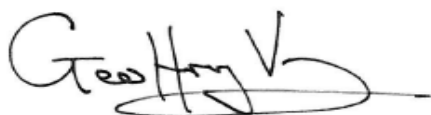


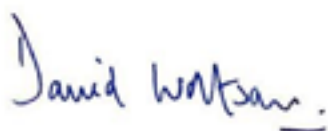
143rd UPDATE – PRACTICE DIRECTION AMENDMENTS

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 is approved by Lord Wolfson of Tredegar QC, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The amendments to the Practice Directions come into force as follows—	
Practice Direction 51Y – Video or Audio Hearings During Coronavirus Pandemic	On the day that this instrument is approved
Practice Direction 51ZC – The Small Claims Paper Determination Pilot	1 st June 2022
Schedule - Practice Direction 51ZC – The Small Claims Paper Determination Pilot	1 st June 2022



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: 22/03/2022

PRACTICE DIRECTION 51Y – VIDEO OR AUDIO HEARINGS DURING CORONAVIRUS PANDEMIC

- 1) In paragraph 1—
 - a) in the second sentence, for “It ceases” substitute “With the exception of the first sentence of paragraph 3, it ceases”; and
 - b) after “section 89 of that Act.”, insert “The first sentence of paragraph 3 ceases to have effect on 25 March 2023.”.

PRACTICE DIRECTION 51ZC – THE SMALL CLAIMS PAPER DETERMINATION PILOT

- 1) After Practice Direction 51ZB – The Damages Claims Pilot, insert Practice Direction 51ZC – The Small Claims Paper Determination Pilot, as set out in the Schedule to this instrument.

SCHEDULE

“PRACTICE DIRECTION 51ZC – THE SMALL CLAIMS PAPER DETERMINATION PILOT

Contents of this Practice Direction

Title	Paragraph number
General	Para. 1
Transfers in and out of Pilot Courts	Para. 2
Re-allocation	Para. 3
Suitability for determination without a hearing	Para. 4
Determination	Para. 5
Appeals	Para. 6

1. General

1.1 This Practice Direction is made under rule 51.2 and provides for a pilot scheme to be called the ‘Small Claims Paper Determination Pilot’ to test a procedure which will enable the court to direct that a small claim will be determined without a hearing without requiring the agreement of all parties, as is currently required under rule 27.10 (“the Pilot”).

1.2 The Pilot will commence on 01 June 2022 (“the Commencement Date”) and will terminate on 01 June 2024 unless extended (the “Pilot Period”). Evaluation may be undertaken as the pilot proceeds and an interim report or reports may be made before the end of the pilot.

1.3 Subject to paragraph 1.4 below, the Pilot shall apply to all small claims in the County Courts at Bedford, Luton, Guildford, Staines, Cardiff and Manchester (each a “Pilot Court” and together the “Pilot Courts”) which are issued after the Commencement Date and shall not apply to existing proceedings.

1.4 The Pilot shall not apply to small claims —

- (a) where the parties have followed the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents and proceedings have been started under Practice Direction 27B; or
- (b) for housing disrepair.

1.5 The Pilot will continue to apply after the end of the Pilot Period to any proceedings listed for determination without a hearing during the Pilot Period.

1.6 For the purposes of the Pilot, where the provisions of this Practice Direction conflict with other provisions of the rules or other Practice Directions, including rule 27.10, this Practice Direction shall take precedence.

2. Transfers in and out of Pilot Courts

2.1 If a small claim which does not fall within sub-paragraph 1.4 is transferred into a Pilot Court from a court which is not a Pilot Court, the Pilot will apply, and the court may direct that the small claim will be determined without a hearing.

2.2 If a small claim is transferred out of a Pilot Court into a court which is not a Pilot Court, any order listing the matter for determination on paper made under the Pilot will remain in force, unless the transferee court makes a different order.

3. Re-allocation

3.1 Where a small claim is listed for determination without a hearing pursuant to the Pilot and is subsequently re-allocated from the small claims track to another track, the listing for determination without a hearing will no longer apply and the court will make case management directions to trial.

4. Suitability for determination without a hearing

4.1 A determination without a hearing can be a proportionate and efficient means of determining a small claim in cases where it is not necessary to hear oral evidence or oral advocacy to determine the issues justly.

4.2(1) Form N180 (Directions Questionnaire (Small Claims)) shall be amended before the Commencement Date to include a section requiring each party to indicate —

- (a) whether they consider that the claim is suitable for determination without a hearing; and
- (b) if not, why not;

(“the Amended Form N180”).

(2) The Amended Form N180 shall remain in use by the County Court throughout the Pilot Period.

4.3 During the Pilot Period, a Pilot Court may direct that a small claim which falls within the Pilot should be determined without a hearing—

- (a) if all parties agree; or
- (b) if, having considered the completed directions questionnaires in Amended Form N180, the court considers it is suitable for determination without a hearing.

4.4 Whether a small claim is suitable for determination without a hearing is a matter for judicial discretion to be exercised in accordance with the Overriding Objective. The types of small claims which may be suitable include—

- (a) a claim for compensation for flight delay or denial of boarding pursuant to EU Regulation 261/2004 and/or The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019;
- (b) a claim arising out of the issuance of a parking ticket on private land; and
- (c) any other claim of £1000 or less by value where there is no significant factual dispute which requires oral evidence, and the issues are not of such complexity as to require oral advocacy.

5. Determination

5.1 A Pilot Court will give the parties at least 21 days' notice of the date of the determination of a small claim without a hearing ("date of determination").

5.2 Where a direction is made pursuant to sub-paragraph 4.3(b), any party may file at the Pilot Court short written submissions objecting to that direction no less than 7 days before the date of determination, which will be put before the judge at the time listed for the paper determination. The judge will consider the suitability of the small claim for paper determination afresh and may either continue with the paper determination or direct that it be listed for a hearing instead.

5.3 Where the judge determines a small claim without a hearing under the Pilot, the judge will prepare a note of reasons (which shall include reasons for determining that it is suitable for determination without a hearing, if a party has objected pursuant to sub-paragraph 5.2) and the Pilot Court will send a copy to each party.

5.4 For the purposes of the Pilot, rule 5.4C(1) shall be read as if it included a new sub-section (c) as follows—

"5.4C

(1) The general rule is that a person who is not a party to proceedings may obtain from the court records a copy of—

(a)...;

(b)...;

(c) a copy of a note of reasons prepared pursuant to PD 51ZC.”.

6. Appeals

6.1(1) A party who is dissatisfied with a determination without a hearing under the Pilot may not apply to set aside a judgment under rule 27.11 but may seek permission to appeal it pursuant to rule 52.3.

(2) In considering such an appeal, the appeal court will take into account the summary nature of the note of reasons produced following a determination without a hearing.”.