction 51ZB which supplements the Civil Procedure Rules 1998 is made by the Master of the Rolls under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and is approved by Lord Wolfson of Tredegar QC, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

New Practice Direction 51ZB comes into force on 28th May 2021.

The Right Honourable Sir Geoffrey Vos
Master of the Rolls and Head of Civil Justice:

Signed by authority of the Lord Chancellor:

Lord Wolfson of Tredegar QC

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 26th May 2021

PRACTICE DIRECTION 51ZB - THE DAMAGES CLAIMS PILOT

- 1) After Practice Direction 51ZA, insert Practice Direction 51ZB – the Damages Claims Pilot, as set out in the Schedule to this Update.

SCHEDULE

“PRACTICE DIRECTION 51ZB - THE DAMAGES CLAIMS PILOT

Contents of this Practice Direction

Title	Paragraph number
SECTION 1 – Scope of the Damages Claims Pilot	Paragraph 1.1
SECTION 2 – Starting a Claim	Paragraph 2.1
SECTION 3 – Notifying Claim to Defendant	Paragraph 3.1
SECTION 4 – Notifying Details of Claim to Defendant	Paragraph 4.1
SECTION 5 – Defendant’s Acknowledgement of Claim	Paragraph 5.1
SECTION 6 – Defendant’s Response to Claim	Paragraph 6.1
SECTION 7 – Initial Case Management	Paragraph 7.1
SECTION 8 – Transfer of Claim Out of DCP	Paragraph 8.1

SECTION 1 – SCOPE OF THE DAMAGES CLAIMS PILOT

1.1

In this Practice Direction—

“all proceedings order” means an all proceedings order under section 42(1A) of the Senior Courts Act 1981;

“CCMCC” means the County Court Money Claims Centre;

“civil proceedings order” means a civil proceedings order under section 42(1A) of the Senior Courts Act 1981;

“civil restraint order” means an order specified in CPR Practice Direction 3C paragraph 1(a), 1(b) or 1(c);

“the Damages Claims Portal” (and “the DCP”) means the online portal for managing damages claims managed by HM Courts and Tribunals Service;

“MyHMCTS” means the online case management tool managed by HM Courts and Tribunals Service.

1.2

This Practice Direction establishes a pilot to test an online claims process, called “Damages Claims”. Damages Claims are managed using the Damages Claims Portal (“DCP”).

1.3

The pilot will run from 28 May 2021 until 30 April 2024.

1.4

This Practice Direction sets out the procedure to be followed when using the DCP. The Civil Procedure Rules (“CPR”) will apply to Damages Claims save that where provisions in this Practice Direction conflict with other provisions in the CPR or other practice directions (“PD”), this Practice Direction takes precedence until the claim is transferred out of the DCP. Once the claim is transferred out of the DCP, this Practice Direction will no longer apply. The transfer of a claim out of the DCP does not affect the validity of any step taken prior to transfer.

1.5

(1) The following are available from links on the DCP—

- (a) guidance on the operation of the DCP;
- (b) a “dummy version” of the DCP with copies of the DCP screens that need to be completed to start a claim or to respond to a claim; and
- (c) specification documentation for the DCP.

(2) The documents identified in sub-paragraph (1) are not part of this Practice Direction.

1.6

A claim is only suitable for the pilot if all the following conditions are met—

- (a) the claim is a claim for damages only;
- (b) the claim would not ordinarily follow the Part 8 procedure;
- (c) the claim is not made under one of the provisions of the Consumer Credit Act 1974 specified in CPR PD 7B paragraph 3.1;
- (d) the claimant is represented by a legal representative who—
 - (i) has registered with MyHMCTS; and
 - (ii) has been provided with access to the DCP;
- (e) the claimant is aged 18 years or over, or is under 18 and has a litigation friend (in which case a statement of suitability must be provided);
- (f) the claimant is not a protected party within the meaning of CPR 21.1(2)(d);
- (g) the fee for issuing the claim is paid in full using the “Payment By Account” system;
- (h) the claim is conducted in English;
- (i) the claimant does not have in force against them—
 - (i) a civil proceedings order;
 - (ii) an all proceedings order; or
 - (iii) a civil restraint order; and
- (j) the claimant believes that the defendant—
 - (i) has a postal address for service within England and Wales;
 - (ii) is aged 18 years or older; and

(iii) is not a protected party.

1.7

The date specified in paragraph 3.2 applies whether or not it falls on a weekend or public holiday (which means Christmas Day, Good Friday or a Bank Holiday). In respect of every other time limit provided by this Practice Direction—

- (a) if it would otherwise fall at 4pm on a weekend or public holiday, the time limit is automatically extended to 4pm on the next business day; and
- (b) if it would otherwise fall at midnight at the end of a day which is a weekend or public holiday, the time limit is automatically extended to midnight at the end of the next business day.

1.8

Where—

- (a) a party is required to verify a document by signing a statement of truth; and
 - (b) that document (or the contents of that document) is to be uploaded to the DCP,
- the requirement for a signature is satisfied by the person who is verifying the document typing their name beneath the statement of truth.

SECTION 2 – STARTING A CLAIM

2.1

- (1) To request the issue of a claim form the claimant must—
 - (a) complete the claim form using the DCP's screens;
 - (b) pay, through the DCP, the appropriate fee that is prescribed in the Civil Proceedings Fees Order 2008; and
 - (c) submit the claim form using the DCP, by selecting the “submit” button.
- (2) By selecting the “submit” button the user thereby—
 - (a) verifies the brief details of claim by a statement of truth for the purposes of CPR Part 22 and CPR 32.14; and
 - (b) requests that the court issues a claim form.
- (3) Any documents which the claimant wishes to file or is required to file with the claim form may be uploaded to the DCP, but must be in one of the machine-readable formats accepted by the DCP.

2.2

- (1) The court must notify the claimant by e-mail when the claim is received by the court.
- (2) Notification of receipt does not constitute notice that the claim form has been issued.
- (3) The court must issue the claim form when payment of the appropriate fee is confirmed.

(4) The claim is brought for the purpose of the Limitation Act 1980 and any other period of limitation at the point at which the claim is issued, and not before. CPR PD 7A paragraph 5.1 does not apply.

(5) The court must—

- (a) notify the claimant by e-mail when the claim is issued and of the date of issue; and
- (b) provide the issued claim form to the claimant via the DCP.

(6) If the defendant is not represented by a legal representative who is registered with MyHMCTS and who has confirmed authorisation to accept notifications on behalf of the defendant (including notification of the Claim Form) from the DCP, the claim will be automatically transferred out of the DCP, immediately after it is issued, to the CCMCC.

(7) If the claim is transferred out of the DCP pursuant to paragraph (6), then paragraph 8.4 and CPR 7.5(1) will apply.

SECTION 3 – NOTIFYING CLAIM TO DEFENDANT

3.1

(1) The claimant must notify the defendant of the claim through the DCP.

(2) Notification of the claim constitutes service of the claim form in accordance with CPR 7.5(1).

(3) When the defendant is notified of the claim—

- (a) both parties must be notified of the date of notification; and
- (b) the defendant must be notified of the date of issue of the claim,

through the DCP.

3.2

The claimant must comply with paragraph 3.1(1) before 12 midnight at the end of the calendar day four months after the date of issue of the claim form.

Examples:

1. Claim form issued on 31 May 2021. Claim must be notified before midnight at end of 30 September 2021.
2. Claim form issued on 9 June 2021. Claim must be notified before midnight at end of (Saturday) 9 October 2021.
3. Claim form issued on 28 February 2022. Claim must be notified before midnight at end of 28 June 2022.

3.3

If the claimant has not notified the defendant of the claim by the time specified in paragraph 3.2, then the claim against the defendant will be automatically dismissed without the need for any further order.

3.4

If the claim is dismissed pursuant to paragraph 3.3, any application for an order extending the time provided for by paragraph 3.2 must be made by an application for an order under CPR 7.6 filed at the CCMCC.

SECTION 4 – NOTIFYING DETAILS OF CLAIM TO DEFENDANT

4.1

(1) The claimant must provide the details of the claim (the Particulars of Claim and any supporting documents) through the DCP, by completing the relevant screens.

(2) Any documents which the claimant wishes to file or is required to file in support of their claim may be uploaded to the DCP, but must be in one of the formats accepted by the DCP.

4.2

The details must include the information required by CPR 16.4.

4.3

The details of the claim or any documents provided may be amended or added to, using the DCP, at any time before they have been notified to the defendant.

4.4

(1) The claimant must notify the defendant of the details of the claim before the earlier of—

(a) the time specified in paragraph 3.2; and

(b) 4pm on the 14th day after that defendant was notified of the claim.

(2) Both parties must be notified of the date of notification through the DCP.

4.5

If the claimant has not notified the defendant of the details of the claim by the time specified in paragraph 4.4, the claim against the defendant will be automatically dismissed.

4.6

Any application for an order extending the time provided for by paragraph 4.4, or to reinstate a claim that has been dismissed pursuant to paragraph 4.5 must be made by an application filed at the CCMCC.

SECTION 5 – DEFENDANT’S ACKNOWLEDGEMENT OF CLAIM

5.1

- (1) The defendant may acknowledge the claim after notification of the details of the claim.
- (2) Acknowledgement must be given through the DCP.
- (3) Subject paragraphs (1) and (2), the defendant must acknowledge the claim if they wish to challenge the court’s jurisdiction.
- (4) Where the defendant acknowledges the claim pursuant to paragraph (3) the defendant must, within 14 days, make an application under CPR Part 11 which must be filed at the CCMCC.
- (5) Where the defendant files an application under CPR Part 11 at the CCMCC the claim must be transferred out of the DCP to the CCMCC.
- (6) If the claim is transferred out of the DCP under sub-paragraph (5), paragraph 8.4 will apply.

5.2

The time within which the defendant may acknowledge the claim expires at 4pm on the 14th day after notification of the details of the claim.

SECTION 6 – DEFENDANT’S RESPONSE TO CLAIM

6.1

The defendant must respond to the claim by the time specified by the DCP.

6.2

The parties may agree an extension of time of up to 28 days. The defendant must record on the DCP any such agreed extension of time before the expiry of the time limit specified by the DCP. The time limit will then be amended on the DCP.

6.3

The time specified by the DCP for the purposes of paragraph 6.1 is—

- (a) 4pm on the 14th day after the claimant notified the defendant of the details of the claim (if the defendant has not acknowledged the claim under section 5 and no alternative date has been set);

- (b) 4pm on the 28th day after the claimant notified the defendant of the details of the claim (if the defendant has acknowledged the claim under section 5 and no alternative date has been set); or
- (c) such other date stated on the DCP following the agreement of the parties under paragraph 6.2.

6.4

(1) The defendant must respond to the claim through the DCP.

(2) If the defendant indicates that they—

- (a) admit all or part of the claim; or
- (b) wish to make a counterclaim,

the claim will be automatically transferred out of the DCP to the CCMCC and paragraph 8.4 will apply.

6.5

(1) If the defendant indicates that they will defend all of the claim, they must submit—

- (a) the details of their defence; and
- (b) the directions questionnaire,

by completing the relevant screens, and selecting the “submit response” button, on the DCP.

(2) The defendant’s response must include the information required by CPR 16.5.

(3) Any documents which the defendant wishes to file or is required to file with their defence may be uploaded to the DCP, but must be in one of the machine-readable formats accepted by the DCP.

(4)

- (a) the claimant must be notified when the defendant has submitted details of their defence; and
- (b) both parties must be notified of—
 - (i) the date of notification; and
 - (ii) the date by which the claimant must provide initial case management information.

6.6

(1) If the defendant fails to respond to the claim by the time specified by the DCP, the claimant is entitled to apply for judgment on the claim.

(2) An application for judgment may be made by—

- (a) filing a request under CPR 12.4 at the CCMCC; or
- (b) making an application under CPR 12.4 at the CCMCC.

(3) When an application for judgment is made, the claim must be transferred out of the DCP to the CCMCC and the application for judgment will be treated in accordance with CPR Part 12.

6.7

(1) If—

(a) the defendant fails to respond to the claim by midnight on the date 6 months after the date of notification of the details of the claim;

(b) the claimant has not made a request or applied for judgment under paragraph 6.6; and

(c) the claimant has not made an application under paragraph 8.1,

the claim will be automatically dismissed.

(2) Any application to extend the time period in sub-paragraph (1), or to reinstate a claim that has been dismissed pursuant to sub-paragraph (1), must be filed at the CCMCC.

SECTION 7 – INITIAL CASE MANAGEMENT

7.1

If the defendant responds to the claim with a defence, then the DCP will seek information from the claimant to facilitate initial case management.

7.2

The claimant must, through the DCP, complete the hearing information screens within the time period specified by the DCP.

7.3

The claim will be transferred to a County Court Hearing Centre pursuant to paragraph 8.1 after the claimant complies with paragraph 7.2.

7.4

If the claimant does not comply with paragraph 7.2 within the time specified by the DCP—

(a) the claim will, at that point, be transferred to a County Court Hearing Centre pursuant to paragraph 8.1;

(b) the claim will be treated in the same way as if the claimant had failed to comply with a notice served under CPR 26.3(1); and

(c) an order will be made under CPR 26.3(8).

7.5

In those claims to which the provisions of Section II of CPR Part 3 and Practice Direction 3E apply, CPR 3.13(1)(a) is disapplied and all parties except litigants in person must file and exchange budgets in accordance with CPR 3.13(1)(b), namely not later than 21 days before the first case management conference.

SECTION 8 – TRANSFER OF CLAIM OUT OF DCP

8.1

A claim may, at any time, be transferred to a County Court Hearing Centre for it to continue as if it had been brought under CPR Part 7.

8.2

An application for an order under paragraph 8.1 may be made by an application under CPR Part 23 and must be filed at the CCMCC.

8.3

An application under paragraph 8.2 may include any application under CPR Part 23 (including an application requesting a consent judgment or order under CPR 40.6) that may have been made if the claim had been commenced under CPR Part 7.

8.4

A claim which is transferred out of the DCP continues as if it had been started under CPR Part 7.

8.5

A claim which has been dismissed at the point it is transferred out of the DCP remains dismissed, subject to any order of the court.

8.6

(1) To discontinue a claim or part of a claim, the claimant complies with CPR 38.3(1)(a) by filing a notice of discontinuance at the CCMCC.

(2) When the claimant files a notice of discontinuance, the claim must be transferred out of the DCP to the CCMCC.

8.7

(1) To give notice of a change of solicitor, a party complies with CPR 42.2(a) by filing the notice of the change required by that rule at the CCMCC.

(2) When a party files a notice of change, the court must transfer the claim out of the DCP to the CCMCC.”.