

## 86<sup>th</sup> UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the Practice Directions supplementing the Civil Procedure Rules 1998 are 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 are approved by Sir Oliver Heald, Minister of State, by the authority of the Lord Chancellor.

The amendments to the Practice Directions come into force as follows, subject to the transitional provision for Practice Direction 52C—	
Practice Direction 2C – Starting proceedings in the County Court	3 October 2016
Practice Direction 3C – Civil restraint orders	3 October 2016
Practice Direction 3E – Costs management	3 October 2016
Practice Direction 5B – Communication and filing of documents by e-mail	3 October 2016
Practice Direction 8A – Alternative procedure for claims	The date on which the TRO Regulations come into force
Practice Direction 26 – Case management – preliminary stage, allocation and re-allocation	3 October 2016
Practice Direction 45 – Fixed costs	3 October 2016
Practice Direction 47 – Procedure for detailed assessment of costs and default provisions	3 October 2016
Practice Direction 51I – The County Court at Central London multi-track pilot scheme	3 October 2016
Practice Direction 51L – New bill of costs pilot scheme	3 October 2016
Practice Direction 51N – Shorter and flexible trials pilot schemes	3 October 2016

Practice Direction 51O – Electronic Working pilot scheme	29 September 2016
Practice Direction 52A – Appeals: General provision	3 October 2016
Practice Direction 52B – Appeals in the County Court and High Court	3 October 2016
Practice Direction 52C – Appeals to the Court of Appeal	3 October 2016
Practice Direction 52D – Statutory appeals and appeals subject to special provision	3 October 2016

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The Right Honourable The Lord Dyson  
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:

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Minister of State  
Ministry of Justice

**TRANSITIONAL PROVISION – PRACTICE DIRECTION 52C**

- 1) Practice Direction 52C as amended shall apply to any case in which the appellant’s notice is issued on or after 3rd October 2016 or permission to appeal is granted by the Court of Appeal on or after 3rd October 2016.
- 2) Where the appellant’s notice was issued before 3rd October 2016 or permission to appeal was granted by the Court of Appeal before 3rd October 2016, the

provisions of Practice Direction 52C in force immediately before 3rd October 2016 continue to apply to that case.

## **PRACTICE DIRECTION 2C – STARTING PROCEEDINGS IN THE COUNTY COURT**

- 1) In PD 2C, in paragraph 3.3(1)—
  - a) for “must be started” substitute “may be started either”;
  - b) after “may be commenced” insert “or at the County Court at Central London”;  
and
  - c) after “London insolvency district,” insert “solely”.
- 2) In the table in the Schedule—
  - a) omit the rows for—
    - i) Accrington;
    - ii) Altrincham;
    - iii) Aylesbury;
    - iv) Bridgend;
    - v) Buxton;
    - vi) Macclesfield;
    - vii) Morpeth & Berwick;
    - viii) Neath & Port Talbot;
    - ix) Tameside; and
    - x) Hammersmith (formerly known as “West London”);
  - b) after the row for Portsmouth, insert—

“

Port Talbot		Swansea		
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”;

- c) in the fifth column of the table, omit where they occur the references to—
  - i) Accrington;
  - ii) Altrincham;
  - iii) Aylesbury;

- iv) Bridgend;
  - v) Buxton;
  - vi) Macclesfield;
  - vii) Morpeth;
  - viii) Neath;
  - ix) Tameside; and
  - x) Hammersmith (formerly known as “West London”); and
- d) in the row for Central London, in the first column, omit the words in parentheses.

### **PRACTICE DIRECTION 3C – CIVIL RESTRAINT ORDERS**

- 1) In PD3C, in paragraph 1, for “Rule 52.10(6)” substitute “Rule 52.20(6)”.

### **PRACTICE DIRECTION 3E – COSTS MANAGEMENT**

- 1) In PD3E, for Precedent H in Annex A substitute the revised Precedent H annexed to this amending document.

### **PRACTICE DIRECTION 5B – COMMUNICATION AND FILING OF DOCUMENTS BY E-MAIL**

- 1) In PD 5B, in paragraph 1.2(a), for “claims which use the CE-File electronic court file” substitute “proceedings which were issued in or transferred to the Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Mercantile Court, and the Admiralty Court, at the Royal Courts of Justice, Rolls Building, London (together, “the Rolls Building Jurisdictions”)

### **PRACTICE DIRECTION 8A – ALTERNATIVE PROCEDURE FOR CLAIMS**

- 1) In PD 8A, after paragraph 23.2 insert—

**“23.2A** If the claimant indicates in the claim form that the claimant is also applying for a non-disclosure order under regulation 8 of the TRO Regulations, the claimant’s evidence in respect of the TRO application must not be served until the court has determined the non-disclosure application. If the non-disclosure application is not granted, the court must give the claimant an opportunity to withdraw the TRO application. If the non-disclosure application is not granted and the claimant withdraws the claim, then the court must return the TRO claim form, and any documents submitted in connection with the TRO application, to the claimant.”.

- 2) In paragraph 23.4, for “regulation 6” substitute “regulation 10”.
- 3) In the words in parentheses after paragraph 23.5, for “Regulation 7” substitute “Regulation 6”.

#### **PRACTICE DIRECTION 26 – CASE MANAGEMENT – PRELIMINARY STAGE, ALLOCATION AND RE-ALLOCATION**

- 1) In PD26, in paragraph 9.3 omit “Hammersmith”.
- 2) After paragraph 10.3 insert—

#### **“Money claims sent to the County Court at Central London**

**10.4** The County Court hearing centres referred to in rule 26.2A(5A)(c) are Barnet, Bow, Brentford, Bromley, Central London, Clerkenwell and Shoreditch, Croydon, Edmonton, Hammersmith, Kingston-on-Thames, Lambeth, Mayors and City of London, Romford, Wandsworth, Willesden, Woolwich and Uxbridge.”

#### **PRACTICE DIRECTION 45 – FIXED COSTS**

- 1) In PD45, in paragraph 2.6, omit “West London”.

#### **PRACTICE DIRECTION 47 – PROCEDURE FOR DETAILED ASSESSMENT OF COSTS AND DEFAULT PROVISIONS**

- 1) In PD47, in paragraph 4.2(1), omit “West London”.

- 2) In paragraph 20.1, for “2000” substitute “2016”.

## **PRACTICE DIRECTION 51I – THE COUNTY COURT AT CENTRAL LONDON MULTI-TRACK PILOT SCHEME**

- 1) PD 51I is omitted.

## **PRACTICE DIRECTION 51L – NEW BILL OF COSTS PILOT SCHEME**

- 1) In PD 51L, in the Table of Contents, in the entry for the Annex, for “AA” substitute “AB”.
- 2) After paragraph 1.1 insert—

**“1.1A** The timetable for this Pilot Scheme is as follows:

(a) the Pilot Scheme in its amended form will come into effect on 3 October 2016 with a view to establishing a mandatory form of bill of costs to apply to all work done after 1 October 2017;

(b) the Rule Committee will monitor and review the Pilot Scheme and aim to fix the mandatory form of the new bill of costs at its meeting in May 2017.”

- 3) In paragraph 1.3—
  - a) for “AA” substitute “AB”;
  - b) for the words after “pdf version” to the end, substitute “together with an electronic spreadsheet version of the same bill in the form provided in paragraph 1.4 of this Practice Direction”.
- 4) After paragraph 1.3 insert—

**“1.4** The electronic spreadsheet version may be either the spreadsheet version which can be found online at **[INSERT ADDRESS]** or any other spreadsheet which—

(a) reports and aggregates costs based on the phases, tasks, activities and expenses defined in Schedule 1 to this Practice Direction;

(b) reports summary totals in a form comparable to Precedent AB;

(c) automatically recalculates intermediate and overall summary totals if input data is changed;

(d) contains all calculations and reference formulae in a transparent manner so as to make its full functionality available to the court and all other parties.”

- 5) In paragraph 2.1(b), for “1 October 2015” substitute “3 October 2016”.
- 6) In paragraphs 3.1 and 3.2, for “AA” substitute “AB”.
- 7) In paragraph 3.3, for “in Precedent AA” substitute “as defined in this Practice Direction”.
- 8) Insert, as Schedule 1, the Schedule to this amending document.
- 9) In the title of the Annex, for “AA” substitute “AB”.

## **PRACTICE DIRECTION 51N – SHORTER AND FLEXIBLE TRIALS PILOT SCHEMES**

- 1) In PD 51N, in paragraph 1.2—
  - a) in sub-paragraph (a), for “two years to 30 September 2017” substitute “three years to 30 September 2018”; and
  - b) at the end of sub-paragraph (c) insert—

“;

(d) will continue to apply after 30 September 2018 to any claim issued or transferred into the schemes while the relevant scheme is in force.”.

- 2) In paragraph 2.6, at the end of sub-paragraph (b) insert—

“;

(c) a case may be tried by a Master in the Chancery Division with the consent of the parties.”.

- 3) In paragraph 2.12—
  - a) at the end of the first sentence insert “, save that in the Chancery Division it may be heard by a Master”; and
  - b) in the second sentence, after “judge” insert “or Master”.

- 4) After paragraph 2.15, insert—

“**2.15A** If a case is transferred into the Shorter Trials Scheme, the court will consider whether it is necessary to require that Statements of Case which have already been served should be amended to put them in the form they would have been in had the case commenced in the scheme. Statements of Case which have already been served will not normally need to be amended.”

#### **PRACTICE DIRECTION 51O – ELECTRONIC WORKING PILOT SCHEME**

- 1) In PD 51O, in paragraph 1.1(1)(a), for “one year” substitute “two years”.
- 2) In paragraph 3.4—
- a) renumber the existing text as paragraph (1); and
  - b) after paragraph (1) (as renumbered), insert—

“(2)The court will not accept submissions made by e-mail pursuant to Practice Direction 5B, except where expressly requested by the trial judge or the trial judge’s clerk; all electronic submissions must be made through Electronic Working.”

- 3) In paragraph 6.1(1), for “by any online method” substitute “by account or by credit/debit card or by any other online method”.
- 4) After paragraph 6.1(3), insert—

“(4) For filings other than the issue of originating proceedings which incur payment of a fee, a party who wishes to pay that fee by account or by credit/debit card must make the filing and the payment through Electronic Working.”

- 5) In paragraph 14.1, for “and obtain” substitute “on a terminal provided for that purpose by Her Majesty’s Courts and Tribunals Service and obtain electronic copies of”.
- 6) In paragraph 14.2, for “and obtain” substitute “on a terminal provided for that purpose by Her Majesty’s Courts and Tribunals Service and obtain, subject to paragraph 15.2, electronic copies of”.

#### **PRACTICE DIRECTION 52A – APPEALS: GENERAL PROVISION**



- 1) In PD 52A, in the Table of Contents, in the line beginning “SECTION VII”, for “(RULE 52.17)” substitute “(RULE 52.30)”.
- 2) For paragraph 3.1, substitute—

**“3.1** Section 56 of the Access to Justice Act 1999 enables the Lord Chancellor to specify the destinations of appeal in different cases. The Access to Justice Act 1999 (Destinations of Appeal) Order 2016 specifies the general destinations of appeal which apply subject to any statutory provision to the contrary. Appeals in respect of individual insolvency and corporate insolvency proceedings are specified in section 375 of the Insolvency Act 1986 and rule 7.47 of the Insolvency Rules 1986 respectively.

The destinations of appeal provided by these provisions are explained in the following paragraphs of this section of this Practice Direction.”

- 3) In paragraph 3.4—
  - a) omit the definitions of—
    - i) “Pt 7 Claim (not MT)”;
    - ii) “Pt 7 Claim (MT)”;
    - iii) “Pt 8 Claim (not MT)”;
    - iv) “Pt 8 Claim (MT)”;
    - v) “Final”;
    - vi) “Interim”;
    - vii) “Other”;
    - viii) “Specialist”;
  - b) before the definition of “HCJ”, insert the following definition—

““HC”: High Court”;

- c) in the definition of “Master”, for “2” substitute “4”; and
    - d) after the definition of “CA”, insert the following definition—

““Companies Acts” means the Companies Act 1985, the Companies Act 1989 and the Companies Act 2006.”

- 4) For paragraph 3.5 (including the tables in that paragraph), substitute—

**“3.5** The destinations in the tables set out below apply in relation to first appeals, whether the decision is interim or final.

(For a second appeal (an appeal from a decision of the County Court or the High Court which was itself made on appeal), the destination is the Court of Appeal (save where the original decision was a decision of an officer authorised to assess costs by the Lord Chancellor: see article 6 of the Access to Justice Act 1999 (Destination of Appeals) Order 2016).)

**Table 1 – Proceedings other than family or insolvency proceedings**

<b>Court</b>	<b>Deciding judge</b>	<b>Decision under appeal</b>	<b>Destination</b>
County	DJ	Any, other than a decision in non-insolvency proceedings brought pursuant to the Companies Acts	CJ (CC)
		A decision in non-insolvency proceedings brought pursuant to the Companies Acts	HC
	CJ	Any	HC
High	Master	Any	HCJ
	HCJ	Any	CA
Intellectual Property Enterprise Court	DJ	Any	Enterprise Judge
	Enterprise Judge	Any	CA

**Table 2 – Insolvency proceedings**

<b>Court</b>	<b>Deciding judge</b>	<b>Proceedings</b>	<b>Destination</b>
County	DJ	Individual insolvency	HCJ
		Corporate insolvency	HCJ or Registrar

	CJ	Any	HCJ
High	Master, Registrar or DJ	Any	HCJ
	HCJ	Any	CA

**Table 3 – Family proceedings in the Principal Registry of the Family Division and to which the CPR will apply**

The proceedings to which this table applies include proceedings under the Inheritance (Provision for Family and Dependents) Act 1975 and proceedings under the Trusts of Land and Appointment of Trustees Act 1996.

Deciding judge	Decision under appeal	Destination
DJ	Any	HCJ(FD)
HCJ(FD)	Any	CA

- 5) Omit paragraphs 3.6 to 3.8.
- 6) In paragraph 3.9—
  - a) in sub-paragraph (2)(b), for “52.16” substitute “52.24”;
  - b) in sub-paragraph (3), for “52.16(5) and (6)” substitute “52.24(5) and (6)”.
- 7) In paragraph 4.1(b), for “rule 52.4” substitute “rule 52.12”.
- 8) In the Section heading for Section VII, above rule 7.1, for “(RULE 52.17)” substitute “(RULE 52.30)”.

**PRACTICE DIRECTION 52B – APPEALS IN THE COUNTY COURT AND HIGH COURT**

- 1) In PD52B, in paragraph 4.2(d), for “rule 52.11(3)” substitute “rule 52.21(3)”
- 2) In paragraph 7.1, for “rule 52.5(3)” substitute “rule 52.13(3)”.
- 3) In Table A at the end of PD52B, omit the rows for—
  - a) Buxton;
  - b) Morpeth;
  - c) Accrington;
  - d) Altrincham;

- e) Macclesfield;
- f) Tameside;
- g) Bridgend;
- h) Neath & Port Talbot;
- i) Port Talbot;
- j) Aylesbury;
- k) West London.

## **PRACTICE DIRECTION 52C – APPEALS TO THE COURT OF APPEAL**

- 1) In PD52C, in the Table of Contents—
  - a) in the line beginning “SECTION III”, for “(RULE 52.5)” substitute “(RULE 52.13)”;
  - b) in the line beginning “Time limits”, for “rule 52.5(4)” substitute “rule 52.13(4)”;
  - c) in the line beginning “limited permission”, for “rule 52.3” substitute “rule 52.6”;
  - and
  - d) in the line beginning “Amendment of appeal notice”, for “rule 52.8” substitute “rule 52.17”.
- 2) In paragraph 5(1), at the end, for “rule 52.11(3)” substitute “rule 52.21(3)”.
- 3) In the Section heading for Section III, above paragraph 8, for “(RULE 52.5)” substitute “(RULE 52.13)”.
- 4) In the heading to paragraph 12, for “rule 52.5(4)” substitute “rule 52.13(4)”.
- 5) For paragraphs 14 to 16, substitute—

### **“Documents for use on an application for permission**

**14.** Within 14 days of filing the appeal notice, the appellant must lodge a core bundle (and, if necessary, a supplementary bundle) for the application for permission to appeal, prepared in accordance with paragraph 27.

### **Determination of applications for permission to appeal**

**15.** (1) Applications for permission to appeal will be determined by the court without a hearing unless the judge considering the application directs that the application be determined at an oral hearing in accordance with rule 52.5(2).

(2) If a judge directs that an oral hearing should take place, the hearing will be listed before the same judge no later than 14 days after the direction was given, unless the court directs otherwise.

(3) When directing that an oral hearing should take place, the judge may also identify any issue or issues on which the applicant should specifically focus its submissions at the oral hearing in order to assist the court to determine the application and may direct the respondent to file and serve written submissions and to attend the oral hearing.

### Permission hearing

**16.** (1) The court will notify the respondent of any oral hearing but the respondent is not expected to attend unless the court so directs.

(2) If the court directs the respondent to attend the permission hearing, the appellant must supply the respondent with a copy of the skeleton argument and any documents to which the appellant intends to refer.”

6) In paragraph 17, omit the final sentence.

7) In paragraph 18—

a) in the heading, for “rule 52.3” substitute “rule 52.6(2)”;

b) in sub-paragraph (1), for “rule 52.3(7)” substitute “rule 52.6(2)”;

c) omit sub-paragraph (3).

8) In paragraph 19(1)(c), for “rule 52.3(7)” substitute “rule 52.6(2)”.

9) In paragraph 21, for the timetable substitute—

### “Timetable Part 1 – Listing window notification to lodging bundle

Period within which step is to be taken	Action	Cross reference to relevant provisions in this Practice Direction
Promptly after permission to appeal is granted	<b>Review case:</b> parties to review case with a view to resolution or refinement of the issues to be determined at the appeal	Paragraph 27(6) (bundle of documents)
Within 14 days of service of: the appellant’s notice if permission has been given by the lower court or is not needed; notification that permission has been granted by the	<b>Respondent’s notice</b> (if any) must be filed and served	Paragraph 8 (respondent’s notice)

<p>Court of Appeal; or notification that the permission application will be listed with the appeal to follow</p>		
<p>14 days after date of listing window notification</p>	<p>The appellant must file and serve on every respondent the <b>Appeal Questionnaire</b></p>	<p>Paragraph 1 (listing window notification defined)</p> <p>Paragraph 23 (Appeal Questionnaire)</p>
<p>14 days after date of listing window notification</p>	<p>The appellant must serve on every respondent (1) the <b>appellant’s appeal skeleton argument</b> or confirmation that the appellant intends to rely on the permission to appeal skeleton argument; and (2) <b>the proposed bundle index for the core appeal bundle and any supplementary bundle</b></p>	<p>Paragraph 31 (skeleton argument)</p> <p>Paragraph 27 (bundle of documents)</p>
<p>Within 14 days of filing a respondent’s notice</p>	<p><b>If respondent has filed a respondent’s notice</b>, respondent must lodge and serve a skeleton argument on every other party</p>	<p>Paragraph 9 (skeleton argument to be lodged with the respondent’s notice or within 14 days of filing respondent's notice)</p>
<p>7 days after service of appellant’s Appeal Questionnaire</p>	<p><b>If a respondent disagrees with appellant's time estimate</b>, that respondent must file and serve on every other party its own time estimate</p>	<p>Paragraph 24 (time estimate)</p>
<p>35 days after date of listing window notification</p>	<p><b>Where Respondent has <u>not</u> filed a respondent’s notice</b>, respondent must lodge skeleton argument and serve on every other party</p>	<p>Paragraph 13 (respondent's skeleton argument where no Respondent’s Notice filed)</p> <p>Paragraph 31 (skeleton argument)</p>

49 days after date of listing window notification	<b>Review case:</b> parties to have reviewed case with a view to resolution or refinement of the issues to be determined at the appeal	Paragraph 27(6) (bundle of documents)
49 days after date of listing window notification	<b>Agree bundle:</b> the parties must agree the content of the core appeal bundle and any supplementary bundle for the appeal hearing	Paragraph 27(8) and (9) (bundle of documents)  Paragraph 28 (bundle: Appeals from Upper Tribunal Immigration and Asylum Chamber)
63 days after listing window notification	Appellant must serve a <b>final bundle index</b> on all the respondents, including page numbers	Paragraph 27 (bundle of documents)
70 days after listing window notification	All respondents must serve on the appellant their <b>replacement skeleton arguments</b>	Paragraph 1 (replacement skeleton argument defined)  Paragraph 31 (skeleton argument)

**Timetable Part 2 – Steps to be taken once hearing date fixed: lodging bundles, supplemental skeletons and bundles of authorities**

Time before hearing date when step is to be taken	Action	Cross reference to relevant provisions in this Practice Direction
As soon as practicable and no later than 7	If a party wishes to rely on a supplementary skeleton argument, the supplementary skeleton argument must be	Paragraph 32 (supplementary skeleton arguments)

days before the appeal hearing	lodged and served together with a request for permission to rely on it. Note – permission will only be granted where strictly necessary.	
No later than 42 days before the appeal hearing	Subject to any direction of the court, the appellant must lodge the appropriate number of <b>appeal bundles</b> and serve a copy on all other parties to the appeal. Any unagreed documents bundle must be lodged and served by the party seeking to rely on the unagreed documents.	Paragraph 27 (bundle of documents)
		Paragraph 28 (bundle: Appeals from Upper Tribunal Immigration and Asylum Chamber)
No later than 7 days before the appeal hearing	Bundles of authorities must be lodged	Paragraph 29 (bundle of authorities)

”

10) For paragraph 27, substitute—

**“Bundle of documents**

**27.** This paragraph of the Practice Direction should be read in conjunction with the Timetable in paragraph 21 above.

(1) **Core bundle for permission to appeal:** Subject to any direction made by the court, the applicant must lodge a core bundle containing only those documents listed in the relevant core bundle index accessible on the Court of Appeal (Civil Division) section of the Justice website (at <http://www.justice.gov.uk/courts/rcj-rolls-building/court-of-appeal/civil-division/core-bundle-indices>) or available from the Civil Appeals Office.

(2) **Supplementary bundle for permission to appeal:** For an application for permission to appeal any additional documents may be included in a supplementary bundle, but only where they are relevant to the grounds of appeal and where it will be necessary for the court to read the document for the purposes of determining whether to grant permission to appeal and any related application. The following documents may be considered for inclusion in a supplementary bundle:



- (a) statements of case
- (b) application notices;
- (c) other orders made in the case;
- (d) witness statements made in support of any application made in the appellant's notice;
- (e) other witness statements relevant to the issues raised in the grounds of appeal;
- (f) key contemporaneous documents.

**(3) Service of indexes for the permission to appeal bundles:** The applicant for permission to appeal must serve on every respondent a copy of the index for the core bundle for permission to appeal and a copy of the index for any supplementary bundle for permission to appeal at the same time as the bundles are lodged with the court (i.e. within 14 days of the appeal notice: paragraph 14 above).

**(4) Respondent's statement for permission to appeal:** In accordance with paragraph 19, a respondent is encouraged to file and serve a respondent's statement in response to an application for permission to appeal. Any respondent's statement will be copied to the core bundle by the Civil Appeals Office.

**(5) Respondent's Notice:** A respondent who wishes to file a respondent's notice must do so in accordance with the time limits in CPR Part 52.13. If the respondent seeks permission to appeal in their respondent's notice they must on the date when the respondent's skeleton argument is due to be filed lodge a respondent's supplementary permission to appeal bundle. That bundle must contain any documents not included in the appellant's bundle(s) for permission to appeal which are necessary for the court to read for the purpose of determining whether to grant the respondent permission to appeal, including the respondent's notice and the respondent's skeleton argument. On the same date the respondent must serve on every other party a copy of the index for that bundle.

**(6) Reviewing the case after the grant of permission to appeal:** Promptly after permission to appeal is granted to any party and before the appeal skeleton arguments are due to be filed under the Timetable, the parties must review the case with a view to resolution or refinement of the issues to be determined at the appeal hearing.

**(7) Bundles for the appeal hearing:** Subject to any direction made by the court, the appellant must not less than 42 days before the date for the appeal hearing file and serve a core bundle for the appeal hearing and (if required) a supplementary bundle for the appeal hearing. The appellant must seek to agree the contents of the core bundle and the supplementary bundle for the appeal hearing with all other parties in accordance with sub-paragraphs (8) and (9) below.

**(8) Core bundle for the appeal hearing**

(a) In accordance with the Timetable the appellant must serve on every respondent a proposed bundle index for the core bundle for the appeal hearing.

(b) The respondent must either agree the proposed bundle index for the core bundle or notify the appellant of the documents that the respondent considers should be included in, or removed from, the core bundle by sending a revised index. The appellant and respondent must seek to agree the contents of the core bundle.

(c) The core bundle must be lodged by the appellant in accordance with the Timetable and must contain the final form of the skeleton arguments to be relied upon at the hearing, cross-referenced to the pagination in the bundles for the appeal hearing (i.e. the replacement skeleton arguments).

(d) The core bundle for the appeal hearing must contain only those documents required in the core bundle for permission to appeal, together with copies of the following documents:

- (i) any respondent's notice;
- (ii) the appellant's replacement skeleton argument;
- (iii) the respondent's replacement skeleton argument;
- (iv) a copy of any orders made in the Court of Appeal;
- (v) if permission to appeal was granted at an oral hearing, a transcript of the judgment giving permission to appeal.

**(9) Supplementary bundle for the appeal hearing:**

(a) In accordance with the Timetable the appellant must serve on every respondent a proposed bundle index for the supplementary bundle for the appeal hearing.

(b) The respondent must either agree the proposed bundle index for the supplementary bundle or notify the appellant of the documents that the

respondent considers should be included in, or removed from, the supplementary bundle by sending a revised index. The appellant and respondent must seek to agree the contents of the supplementary bundle.

(c) The supplementary bundle may only contain documents relevant to the grounds of appeal which it will be necessary for the court to read in preparation for or during the appeal hearing. Where a party is represented, this must be certified by the advocate responsible for arguing the case. The following documents may be considered for inclusion in the supplementary bundle:

- (i) statements of case;
- (ii) application notices;
- (iii) other orders made in the case;
- (iv) witness statements relevant to the issues raised in the grounds of appeal;
- (v) key contemporaneous documents.

**(10) Reviewing the case before the appeal hearing:** After the appeal skeleton arguments are filed and served, and in accordance with the Timetable, the parties must review the case with a view to resolution or refinement of the issues to be determined at the appeal hearing.

**(11) Size of supplementary bundle:** No supplementary bundle (whether for permission to appeal or for an appeal hearing) may exceed one lever arch file of 350 pages in size, unless the court gives permission. An application for permission to file a supplementary bundle of more than 350 pages must be made by application notice in accordance with CPR Part 23 and specify exactly what additional documents the party wishes to include; why it is necessary to put the additional documents before the court; and whether there is agreement between the parties as to their inclusion.

**(12) Unagreed documents bundles for the appeal hearing:** If there is no agreement in relation to inclusion of a particular document in the bundles for the appeal hearing, it must be placed in a separate unagreed documents bundle prepared by the party who has proposed its inclusion, and the bundle clearly labelled as such. The permission of the court is required to rely on an unagreed documents bundle. An application for permission must be made by application notice in accordance with CPR Part 23 and include a short statement of not more than three

A4 pages explaining why the unagreed documents are relevant and why it is necessary to put them before the court. Any unagreed documents bundle, including at the front the application notice and supporting statement, must be filed and served not less than 42 days before the date for the appeal hearing. Unless the court directs otherwise, the application will be determined by the court at the appeal hearing.

**(13) Bundle format: Core, supplementary and unagreed documents bundles must—**

- (a) be bound and any ring binder folder must be in fully working order;
- (b) be paginated. Page numbering must not reduce the font size of any document below 12 points.
- (c) contain an index at the front referring to relevant page numbers; and
- (d) except for core bundles, be in chronological order.

**(14) Bundles not to include originals:** Unless otherwise directed by the court, no bundle should contain original material such as original documents, photographs or recorded media. Such material should be provided to the court, if necessary, at the hearing. Any copies of photographs included in the bundles must be of good quality and in colour.

**(15) Destruction of bundles:** Bundles lodged with the court will not be returned to the parties but will be destroyed in the confidential waste system at the conclusion of the proceedings and without further notification.

**(16) Timetable:** The Timetable, Parts 1 and 2, at paragraph 21 above sets out the time limits for filing and serving documents referred to in this section.”

11) In paragraph 29(2)—

- a) after “in accordance with”, insert “mandatory requirements set out in paragraphs 5–13 of”; and
- b) for “(2012)” substitute “[2012] 1 WLR 780”.

12) In the heading to paragraph 30, for “rule 52.8” substitute “rule 52.17”.

13) For paragraph 31, substitute—

**“Skeleton argument**

**31.** (1) Any skeleton argument must comply with the provisions of Section 5 of Practice Direction 52A (and in particular must be concise) and must in any event—

- (a) not normally exceed 25 pages (excluding front sheets and back sheets);

- (b) be printed on A4 paper in not less than 12 point font and 1.5 line spacing (including footnotes);
  - (c) be labelled as applicable (e.g. appellant's PTA skeleton, appellant's replacement skeleton, respondent's supplementary skeleton), and be dated on its front sheet.
- (2) (a) Any skeleton argument that does not comply with the requirements of paragraph 31.1(a), (b) and (c)—
- (i) will be returned to its author by the Civil Appeals Office; and
  - (ii) may not be re-filed unless and until it complies with those requirements; and
- (b) if the skeleton argument is re-filed out of time—
- (i) it must be served on all other parties to the appeal; but
  - (ii) the party re-filing it must make an application under Part 23 to obtain the permission of the court in advance of the hearing in order to rely on it.
- (3) Where an appellant has filed a skeleton argument in support of an application for permission to appeal, the same skeleton argument may be relied upon in the appeal or the appellant may file an appeal skeleton argument (Timetable Section 5, Part 1).
- (4) At the hearing the court may refuse to hear argument on a point not included in a skeleton argument filed within the prescribed time.
- (5) The court may disallow the cost of preparing an appeal skeleton argument which does not comply with these requirements or was not filed within the prescribed time."

## **PRACTICE DIRECTION 52D – STATUTORY APPEALS AND APPEALS SUBJECT TO SPECIAL PROVISION**

- 1) In PD52D, in the Table of Contents—
  - a) in the line beginning "Service of Appellant's notice", for "rule 52.4(3)" substitute "rule 52.12(3);
  - b) in the line beginning "Variation of time", for "rule 52.6" substitute "rule 52.15"; and
  - c) in the line beginning "Applications by third parties", for "(rule 52.12A)" substitute "(rule 52.25)".
- 2) In paragraph 3.3, insert as an opening line above sub-paragraph (1)—

"Subject to rule 52.9—".
- 3) In the heading to paragraph 3.4, for "rule 52.4(3)" substitute "rule 52.12(3)".
- 4) In the heading to paragraph 3.5, for "rule 52.6" substitute "rule 52.15".

- 5) In paragraph 3.6 and in the heading to that paragraph, for “(rule 52.12A)” substitute “(rule 52.25)”.
- 6) In paragraph 6.1(3), for “rule 52.4(3)” substitute “rule 52.12(3)”.
- 7) In paragraph 9.1, for “rule 52.4(3)” substitute “rule 52.12(3)”.
- 8) In paragraph 10.1(2)(a)(iv), for “rule 52.12A” substitute “rule 52.25”.
- 9) In paragraph 13.1, for “rule 52.4(3)” substitute “rule 52.12(3)”.
- 10) In paragraph 14.1(2), for “rule 52.4(3)” substitute “rule 52.12(3)”.
- 11) In paragraph 16.1(2), for “rule 52.4(3)” substitute “rule 52.12(3)”.
- 12) In paragraph 29.1(3), for “rule 52.11(1)” substitute “rule 52.21(1)”.
- 13) In paragraph 31.1(6), for “Rule 52.4(3)” substitute “Rule 52.12(3)”.

# SCHEDULE

## **Schedule 1: phases, tasks, activities and expenses**

1. The phases are:

	<b>Phase in Bill of Costs</b>	<b>Phase in Precedent H</b>
1	Initial and Pre-Action Protocol Work	Pre-Action Costs
2	Issue / Statements of Case	Issue / Statements of Case
3	Case Management Conference	CMC
4	Disclosure	Disclosure
5	Witness statements	Witness statements
6	Expert reports	Expert reports
7	Pre-Trial Review	PTR
8	Trial preparation	Trial preparation
9	Trial	Trial
10	ADR / Settlement	ADR / Settlement discussions
11	Interim Applications and Hearings (Interlocutory Applications)	Contingencies
12	Funding	N/A
13	Budgeting incl. costs estimates	N/A
14	Costs Management Conference	N/A
15	Costs Assessment	N/A

2. The tasks are:

	<b>Phase</b>		<b>Task</b>
1	Initial and Pre-Action Protocol Work		
		1	Factual investigation
		2	Legal investigation
		3	Pre-action protocol (or similar) work
2	Issue / Statements of Case		
		4	Issue and Serve Proceedings and Preparation of Statement(s) of Case
		5	Review of Other Party(s)' Statements of Case
		6	Requests for Further Information
		7	Amendment of Statements of Case
3	Case Management Conference		
		8	Case Management Conference
4	Disclosure		
		9	Preparation of the disclosure report and the disclosure proposal
		10	Obtaining and reviewing documents
		11	Preparing and serving disclosure lists
		12	Inspection and review of the other side's disclosure for work undertaken after exchange of disclosure lists.
5	Witness statements		
		13	Taking, preparing and finalising witness statement(s)

		14	Reviewing Other Party(s)' witness statement(s)
6	Expert reports		
		15	Own expert evidence
		16	Other Party(s)' expert evidence
		17	Joint expert evidence
7	Pre-Trial Review		
		18	Pre-Trial Review
8	Trial preparation		
		19	Preparation of trial bundles
		20	General work regarding preparation for trial
9	Trial		
		21	Advocacy
		22	Support of advocates
		23	Judgment and post-trial activity
10	ADR / Settlement		
		24	Mediation
		25	Other Settlement Matters
11	Interim Applications and Hearings (Interlocutory Applications)		
		26	Applications relating to originating process or Statement of Case or for default or summary judgment
		27	Applications for an injunction or committal
		28	Applications for disclosure or Further Information
		29	Applications concerning evidence
		30	Applications relating to Costs alone
		31	Permission applications
		32	Other applications
12	Funding		
		33	Funding
13	Budgeting incl. costs estimates		
		34	Budgeting - own side's costs
		35	Budgeting - Precedent H
		36	Budgeting - between the parties
14	Costs Management Hearing		
		37	Costs Management Hearing
15	Costs Assessment		
		38	Preparing costs claim
		39	Points of dispute, Replies and Negotiations
		40	Hearings
		41	Post Assessment Work (excluding Hearings)

3. The activities are:

	<b>Activity</b>
1	Appear For/Attend
2	Communicate (with Outside Counsel)
3	Communicate (with client)
4	Communicate (witnesses)
5	Communicate (experts)
6	Communicate (Other Party(s)/other outside lawyers)
7	Communicate (other external)
8	Communicate (internally within legal team)
9	Billable Travel Time



10	Plan, Prepare, Draft, Review
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4. The expense categories include but are not limited to:

	<b>Expense</b>
1	Counsel's Fees
2	Experts' Fees
3	Court Fees
4	Arbitrators' or Mediators' Fees
5	Witness Expenses
6	Transcripts
7	Litigation Support Suppliers (incl. eDisclosure)
8	Consultants, Other Professionals or Foreign Lawyers
9	Travel Expenses
10	Copying/Imaging
11	ATEI Premiums
12	Medical Records
13	Translation Costs
14	Bank Fees
15	Process Server

5. Descriptions of the tasks and activities are set out in Precedent AB.