

98th UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Direction and the amendments to the existing 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 Lucy Frazer QC MP, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The new Practice Direction and the amendments to the existing Practice Directions come into force as follows—	
Practice Direction 2C – Starting proceedings in the County Court	1 August 2018
Practice Direction 2E – Jurisdiction of the County Court that may be exercised by a legal adviser	1 October 2018
Practice Direction 14 – Admissions	1 August 2018
Practice Direction 17 – Amendments to statements of case	1 August 2018
Practice Direction 26 – Case management – preliminary stage	1 August 2018
Practice Direction 27 – Small claims track	1 August 2018
Practice Direction 45 – Fixed costs	1 August 2018
Practice Direction 47 – Procedure for detailed assessment of costs and default provisions	1 August 2018
Practice Direction 51T – The County Court Legal Advisers Pilot Scheme – Final Charging Orders	1 August 2018
Practice Direction 52B – Appeals in the county court and High Court	1 August 2018
Practice Direction 74A – Enforcement of judgments in different jurisdictions	1 August 2018

The Right Honourable Sir Terence Etherton
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:
Lucy Frazer QC MP
Parliamentary Under-Secretary of State for Justice
Ministry of Justice
Date: 01 August 2018

PRACTICE DIRECTION 2C – STARTING PROCEEDINGS IN THE COUNTY COURT

- 1) In the table in the Schedule (the County Court Directory)—
 - a) omit the entry for the Lambeth County Court hearing centre; and
 - b) in the entry for the Central London County Court hearing centre, in the fifth column of the table, omit “Lambeth,”.

PRACTICE DIRECTION 2E – JURISDICTION OF THE COUNTY COURT THAT MAY BE EXERCISED BY A LEGAL ADVISER

- 1) In paragraph 1.2, for “Manchester Civil Justice Centre & Manchester Outer”, substitute “Greater Manchester”.
- 2) In the table in the Schedule to Practice Direction 2E—
 - a) in entry 1, for the words in the second column substitute—

“Limited to errors made by the court”;
 - b) in entry 2, for the words in the second column substitute—

“Limited to the first such application and further limited to applications—

 - (a) made within the period specified in rule 7.6(2); and
 - (b) where the limitation period for bringing the claim has not expired.”;
 - c) in entry 3, omit the words in the second column;
 - d) in entry 4, for the words in the second column substitute—

“Limited to applications made within the period specified in rule 7.4 or any extension of that time for service of the particulars of claim.”;
 - e) in entry 5, omit the words in the second column;
 - f) in entry 6—
 - i) in the first column, after “rule 17.1(2)” insert “, but excluding any application to which rule 17.4(1)(b) applies”; and

- ii) in the second column, in sub-paragraph (b), after “allocated to the small claims track”, insert “or to the fast track”;
- g) in entry 7, in the second column, omit the words “and are in agreement” to the end;
- h) in entry 10, for the words in the second column substitute—
“Limited to applications which relate to the time and/or rate of payment.”;
- i) in entry 11, in the second column, for the words “and to those where a claimant” to the end, substitute “and subject to the further limitation that time can be extended for a period not exceeding 28 days”;
- j) in entry 14, for the words in the second column substitute—
“Provided that any extension is for a period not exceeding 28 days.”;
- k) in entry 15, for the words in the second column, substitute—
“Provided that any stay, or extension of the stay, is for a period not exceeding 28 days”.
- l) in entry 16, for the words in the second column substitute—
“Limited to applications where —
 - (a) all parties consent; or
 - (b) the order staying the proceedings was made by a legal adviser”;
- m) in entry 18, in the first column, omit the words “in any case where” to the end; and
- n) in entry 19, in the first column, after “judgments or orders” insert “(including orders made under rule 40.6(3)(b)(ii))”.

PRACTICE DIRECTION 14 – ADMISSIONS

- 1) In paragraph 7.2(f), for “offer” substitute “admission”.

PRACTICE DIRECTION 17 – AMENDMENTS TO STATEMENTS OF CASE

- 1) In paragraph 2.1(1) for the words “[District Judge....] *or as may be*” substitute—

“[District Judge..... *or as may be*] [Legal Adviser]”.

PRACTICE DIRECTION 26 – CASE MANAGEMENT – PRELIMINARY STAGE: ALLOCATION AND RE-ALLOCATION

- 1) In paragraph 3.1, for subparagraph (2)(a) substitute—

“(a) Subject to Practice Direction 2E, an order extending the stay must be made by a judge.”.

- 2) In paragraph 10.4, omit “Lambeth,”.

PRACTICE DIRECTION 27 – THE SMALL CLAIMS TRACK

- 1) In paragraph 3.1(1), after “employed by a solicitor,” insert “or any other person authorised under the Legal Services Act 2007 to act as a litigator or advocate;”.

PRACTICE DIRECTION 45 – FIXED COSTS

- 1) In paragraph 2.6 omit “Lambeth,”.

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

- 1) In paragraph 4.2(1) omit “Lambeth,”.
- 2) For paragraph 5.A1 substitute—

“5.A1 A model electronic bill is annexed to this version of this Practice Direction as Precedent S. The online version of this Practice Direction at

<http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part-47-procedure-for-detailed-assessment/practice-direction-46-costs-special-cases2>

annexes Precedent S in spreadsheet and pdf formats.”.

- 3) In paragraph 5.A2—
 - a) after “bills may be in either”, insert “Precedent S spreadsheet format”; and
 - b) omit the words “the spreadsheet format which can be found” to and including “courts/procedure rules/civil”.

4) For paragraph 5.1A substitute—

“5.1A Whenever electronic bills are served or filed at the court—

(a) they must be served or filed in hard copy, in a manageable paper format as shown in the pdf version of Precedent S; and

(b) a copy of the full electronic spreadsheet version must at the same time be provided to the paying party, or as appropriate filed at court, by e-mail or other electronic means.”.

PRACTICE DIRECTION 51T – THE COUNTY COURT LEGAL ADVISERS PILOT SCHEME – FINAL CHARGING ORDERS

1) After Practice Direction 51S – The County Court Online Pilot, insert Practice Direction 51T – The County Court Legal Advisers Pilot Scheme – Final Charging Orders that is set out in the Annex to this Update.

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

1) In Table A—

a) In the entry for the Northern Circuit, in the entry for Wigan, in the third column, for “Liverpool” substitute “Manchester CJC”; and

b) in the entry for the South East Circuit, omit the entry for Lambeth.

PRACTICE DIRECTION 74A – ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

1) In both paragraphs 4.2(3) and 4.3(3), after the words “in the case of a County Court judgment, to a District Judge” insert—

“, unless Practice Direction 2E applies”.

2) In paragraph 7.2, after the words “and will be accompanied by a certificate signed by a judge” insert—

“or, where Practice Direction 2E applies, a legal adviser”.

ANNEX

“PRACTICE DIRECTION 51T – THE COUNTY COURT LEGAL ADVISERS PILOT SCHEME – FINAL CHARGING ORDERS

CONTENTS OF THIS PRACTICE DIRECTION

Title	Paragraph number
Scope and interpretation	Para. 1
Jurisdiction of a legal adviser to make a final charging order	Para. 2
Reconsideration of a decision made by a legal adviser	Para. 3
Discharge or variation of a final charging order made by a legal adviser	Para. 4

Scope and interpretation

1.1 This Practice Direction is made under rule 51.2. It provides for a pilot scheme called “the County Court Legal Advisers Pilot Scheme – Final Charging Orders” (“the pilot”). The purpose of the pilot is to enable legal advisers to make final charging orders in certain circumstances, and specifies the extent of the jurisdiction that may be exercised by a legal adviser in relation to the making of final charging orders. The pilot applies to applications for final charging orders made at the County Court Money Claims Centre (“CCMCC”). The pilot runs from 1st August 2018 to 1st April 2020.

1.2 Where provisions in this Practice Direction conflict with other provisions in the rules or other practice directions, this practice direction takes precedence in relation to final charging orders made, or to be made, by legal advisers.

1.3 In this Practice Direction –

1.3.1 “final charging order” means an order confirming that a charge imposed by an interim charging order continues;

1.3.2 “interim charging order” means an interim charging order made in accordance with rule 73.4(5) or 73.4(6);

1.3.3 “legal adviser” means a court officer assigned to the County Court who is –

1.3.3.1 a barrister; or

1.3.3.2 a solicitor,

who may exercise the jurisdiction of the County Court with regard to matters set out in this Practice Direction, with the consent of the Designated Civil Judge for Greater Manchester, or their nominee.

Jurisdiction of a legal adviser to make a final charging order

2.1 Paragraphs 2.2 to 2.5 apply where –

2.1.1 an interim charging order was made at the CCMCC;

2.1.2 the matter was not transferred under rule 73.4(6) for a hearing;

2.1.3 no person has filed evidence under rule 73.10(2) stating grounds of objection to the making of a final charging order; and

2.1.4 the application was not transferred under rule 73.10(3) for a hearing.

2.2 Rule 73.10(6) is modified for the purposes of the pilot, so that the application for a charging order may be considered by a legal adviser (rather than a judge), upon expiry of the period allowed under rule 73.10(2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order.

2.3 When considering the application, the legal adviser may –

2.3.1 make a final charging order, but only if it provides that the charge imposed by the interim charging order is to continue without modification (except for the amount secured);

2.3.2 discharge the interim charging order and dismiss the application, but only if the applicant has requested it; or

2.3.3 refer the matter to a judge.

2.4 The jurisdiction of the legal adviser does not extend to making any of the decisions, directions or orders set out in rule 73.10(7)(c), (d) or (e).

2.5 Decisions of a legal adviser will be made without a hearing.

Reconsideration of a decision made by a legal adviser

3.1 Any interested person may request any decision of a legal adviser to be reconsidered by a District Judge.

3.2 A request must be filed within 14 days after the interested person is served with a notice of the decision, or becomes aware of the decision.

3.3 The request must include a summary of the issue and an explanation of why the reconsideration is sought.

3.4 Reconsideration will take place without a hearing.

Discharge or variation of a final charging order made by a legal adviser

4.1 Rule 73.10B(1) (discharge or variation of order) is modified for the purposes of this pilot so that any application to discharge or vary a final charging order made by a legal adviser must be made to the CCMCC.”.