

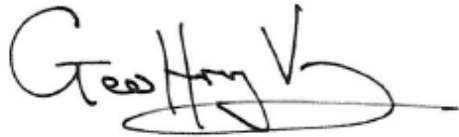
149th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the Practice Directions which supplement 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 Lord Bellamy QC, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

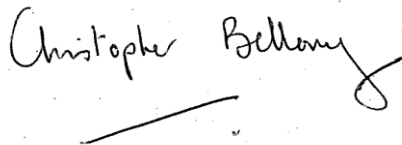
The amendments to the Practice Directions come into force as follows—	
Practice Direction 2B – Allocation of Cases to Levels of Judiciary	1 October 2022
Practice Direction 2C - Starting Proceedings in the County Court	1 October 2022
Practice Direction 2D – References in the Rules to Actions Done by the Court	1 October 2022
Practice Direction 3A – Striking Out a Statement of Case	1 October 2022
Practice Direction 3D – Mesothelioma Claims	1 October 2022
Practice Direction 4 – Forms	1 October 2022
Practice Direction 5B – Communication and Filing of Documents by E-Mail	1 October 2022
Practice Direction 6B – Service Out of the Jurisdiction	1 October 2022
Practice Direction 7A – How to Start Proceedings—The Claim Form	1 October 2022
Practice Direction 7B - Consumer Credit Act 2006 – Unfair Relationships	1 October 2022
Practice Direction 7C – Production Centre	1 October 2022
Practice Direction 7D – Claims for the Recovery of Taxes and Duties	1 October 2022
Practice Direction 7E – Money Claims Online	1 October 2022
Practice Direction 8A – Alternative Procedure for Claims	1 October 2022
Practice Direction 8B - Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents and Low Value Personal Injury (Employers’ Liability and Public Liability) Claims – Stage 3 Procedure	1 October 2022
Practice Direction 15 – Defence and Reply	1 October 2022

Practice Direction 16 – Statements of Case	1 October 2022
Practice Direction 40B – Judgments and Orders	1 October 2022
Practice Direction 44 – General Rules About Costs	1 October 2022
Practice Direction 45 – Fixed Costs	1 October 2022
Practice Direction 46 – Costs: Special Cases	1 October 2022
Practice Direction 49B – Mesothelioma Claims	1 October 2022
Practice Direction 49C – Consumer Credit Act 2006 – Unfair Relationships	1 October 2022
Practice Direction 49D – Claims for the Recovery of Taxes and Duties	1 October 2022
Practice Direction 49E – Alternative Procedure for Claims	1 October 2022
Practice Direction 49F – Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents and Low Value Personal Injury (Employers’ Liability and Public Liability) Claims – Stage 3 Procedure	1 October 2022
Practice Direction 51U – Disclosure Pilot for the Business and Property Courts	1 October 2022
Practice Direction 51ZB – The Damages Claims Pilot	1 October 2022
Practice Direction 51ZC – The Small Claims Paper Determination Pilot	1 October 2022
Practice Direction 52B - Appeals in the County Court and High Court	1 October 2022
Practice Direction 52C – Appeals to the Court of Appeal	1 October 2022
Practice Direction 54E – Environmental Review Claims	1 October 2022
Practice Direction 55A – Possession Claims	1 December 2022
Practice Direction 55B – Possession Claims Online	1 December 2022
Practice Direction 56A – Renting Homes (Wales) Claims	1 December 2022
Practice Direction 57 – Probate	1 October 2022
Practice Direction 57C - Proceedings Under the Guardianship (Missing Persons) Act 2017	1 October 2022
Practice Direction 57AD – Disclosure for the Business and Property Courts	1 October 2022
Practice Direction 65 – Anti-Social Behaviour and Harassment	1 December 2022
Practice Direction 83 – Writs and Warrants – General Provisions	1 October 2022

Practice Direction 84 – Enforcement by Taking Control of Goods	1 October 2022
Practice Direction – Civil Recovery Proceedings	1 October 2022



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



Signed by authority of the Lord Chancellor:

Lord Bellamy QC

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 11 July 2022

TRANSITIONAL PROVISION

The amendments to Practice Directions 45 and 46 apply only in relation to claims made on or after 1 October 2022.

PRACTICE DIRECTION 2B - ALLOCATION OF CASES TO LEVELS OF JUDICIARY

1) In paragraph 11.1(1)(a), for “8A” substitute “49E”.

PRACTICE DIRECTION 2C - STARTING PROCEEDINGS IN THE COUNTY COURT

2) In the table of contents—

- a) in the entry for paragraph 3.1, in the second column, for “3.1” substitute “3”;
- b) for the entry for paragraph 5, in the first column, substitute—

“Applications made in pre-existing claims and applications”;

- c) omit the entry for paragraph 6;
- d) omit the entry for paragraph 7; and
- e) omit the entry for the Schedule – County Court Directory.

3) For paragraphs 1.1 and 1.2, substitute—

“1. This Practice Direction applies to Proceedings in the County Court.”.

4) For paragraph 3.1 substitute—

“3.1

(1) If any rule, practice direction or enactment provides that a claim or application must be started at a particular County Court hearing centre, the claim must be started at that centre.

(2) If a claim or application is started at the wrong hearing centre, it may be sent to the correct hearing centre and issued there or returned to the claimant unissued.”.

5) In paragraph 3.2—

- a) in sub-paragraph (1)—
 - i) for “Subject to subparagraphs (2) and (3), the” substitute “The”; and
 - ii) omit “(“Practice Direction 7A, paragraph 4A.1)”;
- b) in sub-paragraph (2)—
 - i) for “A person” substitute “But a person”; and
 - ii) for “7C” substitute “7B”;
- c) for sub-paragraph (3) substitute—

“(3) An application for a Part 7 claim to be issued through the Money Claim Online scheme must be sent electronically. Any other document, application or request, other than one filed electronically, must be sent to the County Court Business Centre at St Katherine’s House at the above address.”.

6) For paragraphs 3.3 to 3.6 substitute—

“3.3

(1) County Court proceedings under the Companies Acts or the Limited Liability Partnerships Act 2000 may be started either in a County Court hearing centre as permitted under any enactment or at the County Court at Central London.

3.4 A claim of a debtor or hirer for an order under section 129(1)(b) or 129(1)(ba) of the Consumer Credit Act 2006 (known as a ‘time order’) must be made at the County Court hearing centre where the claimant debtor or hirer resides or carries on business.

3.5 The claim form in an application under the Mental Health Act 1983 must be filed—

(a) in the County Court hearing centre serving the address where the patient lives; or

(b) in an application under section 30, in the court or County Court hearing centre that made the order under section 29 of the Act.

Claims and applications that may be started in any County Court hearing centre, but which will be sent or transferred to another County Court hearing centre following issue.”.

7) For paragraph 4 substitute—

“4

4.1 Where a court officer considers that a claim or application could more appropriately be determined in a different County Court hearing centre, the claim or application may be sent to that centre.

4.2 A person wishing to find the most appropriate centre for the claim or application may consult the Court Finder tool at <https://courtribunalfinder.service.gov.uk/>, or enquire at their local County Court hearing centre.”.

8) In paragraph 5—

a) for the heading to that paragraph substitute—

“Applications made in pre-existing claims and applications”; and

b) for paragraph 5 substitute—

5.1 An application made in the course of an existing claim or application must be made to the County Court hearing centre where the claim was started or to which it has been transferred.

5.2 If the parties have been notified of a fixed date for the trial, an application must be made to the court where the trial is to take place.

5.3 If the claim is started in the County Court Money Claims Centre, an application made after the claim has been started must be made to the County Court hearing centre to which the claim has been sent, or, if the claim has not been sent to a County Court hearing centre, to the County Court Money Claims Centre.”.

9) Omit paragraph 6.

10) Omit paragraph 7.

11) Omit the Schedule – County Court Directory.

PRACTICE DIRECTION 2D – REFERENCES IN THE RULES TO ACTIONS DONE BY THE COURT

1) Omit Practice Direction 2D – References in the Rules to Actions Done by the Court.

PRACTICE DIRECTION 3A – STRIKING OUT A STATEMENT OF CASE

1) In the table of contents, omit the entry for vexatious litigants.

2) Omit paragraphs 1.1 and 1.2.

3) For paragraph 1.3 substitute—

“1.1 This practice direction sets out the procedure a party should follow if they wish to make an application for an order under rule 3.4(2)(a) (where a statement of case discloses no reasonable grounds for bringing or defending a claim); or under rule 3.4(2)(b) (where a

statement of case is an abuse of the court's process or otherwise likely to obstruct the just disposal of the proceedings).”.

- 2) Renumber paragraph 1.4 as “1.2”.
- 3) Renumber paragraph 1.5 as “1.3”.
- 4) In paragraph 1.6—
 - a) renumber that paragraph as 1.4; and
 - b) in sub-paragraph (2)—
 - i) omit the words “even if true”; and
 - ii) after “defence to the claim, insert “even if true”.
- 5) In paragraph 1.7—
 - a) renumber that paragraph “1.5”;
 - b) for “he”, where it first appears, substitute “they”;
 - c) for “construction” substitute “interpretation”; and
 - d) in the second sentence—
 - i) after “under rule 3.4 or”, insert “apply for summary judgment under”; and
 - ii) for “he thinks” substitute “they think”.
- 6) Omit paragraph 1.8; and
- 7) Renumber paragraph 1.9 as “1.6”.
- 8) In paragraph 2.1—
 - a) for “he believes” substitute “they believe”;
 - b) for “his” substitute “they”; and
 - c) omit “(as the case maybe)”.
- 9) Renumber paragraphs 2.3 to 2.6 as paragraphs “2.2” to “2.5”, respectively.
- 10) In what will now be paragraph 2.3, in sub-paragraph (3), for “he files” substitute “they file”.
- 11) In what will now be paragraph 2.4, for “he” substitute “they”.
- 12) In what will now be paragraph 2.5, for “him” substitute “them”.
- 13) In paragraph 3.2—
 - a) for “he” in the first place it appears substitute “they”;
 - b) for “his” substitute “their”;
 - c) for “he does” substitute “they do”; and
 - d) for “he” in the third place it appears substitute “they”.
- 14) In paragraph 3.5, for “his” substitute “their”.
- 15) Omit the section headed “vexatious litigants”.

PRACTICE DIRECTION 3D – MESOTHELIOMA CLAIMS

- 1) Omit Practice Direction 3D.

PRACTICE DIRECTION 4 – FORMS

- 1) Omit Practice Direction 4 – Forms.

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

- 1) In paragraph 1(2)(b), for “7E” substitute “7C”.

PRACTICE DIRECTION 6B – SERVICE OUT OF THE JURISDICTION

Paragraph 3.1 of Practice Direction 6B is amended as follows.

- 1) In paragraph (1), at the end insert “within the meaning of sections 41 and 42 of the Civil Jurisdiction and Judgments Act 1982”.
- 2) After paragraph (1) insert—
“(1A) A claim is made against a person in respect of a dispute arising out of the operations of a branch, agency or other establishment of that person within the jurisdiction, but only if proceedings cannot be served on the branch, agency or establishment.”
- 3) For paragraph (4A) substitute—
“(4A) A claim is made against the defendant which—
(a) was served on the defendant within the jurisdiction without the need for the defendant’s agreement to accept such service;
(b) falls within CPR rule 6.33; or
(c) falls within one or more of paragraphs (1A), (2), (6) to (16A) or (19) to (23)
and a further claim is made against the same defendant which arises out of the same or closely connected facts.”
- 4) In paragraph (6)—
(a) in sub-paragraph (a), for “made within the jurisdiction” substitute “(i) made within the jurisdiction or (ii) concluded by the acceptance of an offer, which offer was received within the jurisdiction”;

(b) in sub-paragraph (c), for “English law” substitute “the law of England and Wales”.

- 5) In paragraph (7), after “committed” insert “, or likely to be committed”.
- 6) After paragraph (8) insert—
 - “(8A) A claim for unlawfully causing or assisting in:
 - (a) a breach of a contract where the contract falls within one of paragraphs (6)(a) to (6)(c) above or within Rule 6.33(2B); or
 - (b) a breach of contract falling within paragraph (7) above.”
- 7) In paragraph (9)—
 - (a) at the end of sub-paragraph (a), omit “or”;
 - (b) for the full stop at the end of sub-paragraph (b) substitute “; or”; and
 - (c) after sub-paragraph (b) insert—
 - “(c) the claim is governed by the law of England and Wales.”.
- 8) After paragraph (12A) insert—
 - “(12B) A claim is made in respect of a trust which is created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, and which expressly or impliedly designates England and Wales as the principal place of administration.
 - (12C) A claim is made in respect of a trust created in the jurisdiction.
 - (12D) A claim is made for a declaration that no trust has arisen where, if the trust was found to have arisen, it would comply with one of the conditions set out in paragraph (12), (12A), (12B) or (12C).
 - (12E) A claim is made for a breach of trust where the breach is committed or likely to be within the jurisdiction.”
- 9) For paragraph (15) substitute—
 - “(15) A claim is made against the defendant as constructive trustee, or as trustee of a resulting trust, where the claim—
 - (a) arises out of acts committed or events occurring within the jurisdiction;
 - (b) relates to assets within the jurisdiction; or
 - (c) is governed by the law of England and Wales.
 - (15A) A claim for unlawfully causing or assisting in—
 - (a) a breach of a trust where the trust falls within one of paragraphs (12) to (12C) above;
 - (b) a breach of trust falling within paragraph (12E) above; or
 - (c) a breach of a constructive or resulting trust where the trustee’s liability would fall within paragraph (15) above.
 - (15B) A claim is made for breach of fiduciary duty, where—
 - (a) the breach is committed, or likely to be committed, within the jurisdiction;
 - (b) the fiduciary duty arose in the jurisdiction; or

(c) the fiduciary duty is governed by the law of England and Wales.

(15C) A claim for unlawfully causing or assisting in—

- (a) a breach of fiduciary duty where the fiduciary duty falls within one of paragraph (15B)(b) or (c) above;
- (b) a breach of fiduciary duty falling within paragraph (15A)(a) above.

(15D) A claim is made for a declaration that no fiduciary duty has arisen where, if the fiduciary duty was found to have arisen, it would comply with one of the conditions set out in paragraph (15B)(b) or (c)."

10) After paragraph (16) insert—

"Declarations of non-liability

(16A) A claim is made for a declaration that the claimant is not liable where, if a claim were brought against the claimant seeking to establish that liability, that claim would fall within another paragraph of this Practice Direction (excluding paragraphs (1) to (5), (8), (12D), (15D), (17), (22) and (24) to (25))."

11) In paragraph (17), at the end insert "within the meaning of sections 41 and 42 of the Civil Jurisdiction and Judgments Act 1982".

12) In paragraph (21)—

- (a) at the end of sub-paragraph (b), for the full stop substitute a semi-colon; and
- (b) after sub-paragraph (b) insert—

"(c) the obligation of confidence or right to privacy arose in the jurisdiction; or
(d) the obligation of confidence or right to privacy is governed by the law of England and Wales."

13) After paragraph (21) insert—

"(22) A claim is made for a declaration that no duty of confidentiality or right to privacy has arisen where, if the duty or right was found to have arisen, it would comply with one of the conditions set out in paragraph (21)(c) or (d).

(23) A claim is made for unlawfully causing or assisting in—

- (a) a breach of confidence or misuse of private information where the obligation or right in question falls within paragraph (21)(c) or (d) above; or
- (b) a breach of confidence or misuse of private information falling within paragraph (21)(a) or (b) above".

Contempt applications

(24) A contempt application is made, whether or not, apart from this paragraph, a claim form or application notice containing such an application can be served out of the jurisdiction.

Information orders against non-parties

(25) A claim or application is made for disclosure in order to obtain information—

(a) regarding:

- (i) the true identity of a defendant or a potential defendant; and/or
- (ii) what has become of the property of a claimant or applicant; and

(b) the claim or application is made for the purpose of proceedings already commenced or which, subject to the content of the information received, are intended to be commenced either by service in England and Wales or pursuant to CPR rule 6.32, 6.33 or 6.36.”

PRACTICE DIRECTION 7A – HOW TO START PROCEEDINGS – THE CLAIM FORM

- 1) For Practice Direction 7A substitute Practice Direction 7A as set out in Schedule 1 to this update.

PRACTICE DIRECTION 7B – CONSUMER CREDIT ACT 2006 – UNFAIR RELATIONSHIPS

- 1) Omit Practice Direction 7B.

PRACTICE DIRECTION 7C – PRODUCTION CENTRE

- 1) Practice Direction 7C is renumbered as Practice Direction 7B.

PRACTICE DIRECTION 7D – CLAIMS FOR THE RECOVERY OF TAXES AND DUTIES

- 1) Omit Practice Direction 7D.

PRACTICE DIRECTION 7E – MONEY CLAIMS ONLINE

- 1) Practice Direction 7E is renumbered as Practice Direction 7C.

PRACTICE DIRECTION 8A – ALTERNATIVE PROCEDURE FOR CLAIMS

- 1) Omit Practice Direction 8A.

PRACTICE DIRECTION 8B – PRE-ACTION PROTOCOL FOR LOW VALUE PERSONAL INJURY CLAIMS IN ROAD TRAFFIC ACCIDENTS AND LOW VALUE PERSONAL INJURY (EMPLOYERS’ LIABILITY AND PUBLIC LIABILITY) CLAIMS – STAGE 3 PROCEDURE

- 1) Omit Practice Direction 8B.

PRACTICE DIRECTION 15 – DEFENCE AND REPLY

- 1) Omit Practice Direction 15 – Defence and Reply.

PRACTICE DIRECTION 16 – STATEMENTS OF CASE

- 1) For Practice Direction 16 substitute Practice Direction 16 as set out in Schedule 2 to this update.

PRACTICE DIRECTION 40B – JUDGMENTS AND ORDERS

- 1) In paragraph 14.3, omit the words “The forms referred to” to “Practice Direction 4.”.

PRACTICE DIRECTION 44 – GENERAL RULES ABOUT COSTS

- 1) In paragraph 3.1, for “3E” substitute “3D”.

PRACTICE DIRECTION 45 – FIXED COSTS

- 1) In the table of contents, omit the entry for Section IV.
- 2) Omit Section IV.

PRACTICE DIRECTION 46 – COSTS SPECIAL CASES

- 1) In the table of contents, after the entry for paragraph 10.1, insert—

“Scale costs for proceedings in the Intellectual Property Enterprise Court – rule 46.20(4)	Para. 11.1”.
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- 2) After paragraph, 10.2, insert—

“Scale costs for proceedings in the Intellectual Property Enterprise Court – rule 46.20(4)

11.1

Tables A and B

- (a) Tables A and B set out the maximum amount of scale costs which the court will award for each stage of a claim in the Intellectual Property Enterprise Court;
- (b) Table A sets out the scale costs for each stage of a claim up to determination of liability; and
- (c) Table B sets out the scale costs for each stage of an inquiry as to damages or account of profits.

Table A

Stage of a claim	Maximum amount of costs
Particulars of claim	£9,000
Defence and counterclaim	£8,000
Reply and defence to counterclaim	£7,000
Reply to defence to counterclaim	£3,500
Attendance at a case management conference	£6,000
Making or responding to an application	£4,000
Providing or inspecting disclosure or product/process description	£6,000
Performing or inspecting experiments	£3,000

Preparing witness statements	£8,000
Preparing experts' report	£9,000
Preparing for and attending trial and judgment	£20,000
Preparing for determination on the papers	£5,500

Table B

Stage of a claim	Maximum amount of costs
Points of claim	£4,000
Points of defence	£4,000
Attendance at a case management conference	£5,000
Making or responding to an application	£3,000
Providing or inspecting disclosure	£3,000
Preparing witness statements	£6,000
Preparing experts' report	£7,000
Preparing for and attending trial and judgment	£10,000
Preparing for determination on the papers	£3,000".

PRACTICE DIRECTION 49B - ORDER UNDER SECTION 127 OF THE INSOLVENCY ACT 1986

- 1) Omit Practice Direction 49B.

NEW PRACTICE DIRECTION 49B – MESOTHELIOMA CLAIMS

- 1) After Practice Direction 49A, insert Practice Direction 49B as set out in Schedule 3 to this update.

NEW PRACTICE DIRECTION 49C – CONSUMER CREDIT ACT 2006 – UNFAIR RELATIONSHIPS

- 1) After Practice Direction 49B as inserted by this update, insert Practice Direction 49C as set out in Schedule 4 to this update.

NEW PRACTICE DIRECTION 49D – CLAIMS FOR THE RECOVERY OF TAXES AND DUTIES

- 1) After Practice Direction 49C as inserted by this update, insert Practice Direction 49D as set out in Schedule 5 to this update.

NEW PRACTICE DIRECTION 49E – ALTERNATIVE PROCEDURE FOR CLAIMS

- 1) After Practice Direction 49D as inserted by this update, insert Practice Direction 49E as set out in Schedule 6 to this update.

NEW PRACTICE DIRECTION 49F – PRE-ACTION PROTOCOL FOR LOW VALUE PERSONAL INJURY CLAIMS IN ROAD TRAFFIC ACCIDENTS AND LOW VALUE PERSONAL INJURY (EMPLOYERS' LIABILITY AND PUBLIC LIABILITY) CLAIMS – STAGE 3 PROCEDURE

- 1) After Practice Direction 49E as inserted by this update, insert Practice Direction 49F as set out in Schedule 7 to this update.

PRACTICE DIRECTION 51U – DISCLOSURE PILOT FOR THE BUSINESS AND PROPERTY COURTS

- 1) Omit Practice Direction 51U.

PRACTICE DIRECTION 51ZB – THE DAMAGES CLAIMS PILOT

- 1) In paragraph 7.5, for “3E” substitute “3D”.

PRACTICE DIRECTION 51ZC - THE SMALL CLAIMS PAPER DETERMINATION PILOT

- 1) In paragraph 1.3, for “County Courts” substitute the “the County Court sitting at”.

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

- 1) In paragraph 4.2(b), after “sealed order”, insert “or determination”.
- 2) In paragraph 6.4(1)(d), after “order”, insert “or determination”.

PRACTICE DIRECTION 52C - APPEALS TO THE COURT OF APPEAL

- 1) In paragraph 3(3)(a), for “tribunal” substitute “other”.

NEW PRACTICE DIRECTION 54E – ENVIRONMENTAL REVIEW CLAIMS

- 1) After Practice Direction 54D, insert Practice Direction 54E as set out in Schedule 8 to this update.

PRACTICE DIRECTION 55A – POSSESSION CLAIMS

- 1) In the Table of Contents, after the entry for Section IV – Orders fixing a date for possession, insert –

“SECTION V – RENTING HOMES WALES POSSESSION CLAIMS”.

- 2) In paragraph 1.5, omit the words “set out in Table 1 to Practice Direction 4”.
- 3) After paragraph 10, insert—

“SECTION V – RENTING HOMES WALES POSSESSION CLAIMS

11.1 Subject to paragraph 11. 3 and the modifications in this Section, Sections I, II and IV of this Practice Direction apply in relation to Renting Homes possession claims.

11.2 In Sections I, II and IV—

- (a) any reference to land or property (unless the context otherwise requires) includes reference to a dwelling;
- (b) any reference to a possession claim includes reference to a Renting Homes possession claim;
- (c) any reference to a tenancy includes reference to an occupation contract and any reference to a tenant includes reference to a contract-holder; and
- (d) any reference to a demotion claim includes reference to a prohibited conduct standard contract order claim and any reference to a demotion order includes reference to a prohibited conduct standard contract order under section 116 of the 2016 Act.

11.3 Paragraphs 2.1(2), 2.4, 2.5, 2.5A, 2.6, 4.1, 7.1 and 7.2 do not apply.

11.4 In paragraph 1.5 –

- (a) reference to the appropriate claim form and particular of claim is to the following forms as appropriate –
 - (i) N5 (W) claim for possession of property;
 - (ii) N5B (W) claim for possession of property -Accelerated;
 - (iii) N121 (W) claim form (Trespassers);
 - (iv) N120 (W) Claim Form (Mortgaged residential premises);
 - (v) N119 (W) POC (residential possession); and

(b) reference to the applicable defence form in connection with a Renting Homes possession claim is to Form N11 R (W) defence form (Rented Premises); and

(c) a claim for an extended possession order must be in the relevant claim form listed in paragraph (a) and be accompanied by the notice required under section 65(3)(b) of the 2016 Act.

11.5 Paragraph 2.1(4) is to be read as referring only to details about any occupation contract.

11.6 Paragraph 2.7 has effect that if the claim is a Renting Homes possession claim under section 178 or section 181 of the 2016 Act in relation to an occupation contract which is a prohibited conduct standard contract or introductory standard contract (provided for under section 16 of that Act), the particulars of claim must have attached to them a copy of the notice provided to the contract-holder in accordance with section 173 or section 182 of that Act.

11.7 In paragraphs 8.1, 8.3 and 8.4 reference to section 89 of the Housing Act 1980 includes reference to section 219 of the 2016 Act.

11.8 Paragraph 10.1 has effect as including reference to sections 211(2) and (3) of the 2016 Act.”.

PRACTICE DIRECTION 55B – POSSESSION CLAIMS ONLINE

- 1) In paragraph 5.1(1) for “Section I” substitute “Sections I or IV”.
- 2) In paragraph 5.1(2) –
 - a) after “residential property” insert “or a Renting Homes possession claim”; and
 - b) in subparagraph (a) after “tenant” insert “or contract holder”.
- 3) In paragraph 6.2, after “tenancy agreement” insert “occupation contract”.
- 4) In paragraph 6.2A after “residential property” insert “or a renting homes possession claim”.
- 5) In paragraph 6.3(1), after “tenancy agreement” insert “occupation contract”.
- 6) In paragraph 6.3A(1), after “tenancy agreement” insert “occupation contract”.
- 7) For paragraph 6.3B(1) substitute –

“(1) the amount of arrears –

(a) as stated in the notice served –

- (i) under section 83 of the Housing Act 1985;
- (ii) under section 8 of the Housing Act 1988; or
- (iii) under section 159, 182 or 188 of the Renting Homes (Wales) Act 2016; or

(b) as at the date of the claimant's letter before action,

as appropriate;”.

- 8) In the words in parentheses that follow paragraph 6.3C, for “Rule 55.8(4) requires” substitute “Rules 55.8(4) and 55.36(4)”.
- 9) In the words in parentheses that follow paragraph 6.11 for “county court” substitute “County Court”.
- 10) In paragraph 11.1 after “possession claim” insert “or Renting Homes possession claim”.

PRACTICE DIRECTION 56A – RENTING HOMES (WALES) CLAIMS

- 1) After Practice Direction 56 – Landlord and Tenant Claims and Miscellaneous Claims about Land insert new Practice Direction 56A – Renting Homes (Wales) Claims set out in Schedule 9 to this Update.

PRACTICE DIRECTION 57 – PROBATE

- 1) In the Annex, after “I believe that the facts stated in this witness statement are true.” insert “I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.”.

PRACTICE DIRECTION 57C – PROCEEDINGS UNDER THE GUARDIANSHIP (MISSING PERSONS) ACT 2017

- 1) In the Table of Contents, omit the entry for paragraph 7.1.
- 2) Omit paragraph 7.1.

PRACTICE DIRECTION 57AD – DISCLOSURE FOR THE BUSINESS AND PROPERTY COURTS

- 1) After Practice Direction 57AC, insert Practice Direction 57AD as set out in Schedule 10 to this Update

PRACTICE DIRECTION 65 – ANTI-SOCIAL BEHAVIOUR AND HARASSMENT

- 1) In the Table of Contents –
 - a) in the entry for Section III titled “Section III – Demotion or suspension claims”, after “Demotion”, insert “claims, prohibited conduct standard contract order claims”;
 - b) in the entry titled “Demotion claims made in the alternative to possession claims”, after “Para.” insert “5.1”;
 - c) after the entry for paragraph 5A.1, insert –

“

Prohibited conduct standard contract order claims made in the alternative to possession claims	Para. 5B.1
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“;

- d) in the entry for paragraph 6.1, after “demotion” insert “claims, prohibited conduct standard contract order claims”;
 - e) in the entry for Section III titled “Section III – Proceedings relating to demoted tenancies”, after “tenancies” insert “; proceedings against a contract holder of a prohibited conduct standard contract for possession”; and
 - f) in the entry for paragraph 10.1, after “tenancy” insert “; proceedings against a contract holder of a prohibited conduct standard contract for possession”.
- 2) In paragraph 1.1(1), for “Practice Direction 8A” substitute “Part 8”.
- 3) In the heading titled “Section III – Demotion or suspension claims”, after “Demotion”, insert “claims, prohibited conduct standard contract order claims”.
- 4) After the heading to paragraph 5A.1, insert –

“(Suspension claims may be made in England, but may not be made in Wales.)”.

5) After paragraph 5B.1 insert –

“Prohibited conduct standard contract order claims made in the alternative to possession claims

5B.1 If the claim relates to a residential dwelling in Wales, let under an occupation contract and if the claim includes a prohibited conduct standard contract order claim, the particulars of claim must –

(1) state that the prohibited conduct standard contract order claim is a claim under section 116 of the 2016 Act;

(2) state whether the claimant is a community landlord or registered charity;

(3) provide details of any agreement reached between the landlord and the contract-holder as to the terms of the periodic standard contract, pursuant to paragraph 2 of Schedule 7 to the 2016 Act; and

(4) state particulars of the conduct alleged.”.

6) In the heading for paragraph 6.1, after “demotion” insert “claims, prohibited conduct standard contract order claims”;

7) In paragraph 6.1(1), after “demotion” insert “prohibited conduct standard contract”.

8) For paragraph 6.2 substitute –

“6.2 The claimant must use the relevant approved claim form and particulars of claim form. The defence must be in form N11D or N11D (W) as appropriate.”.

9) After paragraph 7.1 insert –

“7.1A In a prohibited conduct standard contract claim the particulars of claim must –

(a) state that the prohibited conduct standard conduct claim is a claim under section 116 of the 2016 Act;

(b) state whether the claimant is a community landlord or a registered charity;

(c) identify the dwelling to which the claim relates;

(d) provide the following details about the occupation contract to which the prohibited conduct claim relates –

(i) the parties to the occupation contract;

(ii) the period of the occupation contract;

(iii) the amount of the rent;

(iv) the dates on which the rent is payable; and

(v) details of any agreement reached between the landlord and the contract-holder as to the terms of the periodic standard contract; and

(e) state details of the conduct alleged.”.

10) In paragraph 9.2 after “1996 Act” insert “or section 55 of the 2016 Act”.

11) In the heading titled “Section III – Proceedings relating to demoted tenancies”, after “tenancies” insert “; proceedings against a contract holder of a prohibited conduct standard contract for possession”.

12) In the heading for paragraph 10.1, after “tenancy” insert “; proceedings against a contract holder of a prohibited conduct standard contract for possession”.

13) In paragraph 10.1, after “tenancy” insert “or a contract-holder of a prohibited conduct standard contract”.

PRACTICE DIRECTION 83 – WRITS AND WARRANTS – GENERAL PROVISIONS

1) In paragraphs 3.1, 3.2 and 3.3, omit “in Practice Direction 4”.

PRACTICE DIRECTION 84 – ENFORCEMENT BY TAKING CONTROL OF GOODS

1) In paragraph 1.1(1), (2) and (3), for “www.justice.gov.uk/courts/procedure/rules” substitute “www.legislation.gov.uk”.

2) Omit paragraph 1.3.

PRACTICE DIRECTION – CIVIL RECOVERY PROCEEDINGS

1) In the table of contents, after the entry for paragraph 18.4, insert—

“Application to extend the determination period

Para 18.10A”

2) In paragraph 1.5, after sub-paragraph 13 insert—

“(13A) ‘responsible officer’ has the meaning set out in section 362A(8) of the Act;”.

3) In paragraph 18.1—

a) before “The application notice”, insert “(1)”; and

b) after what will now be paragraph (1), insert—

“(2) In a case where the respondent is not an individual, the application notice may also name a person who is specified as a responsible officer of the respondent, pursuant to section 362(2A) of the Act.”.

4) In paragraph 18.2—

a) in sub-paragraph (1) after “section 362A(2)”, insert “and, if applicable, section 362A(2A)”;
and

b) for sub-paragraph (4)(c) substitute—

“(c)

(i) the known sources of the respondent’s lawfully obtained income (see section 362B(3)(a) of the Act); or

(ii) the unlawful conduct through which it is suspected that the property has been obtained (see section 362B(3)(b) of the Act).”.

5) In paragraph 18.3(4), after “within which the respondent”, insert “or, if applicable, the specified responsible officer”.

6) In paragraph 18.10—

a) in sub-paragraph (1), after “for the respondent”, insert “or, if applicable, the specified responsible officer”; and

b) in sub-paragraph (2), after “in relation to the property”, insert “(“the determination period”)”.

7) After paragraph 18.10, insert—

“Application to extend the determination period

18.10A

An application under section 362DA of the Act to extend the determination period must—

(a) be made to a High Court judge;

(b) be made in accordance with CPR Part 23; and

(c) explain, pursuant to section 362DA—

(i) the work that the enforcement authority is undertaking towards making a determination under section 362D(2);

(ii) why further time is needed for the authority to make that determination; and

(iii) why it is reasonable in all the circumstances for the period to be extended.

(Section 362DA of the Act specifies the limits which apply to an extension of the determination period.)”.

8) In paragraph 18.11, after “the purpose of enabling the respondent”, insert “or, if applicable, the specified responsible officer”.

9) In paragraph 18.14, for “the maker of the statement” substitute “a person”.

10) in paragraph 18.15—

a) after “the person may meet their”, insert “or, if applicable, the specified responsible officer’s”; and

b) in sub-paragraph (1), for “their”, substitute “those”.

SCHEDULE 1

PRACTICE DIRECTION 7A—HOW TO START PROCEEDINGS—THE CLAIM FORM

This Practice Direction supplements CPR Part 7

Contents of this Practice Direction

Title	Number
General	Para 1
Where to start proceedings	Para 2.1
The claim form	Para 3.1
Title of proceedings	Para 4.1
Starting a Part 7 claim in the County Court	Para 5.1
Start of proceedings	Para 6.1
Claims by and against partnerships within the jurisdiction	Para 7.1
Partnership membership statements	Para 8.1
Persons carrying on business in another name	Para 9.1
Statement of truth	Para 10.1
Extension of time	Para 11.1

General

1. Subject to the following provisions of this practice direction, proceedings where both the High Court and the County Court have jurisdiction may be started in the High Court or in the County Court.

Where to start proceedings

2.1 Proceedings (whether for damages or for a specified sum) may only be started in the High Court if the value of the claim is more than £100,000.

2.2 Proceedings which include a claim for damages in respect of personal injuries may only be started in the High Court if the value of the claim is £50,000 or more (paragraph 9 of the High

Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724 as amended) describes how the value of a claim is to be determined).

2.3 A claim must be issued in the High Court or the County Court if an enactment so requires.

2.4 Subject to paragraphs 2.1 and 2.2 above, a claim should be started in the High Court if by reason of—

(1) the financial value of the claim and the amount in dispute, and/or

(2) the complexity of the facts, legal issues, remedies or procedures involved,

and/or

(3) the importance of the outcome of the claim to the public in general,

the claimant believes that the claim ought to be dealt with by a High Court judge.

(CPR Part 30 and Practice Direction 30 contain provisions relating to the transfer to the County Court of proceedings started in the High Court and vice-versa.)

2.5 (1) A claim in the County Court under Part 7 may be made at any County Court hearing centre, unless any enactment, rule or practice direction provides otherwise.

(2) If a claim which is required to be made at a particular County Court hearing centre is made at the wrong hearing centre, a court officer will send the claim to the correct hearing centre before it is issued.

2.6 A claim relating to Business and Property work (which includes any of the matters specified in paragraph 1 of Schedule 1 to the Senior Courts Act 1981) and which includes any work under the jurisdiction of the Business and Property Courts, may, subject to any enactment, rule or practice direction, be dealt with in the High Court or in the County Court. The claim form should, if issued in the High Court, be marked in the top right hand corner 'Business and Property Courts' and, if issued in the County Court, be marked 'Business and Property work' (except, in the County Court, for those areas listed as exceptions in paragraph 4.2 of Practice Direction 57AA (Business and Property Courts).

(For the equity jurisdiction of the County Court, see section 23 of the County Courts Act 1984.)

2.7 A claim relating to any of the matters specified in sub-paragraphs (a) and (b) of paragraph 2 of Schedule 1 to the Senior Courts Act 1981 must be dealt with in the High Court and will be assigned to the Queen's Bench Division.

2.8 Practice directions applying to particular types of proceedings, or to proceedings in particular courts, will contain provisions relating to the commencement and conduct of those proceedings.

2.9 The following proceedings may not be started in the County Court unless the parties have agreed otherwise in writing—

(1) a claim for damages or other remedy for libel or slander, and

(2) a claim in which the title to any toll, fair, market or franchise is in question.

2.10 (1) Subject to paragraph 2.9, a claim relating to media and communications work (which includes any work which would fall within the jurisdiction of the Media and Communications List if issued in the High Court) may be started in the County Court or High Court; and paragraph 2.1 shall not apply to such a claim.

(2) Such a claim should be started in the High Court if, by reason of the factors set out in paragraph 2.4(1) to (3), the claimant believes that the claim ought to be dealt with by a High Court judge.

(3) If a claimant starts such a claim in the High Court and the court decides that it should have been started in the County Court, the court will normally transfer it to the County Court on its own initiative. This is likely to result in delay.

2.11(1) The normal rules apply in deciding in which court and specialist list a claim that includes issues under the Human Rights Act 1998 should be started. They also apply in deciding which procedure to use to start the claim; this Part or CPR Part 8 or CPR Part 54 (judicial review).

(2) The exception is a claim for damages in respect of a judicial act, which should be started in the High Court. If the claim is made in a notice of appeal then it will be dealt with according to the normal rules governing where that appeal is heard.

(The County Court cannot make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998. Legislation may direct that such a claim is to be brought before a specified tribunal.)

The claim form

3.1 A claimant must use form N1 to start a claim under Part 7.

3.2 Other practice directions may require other forms to be used to start types of proceedings, or proceedings in particular courts.

3.3 Where a claim form to be served out of the jurisdiction is one which the court has power to deal with under—

(a) the Civil Jurisdiction and Judgments Act 1982; and

(b) the Judgments Regulation (Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters),

the claim form must, under rule 6.34, be filed and served with the notice referred to in that rule and paragraph 2.1 of Practice Direction 6B.

3.4 If a claim for damages or for an unspecified sum is started in the High Court, the claim form must—

(1) state that the claimant expects to recover more than £100,000 (or £50,000

or more if the claim is for personal injuries); or

(2) state that some enactment provides that the claim may only be started in the High Court and specify that enactment; or

(3) state that the claim is to be in one of the specialist High Court lists (see CPR Parts 49 and 58–62) and specify that list.

3.5 If a claim for damages for personal injuries is started in the County Court, the claim form must state whether or not the claimant expects to recover more than £1000 in respect of pain, suffering and loss of amenity.

3.6 If a claim for housing disrepair which includes a claim for an order requiring repairs or other work to be carried out by the landlord is started in the County Court, the claim form must state—

(1) whether or not the cost of the repairs or other work is estimated to be more than £1000, and

(2) whether or not the claimant expects to recover more than £1000 in respect of any claim for damages.

If either of the amounts mentioned in (1) and (2) is more than £1000, the small claims track will not be the normal track for that claim.

Title of proceedings

4.1 The claim form and every other statement of case, must be headed with the title of the proceedings. The title should state—

(1) the identifying number given to the proceedings;

(2) the court or Division in which they are proceeding;

(3) the full name of each party;

(4) each party's status in the proceedings (i.e. claimant/defendant).

(Paragraph 2.4 of Practice Direction 16 sets out what is meant by a full name in respect of each type of claimant.)

4.2 Where there is more than one claimant and/or more than one defendant, the parties should be described in the title as follows—

1. [Name of first claimant]

2. [Name of second claimant, etc]

and

1. [Name of first defendant]

2. [Name of second defendant, etc]

Starting a Part 7 Claim in the County Court

5.1 (1) Subject to subparagraph (2), if a claim—

(a) is started in the County Court under Part 7;

(b) is a claim only for an amount of money, whether specified or unspecified; and

(c) is not a claim for which special procedures are provided in the Civil Procedure Rules or practice directions, form N1 must be sent to: County Court Money Claims Centre, PO Box 527, M5 0BY.

(2) For the purpose of this practice direction, the procedure in Practice Direction 49D is not a special procedure.

5.2 In proceedings referred to in paragraph 4A.1, the claimant must specify the preferred hearing centre on form N1.

Start of proceedings

6.1 Proceedings are started when the court issues a claim form at the request of the claimant (see rule 7.2) but where the claim form as issued was received in the court office on a date earlier than the date on which it was issued by the court, the claim is “brought” for the purposes of the Limitation Act 1980 and any other relevant statute on that earlier date.

6.2 The date on which the claim form was received by the court will be recorded by a date stamp either on the claim form held on the court file or on the letter that accompanied the claim form when it was received by the court.

6.3 An enquiry about the date on which the claim form was received by the court should be directed to a court officer.

6.4 Parties proposing to start a claim which is approaching the expiry of the limitation period should recognise the potential importance of establishing the date the claim form was received by the court and should themselves make arrangements to record the date.

6.5 Where a person seeks to start proceedings against the estate of a deceased defendant where probate or letters of administration have not been granted, the claimant should issue the claim against “the personal representatives of A.B. deceased”. The claimant should then, before the expiry of the period for service of the claim form, apply to the court for the appointment of a person to represent the estate of the deceased.

Claims by and against partnerships within the jurisdiction

7.1 Paragraphs 7 and 8 apply to claims that are brought by or against two or more persons who—

(1) were business partners; and

(2) carried on that partnership business within the jurisdiction,
at the time when the cause of action accrued.

7.2 For the purposes of this paragraph, “partners” includes persons claiming to be entitled as partners and persons alleged to be partners.

7.3 Where that partnership has a name, unless it is inappropriate to do so, claims must be brought in or against the name under which that partnership carried on business at the time the cause of action accrued.

Partnership membership statements

8.1 In this paragraph a ‘partnership membership statement’ is a written statement of the names and last known places of residence of all the persons who were partners in the partnership at the time when the cause of action accrued, being the date specified for this purpose in accordance with paragraph 8.3.

8.2 If the partners are requested to provide a copy of a partnership membership statement by any party to a claim, the partners must do so within 14 days of receipt of the request.

8.3 In that request the party seeking a copy of a partnership membership statement must specify the date when the relevant cause of action accrued.

(Signing of the acknowledgment of service in the case of a partnership is dealt with in CPR rule 10.5(5).)

Persons carrying on business in another name

9.1 This paragraph applies where—

(1) a claim is brought against an individual;

(2) that individual carries on a business within the jurisdiction (even if not personally within the jurisdiction); and

(3) that business is carried on in a name other than that individual’s own name (“the business name”).

9.2 The claim may be brought against the business name as if it were the name of a partnership.

Statement of truth

10.1 The form of a statement of truth is specified in paragraph 2.1 of

Practice Direction 22.

10.2 Attention is drawn to rule 32.14 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth.

Extension of time

11.1 An application under rule 7.6 (for an extension of time for serving a claim form under rule 7.6(1)) must be made in accordance with Part 23 and supported by evidence.

11.2 The evidence should state—

- (1) all the circumstances relied on,
- (2) the date of issue of the claim,
- (3) the expiry date of any rule 7.6 extension, and
- (4) a full explanation as to why the claim has not been served.

(For information regarding (1) written evidence see Part 32 and Practice Direction 32 and (2) service of the claim form see Part 6 and Practice Directions 6A and 6B.)

SCHEDULE 2

“PRACTICE DIRECTION 16 – STATEMENTS OF CASE

This Practice Direction supplements CPR Part 16

Contents of this Practice Direction

Title	Number
General	Para 1
The claim form	Para 2
The particulars of claim	Para 3
<i>Matters which must be included in the particulars of claim in certain types of claim</i>	
Personal injury claims	Para 4
Fatal accidents claims	Para 5
Hire purchase claims	Para 6.1
Hire of replacement motor vehicle following a road traffic accident	Para 6.3
Other matters to be included in particulars of claim	Para 7.1
Matters which must be specifically set out in the particulars of claim	Para 8
General	Para 9
Statement of truth	Para 10.1
<i>Matters which must be included in the defence</i>	
Personal injury claims	Para 11.1
Other matters	Para 12.1
Competition Act 1998	Para 13

General

1.1 Where special provisions about statements of case apply to particular types of proceedings, Part 16 and this practice direction only apply in so far as consistent with those rules and practice directions.

1.2 Examples of proceedings with special provisions about statements of case include—

- (1) media and communications claims (Part 53 and Practice Direction 53B);
- (2) possession claims (Part 55); and
- (3) probate claims (Part 57).

1.3 If a statement of case exceptionally exceeds 25 pages (excluding schedules) it must include an appropriate short summary at the start.

The claim form

2.1 The claim form must include an address (including the postcode) at which the claimant lives or carries on business, even if the claimant's address for service is the business address of their solicitor.

2.2 Where the defendant is an individual, the claimant should (if able to do so) include in the claim form an address (including the postcode) at which the defendant lives or carries on business, even if the defendant's solicitors have agreed to accept service on the defendant's behalf.

2.3 If the claim form does not include a full address, including postcode, for all parties the claim form will be issued but retained by the court and not served until the claimant has supplied a full address, including postcode, or the court has dispensed with the requirement to do so. The court will notify the claimant.

2.4 The claim form must be headed with the title of the proceedings, including the full name of each party, where it is known –

- (1) for an individual, the full name and title by which the person is known;

(2) for an individual carrying on business other than in their own name, the full name of the individual, the title by which they are known, and the full trading name (for example, Jane Smith ‘trading as’ or ‘T/as’ ‘JS Autos’);

(3) for a partnership (other than a limited liability partnership (LLP))—

(a) where partners are sued in the name of the partnership, the full name by which the partnership is known, together with the words “(a Firm)”; or

(b) where partners are sued as individuals, the full name of each partner and the title by which each is known;

(4) for a company or limited liability partnership registered in England and Wales, the full registered name, including suffix (plc, Limited, LLP, etc), if any;

(5) for any other company or corporation, the full name by which it is known, including suffix where appropriate.

(For information about how and where a claim may be started see Part 7 and Practice Direction 7A.)

Particulars of claim

3.1 If practicable, the particulars of claim should be set out in the claim form. If not, they may be served with the claim form or later, within the periods specified in rule 7.4 and 7.5.

3.2 Particulars of claim which are not included in the claim form must be verified by a statement of truth, in the form specified in paragraph 2.1 of Practice Direction 22.

3.3 Particulars of claim served separately from the claim form must also contain –

(1) the name of the court in which the claim is proceeding;

(2) the claim number;

(3) the title of the proceedings; and

(4) the claimant’s address for service.

Matters which must be included in the particulars of claim in certain types of claim

Personal injury claims

4.1 The particulars of claim must contain –

- (1) the claimant's date of birth; and
- (2) brief details of the claimant's personal injuries.

4.2 The claimant must attach to his particulars of claim a schedule of details of any past and future expenses and losses which he claims.

4.3 Where the claimant is relying on evidence from a medical practitioner, the claimant must attach a report from the medical practitioner about the claimant's personal injuries.

4.3A

(1) In a soft tissue injury claim, the claimant may not proceed unless the medical report is a fixed cost medical report. Where the claimant files more than one medical report, the first report obtained must be a fixed cost medical report from an accredited medical expert selected via the MedCo Portal (website at: www.medco.org.uk) and any further report from an expert in any of the following disciplines must also be a fixed cost medical report –

- (a) Consultant Orthopaedic Surgeon;
- (b) Consultant in Accident and Emergency Medicine;
- (c) General Practitioner registered with the General Medical Council;
- (d) Physiotherapist registered with the Health and Care Professions Council.

(1A) The cost of obtaining a further report from an expert not listed in paragraph (1)(a) to (d) is not subject to rule 45.29(2A)(b), but the use of that expert and the cost must be justified.

(2) In this paragraph, 'accredited medical expert', 'fixed costs medical report', 'MedCo' and 'soft tissue injury claim' have the same meaning as in paragraph 1.1(A1), (10A), (12A), and (16A), respectively, of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents.

4.3B

(1) In a claim for a whiplash injury, whether or not it is part of a claim for other injuries—

- (a) the claimant may not proceed in respect of the claim for the whiplash injury unless the medical report is a fixed cost medical report;
- (b) where the claimant files more than one medical report, the first report obtained in respect of the whiplash injury must be a fixed cost medical report from an accredited medical expert selected via the MedCo Portal;
- (c) where the claimant lives outside England and Wales, but chooses to be examined for the purposes of a medical report in England or Wales, paragraphs (a) and (b) apply; and
- (d) any further report in respect of the claim for the whiplash injury only must also be a fixed cost medical report from an expert in any of the following disciplines—

- (i) Consultant Orthopaedic Surgeon;
- (ii) Consultant in Accident and Emergency Medicine;
- (iii) General Practitioner registered with the General Medical Council;
- (iv) Physiotherapist registered with the Health and Care Professions Council.

(2) Where the claimant obtains a medical report in respect of a more serious injury suffered on the same occasion as the whiplash injury, the claimant may use that report instead of a fixed costs medical report under paragraph (1) provided that—

- (a) the report is from a doctor who is listed on the General Medical Council's Specialist Register; and
- (b) the report provides evidence of the whiplash injury.

(3) Unless paragraph (1)(c) applies, in any other case where the claimant lives outside England and Wales, the medical report in respect of the claim for the whiplash injury (or, if there is more than one report, the first report) must be from a person who is recognised by the country in which they practise as—

- (i) being a medical expert; and
- (ii) having the required qualifications for the purposes of diagnosis and prognosis of a whiplash injury.

(4) The cost of obtaining a further report from an expert not listed in paragraph (4)(a) to (d) is not subject to rule 45.29(2A)(b), but the use of that expert and the cost must be justified.

(5) In this paragraph, 'fixed cost medical report', 'accredited medical expert', 'MedCo, and 'whiplash injury' have the same meaning as in paragraph 1.2(1), (17), (19) and (38), respectively, of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.

4.4 In a provisional damages claim the claimant must state in the particulars of claim –

- (1) that they are seeking an award of provisional damages under either section 32A of the Senior Courts Act 1981 or section 51 of the County Courts Act 1984;
- (2) that there is a chance that at some future time the claimant will develop some serious disease or suffer some serious deterioration in their physical or mental condition; and
- (3) specify the disease or type of deterioration in respect of which an application may be made at a future date.

(Part 41 and Practice Direction 41A contain information about awards for provisional damages.)

Fatal accident claims

5.1 In a fatal accident claim the claimant must state in the particulars of claim –

- (1) that it is brought under the Fatal Accidents Act 1976;
- (2) the dependants on whose behalf the claim is made;
- (3) the date of birth of each dependant; and
- (4) details of the nature of the dependency claim.

5.2 A fatal accident claim may include a claim for damages for bereavement.

5.3 In a fatal accident claim the claimant may also bring a claim under the Law Reform (Miscellaneous Provisions) Act 1934 on behalf of the estate of the deceased person.

(For information on apportionment under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976 or between dependants see Part 37 and Practice Direction 37.)

Hire purchase claims

6.1 Where the claim is for the delivery of goods let under a hire-purchase agreement or conditional sale agreement to a person other than a company or other corporation, the claimant must state in the particulars of claim –

- (1) the date of the agreement;

- (2) the parties to the agreement;
- (3) the number or other identification of the agreement;
- (4) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor passed to the claimant;
- (5) whether the agreement is a regulated agreement, and if it is not a regulated agreement, the reason why;
- (6) the place where the agreement was signed by the defendant;
- (7) the goods claimed;
- (8) the total price of the goods;
- (9) the paid-up sum;
- (10) the unpaid balance of the total price;
- (11) whether a default notice or a notice under section 76(1) or 98(1) of the Consumer Credit Act 1974 has been served on the defendant, and if it has, the date and method of service;
- (12) the date when the right to demand delivery of the goods accrued;
- (13) the amount (if any) claimed as an alternative to the delivery of goods; and
- (14) the amount (if any) claimed in addition to—
 - (a) the delivery of the goods; or
 - (b) any claim under (13) abovewith the grounds of each claim.

(If the agreement is a regulated agreement the procedure set out in Practice Direction 49C should be used.)

6.2 Where the claim is not for the delivery of goods, the claimant must state in the particulars of claim—

- (1) the matters set out in paragraph 6.1(1) to (6) above;
- (2) the goods let under the agreement;
- (3) the amount of the total price;
- (4) the paid-up sum;
- (5) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the total price; and
- (6) the nature and amount of any other claim and how it arises.

Hire of replacement motor vehicle following a road traffic accident

6.3 Where the claim includes the cost of hire of a replacement motor vehicle following a road traffic accident, the claimant must state in the particulars of claim—

- (1) the need for the replacement vehicle at the relevant time;
- (2) the period of hire claimed (providing the start and end of the period);
- (3) the rate of hire claimed;
- (4) the reasonableness of the period and rate of hire; and
- (5) if the claim relates to credit hire, whether the claimant could afford to pay in advance to hire a replacement car, and, if not, why not (“impecuniosity”).

6.4 In paragraph 6.3—

- (1) “relevant time” means at the start of the hire and throughout the period of hire;
- (2) the obligation to state the matters in paragraph (3) includes an obligation to state relevant facts.

Other matters to be included in particulars of claim

7.1 Where a claim is made for an injunction or declaration relating to any land or the possession, occupation, use or enjoyment of any land the particulars of claim must –

- (1) state whether or not the injunction or declaration relates to residential premises, and
- (2) identify the land (using a plan where necessary).

7.2 Where a claim is brought to enforce a right to recover possession of goods the particulars of claim must contain a statement showing the value of the goods.

7.3 Where a claim is based upon a written agreement –

- (1) a copy (or copies) of the contract or documents constituting the agreement should be attached to or served with the particulars of claim and the original(s) should be available at the hearing, and
- (2) any general conditions of sale incorporated in the contract should also be attached (but where the documents are bulky it is acceptable to attach or serve only the relevant parts of the contract or documents).

7.4 Where a claim is based upon an oral agreement, the particulars of claim should set out the contractual words used and state by whom, to whom, when and where they were spoken.

7.5 Where a claim is based upon an agreement by conduct, the particulars of claim must specify the conduct relied on and state by whom, when and where the acts constituting the conduct were done.

7.6 In a claim issued in the High Court relating to a Consumer Credit Agreement, the particulars of claim must contain a statement that the action is not one to which section 141 of the Consumer Credit Act 1974 applies.

Matters which must be specifically set out in the particulars of claim

8.1 A claimant who wishes to rely on evidence –

- (1) under section 11 of the Civil Evidence Act 1968 of a conviction of an offence, or
- (2) under section 12 of the above-mentioned Act of a finding or adjudication of adultery or paternity,

must include in the particulars of claim a statement to that effect and give the following details –

- (a) the type of conviction, finding or adjudication and its date;
- (b) the court or Court-Martial which made the conviction, finding or adjudication; and
- (c) the issue in the claim to which it relates.

8.2 The claimant must specifically set out the following matters in the particulars of claim where they wish to rely on them in support of the claim –

- (1) any allegation of fraud;
- (2) the fact of any illegality;
- (3) details of any misrepresentation;
- (4) details of all breaches of trust;
- (5) notice or knowledge of a fact;
- (6) details of unsoundness of mind or undue influence;
- (7) details of wilful default; and
- (8) any facts relating to a claim for mitigation expenditure.

General

9.1 Where a claim is for a sum of money expressed in a foreign currency it must state –

- (1) that the claim is for payment in a specified foreign currency,
- (2) why it is for payment in that currency,
- (3) the Sterling equivalent of the sum at the date of the claim, and
- (4) the source of the exchange rate relied on to calculate the Sterling equivalent.

9.2 A subsequent statement of case must not contradict or be inconsistent with an earlier one; for example a reply to a defence must not bring in a new claim. Where new matters have come to light a party may seek the court's permission to amend their statement of case.

9.3 In clinical negligence claims, the words "clinical negligence" should be inserted at the top of every statement of case.

Statement of truth

10.1 The defence must be verified by a statement of truth in the form specified in paragraph 2.1 of Practice Direction 22.

Matters which must be included in the defence

Personal injury claims

11.1 Where the claim is for personal injuries and the claimant has attached a medical report in respect of the alleged injuries, the defendant should –

- (1) state in the defence whether the defendant—
 - (a) agrees;
 - (b) disputes; or
 - (c) neither agrees nor disputes but has no knowledge of, the matters contained in the medical report;
- (2) where the defendant disputes any part of the medical report, give in the defence their reasons for doing so; and
- (3) where the defendant has obtained their own medical report, attach it to the defence.

11.2 Where the claim is for personal injuries and the claimant has included a schedule of past and future expenses and losses, the defendant should include in or attach to the defence a counter-schedule stating –

- (1) which of those items the defendant—
 - (a) agrees;
 - (b) disputes; or
 - (c) neither agrees nor disputes but has no knowledge of; and
- (2) where any items are disputed, supplying alternative figures where appropriate.

11.3 The defendant must give details of the expiry of any relevant limitation period relied on.

Other matters

12.1 Rule 37.3 and paragraph 2 of Practice Direction 37 contains information about a defence of tender.

12.2 A party may in a statement of case –

- (1) refer to any point of law;
- (2) give the name of any witness they propose to call,

and may attach to it a copy of any document necessary to their case (including any expert's report under Part 35).

Competition Act 1998

13 A party who relies on a finding of the Competition and Markets Authority must include in the statement of case a statement to that effect and identify the finding.

Human Rights

14.1 A party who relies on any provision of or right arising under the Human Rights Act 1998 or seeks a remedy under that Act must state that fact in their statement of case, and must—

- (a) give details of the Convention right infringed and details of the infringement;
- (b) specify the relief sought;
- (c) state if the relief sought includes—
 - (i) a declaration of incompatibility under section 4 of that Act, or
 - (ii) damages in respect of a judicial act to which section 9(3) of that Act applies;
- (d) where the relief sought includes a declaration of incompatibility, give details of the legislative provision and the alleged incompatibility;
- (e) where the claim is founded on a finding of unlawfulness by another court or tribunal, give details of the finding; and
- (f) where the claim is founded on a judicial act alleged to have infringed a Convention right of the party as provided by section 9 of the Human Rights Act 1998, the judicial act complained of and the court or tribunal that made it.

(Practice Direction 19A provides for notice to be given and parties joined in the circumstances referred to in (c), (d) and (f).)

14.2 A party seeking to amend a statement of case to include the matters referred to in paragraph 14.1 must, unless the court orders otherwise, do so as soon as possible.

(Part 17 provides for the amendment of a statement of case.)”.

SCHEDULE 3

PRACTICE DIRECTION 49B – MESOTHELIOMA CLAIMS

This Practice Direction supplements CPR Part 49

Contents of this Practice Direction

Title	Number
Scope	Para 1
Definitions	Para 2
Starting proceedings	Para 3.1
Claimants with severely limited life expectancy	Para 4.1
Fixing the case management conference for other claims	Para 5.1
The show cause procedure	Para 6.1
Setting the trial date	Para 7.1
Taking evidence by deposition	Para 8
Compliance with pre-action protocols	Para 9

Scope

1 This Practice Direction applies to claims for compensation for mesothelioma.

Definitions

2 In this Practice Direction—

‘show cause procedure’ means (without prejudice to the court’s general case management powers in Part 3 of the CPR) the procedure set out in paragraph 6;

‘outline submissions showing cause’ means an outline or skeleton argument of the defendant’s case within the show cause procedure; and

‘standard interim payment’ means the standard payment in respect of interim damages, and (if appropriate) interim costs and disbursements as determined from time to time by the Head of Civil Justice. The amount of this payment is currently £50,000.

Starting proceedings

3.1 The claim form and every statement of case must be marked with the title 'Living Mesothelioma Claim' or 'Fatal Mesothelioma Claim' as appropriate.

3.2 In order for the court to adopt the show cause procedure in the first case management conference, the claimant must file and serve any witness statements about liability (as are available)—

(1) either—

(a) at the same time as filing and serving the claim form and (where appropriate) the particulars of claim; or

(b) as soon as possible after filing and serving the claim form and (where appropriate) the particulars of claim; and

(2) in any event not less than 7 days before the case management conference.

3.3 Any witness statement about liability must identify as far as is possible—

(1) the alleged victim's employment history and history of exposure to asbestos;

(2) the identity of any employer where exposure to asbestos of the alleged victim is alleged;

(3) details of any self employment in which the alleged victim may have been exposed; and

(4) details of all claims made and payments received under the Pneumoconiosis etc. (Workers' Compensation) Act 1979.

3.4 The claimant must also attach to the claim form—

(1) a work history from H M Revenue and Customs (where available); and

(2) any pre-action letter of claim.

Claimants with severely limited life expectancy

4.1 Where the claimant believes that the claim is particularly urgent then on issue of the claim form, the claimant—

(1) may request in writing that the court file is placed immediately before a judge nominated to manage such cases in order to fix a case management conference; and

(2) must explain in writing to the court why the claim is urgent.

4.2 Where the court decides that the claim is urgent (and notwithstanding that a claim has not yet been served or a defence has not yet been filed) it will—

(1) fix the date for the case management conference to take place within a short period of time; and

(2) give directions as to the date by which the claimant must serve the claim form if it has not been served already.

Fixing the case management conference for other claims

5.1 Where paragraph 4 does not apply and—

(1) a defence is filed by the defendant or one of the defendants (where there is more than one); or

(2) the claimant has obtained a default judgment,

the court file will be referred to a judge nominated to manage such cases and the judge will give directions for the date of the case management conference.

5.2 Claims marked 'Living Mesothelioma Claim' will be given priority when fixing a case management conference.

The show cause procedure

6.1 The show cause procedure is a requirement by the court, of its own initiative and usually on a 'costs in the case' basis, for the defendant to identify the evidence and legal arguments that give the defendant a real prospect of success on any or all issues of liability. The court will use this procedure for the resolution of mesothelioma claims.

6.2 At the first case management conference, unless there is good reason not to do so, the defendant should be prepared to show cause why—

(1) a judgment on liability should not be entered against the defendant; and

(2) a standard interim payment on account of damages and (if appropriate) costs and disbursements should not be made by the defendant by a specified date.

6.3 At the first case management conference if liability remains in issue the court will normally order that the defendant show cause within a further given period.

6.4 The order requiring the defendant to show cause within a further given period will direct—

(1) that the defendant file and serve on the claimant by a specified date outline submissions showing cause and –

(a) if the outline submissions are not filed and served by a specified date, judgment, for a sum to be determined by the court, will be entered against the defendant without the need for any further order and the defendant will be ordered to make a standard interim payment by a specified date; or

(b) if the outline submissions are filed and served by the specified date, the claim will be listed for a show cause hearing; or

(2) that the defendant show cause at a hearing on a date fixed by the court.

6.5 At the first case management conference the court will—

(1) fix the date or trial window for the determination of damages and give any other case management directions as appropriate where the defendant admits liability or judgment is entered;

(2) fix the date or trial window for the determination of damages and give any other case management directions as appropriate where an order to show cause under paragraph 6.3 has been made (if the defendant subsequently shows cause then the determination date or trial window may be utilised for the trial of any issue); or

(3) in cases in which there is to be a trial on liability, give directions including the date or window for the trial.

6.6 Where the defendant fails to show cause on some issues, the court will normally enter judgment on those issues.

6.7 Where the defendant fails to show cause on all issues, the court will enter judgment for a sum to be determined and will normally order that a standard interim payment be made.

6.8 Where the defendant succeeds in showing cause on some or all issues, the court will order a trial of those issues. The court may also require the issue of quantum or apportionment (as appropriate) to be dealt with at the trial provided that it does not delay the date for the fixing of the trial.

Setting the trial date

7.1 In Living Mesothelioma Claims the date of the determination of damages or the trial will generally not be more than 16 weeks following service of the claim form.

7.2 In Fatal Mesothelioma Claims the hearing date may be more than 16 weeks following service of the claim form.

Taking evidence by deposition

8 Any party who for good reason wishes evidence to be taken by deposition may apply to the court at any time for such an order. However, the court will normally expect that such a request is made at a case management conference. The order will include a direction for the recording of such evidence on DVD and for the provision of a transcript. The parties must also be prepared to arrange for the provision of equipment to view the DVD by the court.

(Part 34 contains provisions for evidence to be taken by deposition.)

Compliance with pre-action protocols

9 In Living Mesothelioma Claims the court may decide not to require strict adherence to Practice Direction (Pre-Action Conduct) and any relevant pre-action protocol.

SCHEDULE 4

PRACTICE DIRECTION 49C – CONSUMER CREDIT ACT 2006 – UNFAIR RELATIONSHIPS

This Practice Direction supplements CPR Part 49

Contents of this Practice Direction

Title	Number
Interpretation	Para 1.1
When to use the Consumer Credit Act procedure	Para 2.1
The provisions of the Act	Para 3.1
Restrictions on where to start some Consumer Credit Act claims	Para 4.1
The Consumer Credit Act procedure	Para 5.1
Powers of the court at the hearing	Para 6.1
Matters which must be included in the particulars of claim	Para 7.1
Admission of certain claims for recovery of goods under regulated agreements	Para 8.1
Additional requirements about parties to the proceedings	Para 9.1
Notice to be given to re-open a consumer credit agreement	Para 10.1

Interpretation

1.1 In this practice direction ‘the Act’ means the Consumer Credit Act 1974, a section referred to by number means the section with that number in the Act, and expressions which are defined in the Act have the same meaning in this practice direction as they have in the Act.

1.2 ‘Consumer Credit Act procedure’ means the procedure set out in this practice direction.

When to use the Consumer Credit Act procedure

2.1 A claimant must use the Consumer Credit Act procedure where they make a claim under a provision of the Act to which paragraph 3 of this practice direction applies.

2.2 Where a claimant is using the Consumer Credit Act procedure the CPR are modified to the extent that they are inconsistent with the procedure set out in this practice direction.

2.3 The court may at any stage order the claim to continue as if the claimant had not used the Consumer Credit Act procedure, and if it does so the court may give any directions it considers appropriate.

2.4 This practice direction also sets out matters which must be included in the particulars of claim in certain types of claim, and restrictions on where certain types of claim may be started.

The provisions of the Act

3.1 Subject to paragraph 3.2 and 3.3 this practice direction applies to claims made under the following provisions of the Act—

(1) section 141 (claim by the creditor to enforce regulated agreement relating to goods etc),

(2) section 129 (claim by debtor or hirer for a time order),

(3) section 90 (creditor's claim for an order for recovery of protected goods),

(4) section 92(1) (creditor's or owner's claim to enter premises to take possession of goods),

(5) section 140B(2)(a) (debtor's or surety's application for an order relating to an unfair relationship);

(6) creditor's or owner's claim for a court order to enforce a regulated agreement relating to goods or money where the court order is required by—

(a) section 65(1) (improperly executed agreement),

(b) section 86(2) (death of debtor or hirer where agreement is partly secured or unsecured),

(c) section 111(2) (default notice etc not served on surety),

(d) section 124(1) or (2) (taking of a negotiable instrument in breach of terms of section 123), or

(e) section 105(7)(a) or (b) (security not expressed in writing, or improperly executed).

3.2 This practice direction does not apply to any claim made under the provisions listed in paragraph 3.1 above if that claim relates to the recovery of land.

3.3 This practice direction also does not apply to a claim made by the creditor under section 141 of the Act to enforce a regulated agreement where the agreement relates only to money. Such a claim must be started by the issue of a Part 7 claim form.

Restrictions on where to start some Consumer Credit Act claims

4.1

(1) If a claim which includes a claim to recover goods to which a regulated hire purchase agreement or conditional sale agreement relates is made at a County Court hearing centre which does not serve the address at which the debtor, or one of the debtors—

(a) resides or carries on business, or

(b) resided or carried on business at the date when the defendant last made a payment under the agreement, the claim will be issued by the hearing centre where the claim is made and sent to the hearing centre serving the address in (1)(a) or (b) as appropriate.

(2) A claimant should consider the potential delay which may result if a claim is not made at the County Court hearing centre in subparagraph (1)(a) or (b) in the first instance.

4.2

(1) In any other claim to recover goods, if the claim is made at a County Court hearing centre which does not serve the address at which—

(a) the defendant, or one of the defendants, resides or carries on business, or

(b) the goods are situated, the claim will be issued by the hearing centre where the claim is made and sent to the County Court hearing centre serving the address in (a) or (b), as appropriate.

(2) A claimant should consider the potential delay which may result if a claim is not made at the County Court hearing centre in subparagraph (1)(a) or (b) in the first instance.

4.3 A claim of a debtor or hirer for an order under section 129(1)(b) or 129(1)(ba) of the Act (a time order) must be made at the County Court hearing centre where the claimant debtor or hirer resides or carries on business.

(Costs rule 45.1(2)(b) allows the claimant to recover fixed costs in certain circumstances where such a claim is made.)

(Paragraph 7 sets out the matters the claimant must include in his particulars of claim where he is using the Consumer Credit Act procedure.)

The Consumer Credit Act procedure

5.1 Subject to paragraph 5.2, in the types of claim to which paragraph 3 applies the court will fix a hearing date on the issue of the claim form.

5.2

(1) In the types of claim to which paragraph 4.1 applies, if the claim is made at a County Court hearing centre which does not serve the address at which the debtor, or one of the debtors—

(a) resides or carries on business, or

(b) resided or carried on business at the date when the defendant last made a payment under the agreement,

the hearing date will be fixed by the hearing centre serving the address at (1)(a) or (b), as appropriate, upon receipt of the claim from the hearing centre where the claim was made.

(2) In the types of claim to which paragraph 4.2 applies, if the claim is made at a County Court hearing centre which does not serve the address at which—

(a) the defendant, or one of the defendants, resides or carries on business, or

(b) the goods are situated, the hearing date will be fixed by the hearing centre serving the address at (2)(a) or (b), as appropriate, upon receipt of the claim from the hearing centre where the claim was made.

5.3 The particulars of claim must be served with the claim form.

5.4 Where a claimant is using the Consumer Credit Act procedure, the defendant to the claim is not required to—

(1) serve an acknowledgment of service, or

(2) file a defence, although he may choose to do so.

5.5 Where a defendant intends to defend a claim, the defence should be filed within 14 days of service of the particulars of claim. If the defendant fails to file a defence within this period, but later relies on it, the court may take such a failure into account as a factor when deciding what order to make about costs.

5.6 Part 12 (default judgment) does not apply where the claimant is using the Consumer Credit Act procedure.

5.7 Each party must be given at least 28 days' notice of the hearing date.

5.8 Where the claimant serves the claim form, he must serve notice of the hearing date at the same time, unless the hearing date is specified in the claim form.

Powers of the court at the hearing

6.1 On the hearing date the court may dispose of the claim.

6.2 If the court does not dispose of the claim on the hearing date—

(1) if the defendant has filed a defence, the court will—

(a) allocate the claim to a track and give directions about the management of the case, or

(b) give directions to enable it to allocate the claim to a track,

(2) if the defendant has not filed a defence, the court may make any order or give any direction it considers appropriate.

6.3 Rule 26.5 (3) and (4) and rules 26.6 to 26.10 apply to the allocation of a claim under paragraph 6.2.

Matters which must be included in the particulars of claim

7.1 Where the Consumer Credit Act procedure is used, the claimant must state in his particulars of claim that the claim is a Consumer Credit Act claim.

7.2 A claimant making a claim for the delivery of goods to enforce a hire purchase agreement or conditional sale agreement which is—

(1) a regulated agreement for the recovery of goods, and

(2) let to a person other than a company or other corporation, must also state (in this order) in his particulars of claim—

(a) the date of the agreement,

(b) the parties to the agreement,

(c) the number or other identification of the agreement (with enough information to allow the debtor to identify the agreement),

(d) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor passed to him,

(e) the place where the agreement was signed by the defendant (if known),

(f) the goods claimed,

(g) the total price of the goods,

(h) the paid up sum,

(i) the unpaid balance of the total price,

(j) whether a default notice or a notice under section 76(1) or section 88(1) of the Act has been served on the defendant, and, if it has, the date and the method of service,

(k) the date on which the right to demand delivery of the goods accrued,

(l) the amount (if any) claimed as an alternative to the delivery of goods, and

(m) the amount (if any) claimed in addition to—

(i) the delivery of the goods, or

(ii) any claim under sub paragraph (l) above with the grounds of each such claim.

7.3 A claimant who is a debtor or hirer making a claim for an order under section 129(1)(b) or 129(1)(ba) of the Act (a time order) must state (in the following order) in the particulars of claim—

- (1) the date of the agreement,
- (2) the parties to the agreement,
- (3) the number or other means of identifying the agreement,
- (4) details of any sureties,
- (5) if the defendant is not one of the original parties to the agreement then the name of the original party to the agreement,
- (6) the names and addresses of the persons intended to be served with the claim form,
- (7) the place where the claimant signed the agreement,
- (8) details of the notice served by the creditor or owner giving rise to the claim for the time order,
- (9) the total unpaid balance the claimant admits is due under the agreement, and –
 - (a) the amount of any arrears (if known), and
 - (b) the amount and frequency of the payments specified in the agreement,
- (10) the claimant's proposals for payments of any arrears and of future instalments together with details of his means;
- (11) where the claim relates to a breach of the agreement other than for the payment of money the claimant's proposals for remedying it.

7.4 A claimant who is a debtor or hirer making a claim for an order under section 129(1)(ba) of the Act must attach to the particulars of claim a copy of the notice served on the creditor or owner under section 129A(1)(a) of the Act.

7.5

- (1) This paragraph applies where a claimant is required to obtain a court order to enforce a regulated agreement by—
 - (a) section 65(1) (improperly executed agreement),
 - (b) section 105(7)(a) or (b) (security not expressed in writing, or improperly executed),
 - (c) section 111(2) (default notice etc. not served on surety),
 - (d) section 124(1) or (2) (taking of a negotiable instrument in breach of terms of section 123), or
 - (e) section 86(2) of the Act (death of debtor or hirer where agreement is partly secured or unsecured).
- (2) The claimant must state in his particulars of claim what the circumstances are that require the claimant to obtain a court order for enforcement.

Admission of certain claims for recovery of goods under regulated agreements

8.1 In a claim to recover goods to which section 90(1)¹ applies—

- (1) the defendant may admit the claim, and
- (2) offer terms on which a return order should be suspended under section 135(1)(b).

8.2 The defendant may do so by filing a request in practice form N9C.

8.3 The defendant should do so within the period for making an admission specified in rule 14.2(b). If the defendant fails to file his request within this period, and later makes such a request, the court may take the failure into account as a factor when deciding what order to make about costs.

8.4 On receipt of the admission, the court will serve a copy on the claimant.

8.5 The claimant may obtain judgment by filing a request in practice form N228.

8.6 On receipt of the request for judgment, the court will enter judgment in the terms of the defendant's admission and offer and for costs.

8.7 If—

- (1) the claimant does not accept the defendant's admission and offer, and
- (2) the defendant does not appear on the hearing date fixed when the claim form was issued,

the court may treat the defendant's admission and offer as evidence of the facts stated in it for the purposes of sections 129(2)(a) and 135(2).

Additional requirements about parties to the proceedings

9.1 The court may dispense with the requirement in section 141(5) (all parties to a regulated agreement and any surety to be parties to any proceedings) in any claim relating to the regulated agreement, if—

- (1) the claim form has not been served on the debtor or the surety, and
- (2) the claimant either before or at the hearing makes an application (which may be made without notice) for the court to make such an order.

9.2 In a claim relating to a regulated agreement where—

- (1) the claimant was not one of the original parties to the agreement, and
- (2) the former creditor's rights and duties under the agreement have passed to him by –
 - (a) operation of law, or
 - (b) assignment,

the requirement of section 141(5) (all parties to a regulated agreement and any surety to be parties to any proceedings) does not apply to the former creditor, unless the court otherwise orders.

9.3 Where a claimant who is a creditor or owner makes a claim for a court order under section 86(2) (death of debtor or hirer where agreement is partly secured or unsecured) the personal representatives of the deceased debtor or hirer must be parties to the proceedings in which the order is sought, unless no grant of representation has been made to the estate.

9.4 Where no grant of representation has been made to the estate of the deceased debtor or hirer, the claimant must make an application in accordance with Part 23 for directions about which persons (if any) are to be made parties to the claim as being affected or likely to be affected by the enforcement of the agreement.

9.5 The claimant's application under paragraph 9.4:

- (a) may be made without notice, and
- (b) should be made before the claim form is issued.

Notice to be given to re-open a consumer credit agreement

10.1 Paragraph 10.2 applies where—

- (1) a debtor or any surety intends to seek an order relating to an unfair relationship between a creditor and that debtor, arising out of a credit agreement (taken together with any related agreement);
- (2) a claim relating to that agreement or any related agreement has already begun; and
- (3) section 140B(2)(b) or section 140B(2)(c) applies.

10.2 The debtor or surety must serve written notice of intention on the court and every other party to the claim within 14 days of service of the claim form.

10.3 A debtor or surety (as the case may be) who serves a notice under paragraph 10.2 will be treated as having filed a defence for the purposes of the Consumer Credit Act procedure.

SCHEDULE 5

PRACTICE DIRECTION 49D – CLAIMS FOR THE RECOVERY OF TAXES AND DUTIES

This Practice Direction supplements CPR Part 49

Contents of this Practice Direction

Title	Number
Scope	Para. 1.1
Procedure	Para. 2.1
At the hearing	Para. 3.1

Scope

1.1 This practice direction applies to claims by HM Revenue and Customs for the recovery of—

- (a) Income Tax,
- (b) Corporation Tax,
- (c) Capital Gains Tax,
- (d) Interest, penalties and surcharges on Income Tax, Corporation Tax or Capital Gains Tax which by virtue of section 69 of the Taxes Management Act 1970 are to be treated as if they are taxes due and payable,
- (g) National Insurance Contributions and interest, penalties and surcharges thereon,
- (f) student loan repayments deducted by and recoverable from an employer under Part IV of the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944),
- (g) Value added tax and interest and surcharges thereon,
- (h) Insurance premium tax and interest and penalties thereon,
- (i) Stamp duty land tax and interest and penalties thereon,
- (j) the following environmental taxes –
 - (i) landfill tax and interest and penalties thereon,
 - (ii) aggregates levy and interest and penalties thereon, and
 - (iii) climate change levy and interest and penalties thereon,
- (k) the following duties of customs and excise—

- (i) amusement machine licence duty and penalties thereon,
- (ii) air passenger duty and interest and penalties thereon,
- (iii) beer duty and penalties thereon,
- (iv) bingo duty and penalties thereon,
- (v) cider and perry duty,
- (vi) excise and spirits duty,
- (vii) excise wine duty,
- (viii) gaming duty and penalties thereon,
- (ix) general betting duty,
- (x) lottery duty and penalties thereon,
- (xi) REDS (registered excise dealers and shippers) duty,
- (xii) road fuel duty and penalties thereon,
- (xiii) tobacco duty, and
- (xiv) wine and made-wine duty.

1.2 This practice direction also applies to claims by the Welsh revenue Authority for the recovery of a devolved tax (as defined by section 116A(4) of the Government of Wales Act 2006) and interest and penalties thereon.

(Section 116A(4) of the Government of Wales Act 2006 defines a devolved tax as a tax which is specified in Part 4A of that Act as a devolved tax. For example, section 116L of the 2006 Act specifies as a devolved tax a tax which is charged on a Welsh land transaction and complies with the requirements of that section.)

Procedure

2.1 If a defence is filed, the court will fix a date for the hearing.

2.2 Part 26 (Case management – preliminary stage) with the exception of rules 26.2 and 26.2A, does not apply to claims to which this practice direction applies.

At the hearing

3.1 On the hearing date the court may dispose of the claim.

(Section 25A(1) and (2) of the Commissioners for Revenue and Customs Act 2005 ('the 2005 Act') provides that a certificate of an officer of Revenue and Customs that, to the best of that officer's knowledge and belief, a sum payable to the Commissioners under or by virtue of an enactment or by virtue of a contract settlement (within the meaning of

section 25(6) of the 2005 Act) has not been paid, is sufficient evidence that the sum mentioned in the certificate is unpaid.)

(Section 168(1) of the Tax Collection and Management (Wales) Act 2016 (“the 2016 Act”) provides that a certificate of Welsh Revenue Authority that a relevant amount (as defined by section 164 of the 2016 Act) has not been paid to Welsh Revenue Authority is sufficient evidence that the sum mentioned in the certificate is unpaid unless the contrary is proved.)

3.2 But exceptionally, if the court does not dispose of the claim on the hearing date it may give case management directions, which may, if the defendant has filed a defence, include allocating the case.

SCHEDULE 6

PRACTICE DIRECTION 49E – ALTERNATIVE PROCEDURE FOR CLAIMS

This practice direction supplements CPR Part 49

Contents of this practice direction

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Terminology

1.1 This practice direction is made under Part 49 of the Civil Procedure Rules.

1.2 In this practice direction, 'Schedule rules' means provisions contained in the Schedules to the CPR, which were previously contained in the Rules of the Supreme Court (1965) or the County Court Rules (1981).

Application of this Practice Direction

2.1 Section A contains general provisions about claims and applications to which Part 8 applies. Section B comprises a table listing claims, petitions and applications under various enactments which must be made under Part 8. Section C contains certain additions and modifications to the Part 8 procedure that apply to the particular claims and applications identified.

2.2 Some of the claims and applications listed in the table in Section B are dealt with in the Schedule Rules in the CPR. The table in Section B contains cross-reference to the relevant Schedule Rules.

SECTION A

GENERAL PROVISIONS APPLICABLE TO PART 8 CLAIMS

3.1 Where a claim is listed in the table in Section B and is identified as a claim to which particular provisions of Section C apply, the Part 8 procedure shall apply subject to the additions and modifications set out in the relevant paragraphs in Section C.

3.2 The Part 8 procedure must also be used for any claim or application in relation to which an Act, rule or practice direction provides that the claim or application is brought by originating summons, originating motion or originating application.

3.3 Where it appears to a court officer that a claimant is using the Part 8 procedure inappropriately, the court officer may refer the claim to a judge for the judge to consider the point.

SECTION B

CLAIMS AND APPLICATIONS THAT MUST BE MADE UNDER PART 8

4.1 The claimant must use the Part 8 procedure if the claim is listed in the table below.

4.2 Section C of this Practice Direction contains special provisions modifying the Part 8 procedure, and where it does so, those provisions should be followed. The table below refers to the relevant paragraph of Section C where it applies.

4.3 Some of the claims and applications listed in the table below are dealt with in the Schedule Rules, and those rules modify the Part 8 procedure. A cross-reference to the relevant Schedule Rule is contained in the table below.

4.4 For applications that may or must be brought in the High Court, where no other rule or practice direction assigns the application to a Division of the court, the table specifies the Division to which the application is assigned.

Type of Claim or Application	Paragraph of Section C	Division	Schedule Rule
Application under section 14 of the Bills of Sale Act 1878 (Rectification of register)	Paragraph 10A	Queen's Bench Central Office	
Application under section 15 of the Bills of Sale Act 1878 (Entry of satisfaction)	Paragraph 11	Queen's Bench Central Office	
Application under section 16 of the Bills of Sale Act 1878 (Search of the bills of sale register)	Paragraph 11A	Queen's Bench Central Office	
Application under the proviso to section 7 of the Bills of Sale Act (1878) Amendment Act 1882 (Restraining removal or sale of goods seized)		Queen's Bench Central Office	
Application under the Public Trustee Act 1906 (free-standing proceedings)	Paragraph 12	Chancery	
Application under section 7 of the Deeds of Arrangement Act 1914 (Rectification of register)	Paragraph 12A	Queen's Bench Central Office	
Proceedings under the Trustee Act 1925		Chancery	

Applications under section 2(3) of the Public Order Act 1936	Paragraph 13	Chancery	
Proceedings under jurisdiction conferred by section 1 of the Railway and Canal Commission (Abolition) Act 1949	Paragraph 14	Chancery	
Administration of Justice Act 1960 (Applications under the Act)		Divisional Court	RSC O.109, r.1(3)
Administration of Justice Act 1960 (Appeals under section 13 of the Act)		Divisional Court	RSC O.109, r.2(4)
Proceedings under section 14 of the Commons Registration Act 1965		Chancery	
Application under the Mines (Working Facilities and Support) Act 1966	Paragraph 15	Chancery	
Proceedings under section 21 or 25 of the Law of Property Act 1969		Chancery	
Local Government Act 1972 (claims under section 92 – proceedings for disqualification)		Queen's Bench Central Office	
Application under article 10 of the Mortgaging of Aircraft Order 1972 (Rectification of register)	Paragraph 15A	Chancery	
Application to register an assignment of book debts (section 344 of the Insolvency Act 1986)	Paragraph 15B	Queen's Bench Central Office	
Proceedings under the Control of Misleading Advertisements Regulations 1988		Chancery<	

Application under section 42 of the Senior Courts Act 1981	Paragraph 16	Administrative Court	
Proceedings in the High Court under the Representation of the People Acts	Paragraph 17A	Queen's Bench Central Office	
Applications under Part II of the Mental Health Act 1983	Paragraph 18	Administrative Court	
Applications under section 13 of the Coroners Act 1988	Paragraph 19	Administrative Court	
Application for an injunction to prevent environmental harm under section 187B or 214A of the Town and Country Planning Act 1990; section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990; or section 26AA of the Planning (Hazardous Substances) Act 1990	Paragraph 20	Queen's Bench	
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 – Application for a confiscation order)		Queen's Bench	RSC O.115, r.2B(1)
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 – Application for a restraint order or charging order)		Queen's Bench	RSC O.115, r.3(1)
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice		Queen's Bench	RSC O.115, r.7(1)

(International Co-operation) Act 1990 – Realisation of property)			
Criminal Procedure and Investigations Act 1996 (Application under section 54(3))		Administrative Court	
Confiscation and forfeiture in connection with criminal proceedings (III. Terrorism Act 2000 – Application for a restraint order)		Queen's Bench	RSC O.115, r.26(1)
Proceedings under the Financial Services and Markets Act 2000	Paragraph 21	Chancery	
Application for an injunction under section 12 or 26 of the Energy Act 2008	Paragraph 20	Queen's Bench	
Stakeholder applications – mode of application, unless there are existing proceedings (Rule 86.2(3))		Chancery or Queen's Bench	RSC O.17, r.3(1)
Criminal proceedings (estreat of recognizances)		Queen's Bench	RSC O.79, r.8(2)
Criminal proceedings (bail)		Queen's Bench	RSC O.79, r.9(2)
Application under an enactment giving the High Court jurisdiction to quash or prohibit any order, scheme, certificate or plan, any amendment or approval of a plan, any decision of a Minister or government department or any action on the part of a Minister or government department	Paragraph 22	Administrative Court	

Application under section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014 to question the validity of a public spaces protection order or variation of such an order	Paragraph 22	Administrative Court	
Proceedings under The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2015	Paragraph 23	N/A (County Court)	N/A
Proceedings under the Drug Dealing Telecommunications Restriction Orders Regulations 2017	Paragraph 24	N/A (County Court)	N/A
Proceedings transferred to the High Court from the Magistrates' Court under section 303R of the Proceeds of Crime Act 2002 or under paragraph 10J of Part 4A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001	Paragraph 25	Queen's Bench	N/A

SECTION C

SPECIAL PROVISIONS

5.1 The following special provisions apply to the applications indicated.

Applications under section 14 of the Bills of Sale Act 1878

6.1 This paragraph applies to an application under section 14 of the Bills of Sale Act 1878 for an order to rectify an omission or mis-statement in relation to the registration, or renewal of the registration, of a bill of sale—

- (1) by inserting in the register the true name, residence or occupation of a person; or
- (2) by extending the time for registration of the bill of sale or an affidavit of its renewal.

6.2 The application must be made—

- (1) by claim form under Part 8; or
- (2) by witness statement.

6.3 Where the application is made by witness statement—

- (1) Part 23 applies to the application;
- (2) the witness statement constitutes the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

6.4 The application must set out—

- (1) the particulars of the bill of sale and of the omission or mis-statement; and
- (2) the grounds on which the application is made.

6.5 The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

Applications under Section 15 of the Bills of Sale Act 1878

7.1 This paragraph applies where an application is made under section 15 of the Bills of Sale Act 1878 for an order that a memorandum of satisfaction be written on a registered copy of a bill of sale.

7.2 If the person entitled to the benefit of the bill of sale has not consented to the satisfaction, the claim form—

- (1) must be served on that person; and
- (2) must be supported by evidence that the debt (if any) for which the bill of sale was made has been satisfied or discharged.

7.3 If the person entitled to the benefit of the bill of sale has consented to the satisfaction, the application may be made by—

- (1) claim form under Part 8; or
- (2) witness statement.

7.4 Where paragraph 11.3 applies and the application is made by Part 8 claim form, the claim form—

- (1) must contain details of the consent;
- (2) must be supported by a witness statement by a person who witnessed the consent verifying the signature on it; and
- (3) must not be served on any person other than the person entitled to the benefit of the bill of sale.

7.5 Where paragraph 11.3 applies and the application is made by witness statement—

- (1) Part 23 will apply to the application;
- (2) the witness statement will constitute the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

Applications under section 16 of the Bills of Sale Act 1878

8.1 This paragraph applies to an application under section 16 of the Bills of Sale Act 1878 for a search of the bills of sale register and for a certificate of the results of the search.

8.2 The application must be made—

- (1) by claim form under Part 8; or
- (2) by written request.

8.3 The application must give sufficient information to enable the relevant bill of sale to be identified.

8.4 The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

Application under the Public Trustee Act 1906

9.1 An application under the Public Trustee Act 1906 must be made—

- (1) where no proceedings have been issued, by a Part 8 claim;
- (2) in existing proceedings, by a Part 23 application.

9.2 Without prejudice to sections 10(2) and 13(7) of the Public Trustee Act 1906, the jurisdiction of the High Court under the Act is exercised by a single judge of the Chancery Division sitting in private.

Applications under section 7 of the Deeds of Arrangement Act 1914

10.1 This paragraph applies to an application under section 7 of the Deeds of Arrangement Act 1914 for an order to rectify an omission or mis-statement in relation to the registration of a deed of arrangement—

- (1) by inserting in the register the true name, residence or description of a person; or
- (2) by extending the time for registration.

10.2 The application must be made—

- (1) by claim form under Part 8; or

(2) by witness statement.

10.3 Where the application is made by witness statement—

- (1) Part 23 applies to the application;
- (2) the witness statement constitutes the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

10.4 The application must set out—

- (1) the particulars of the deed of arrangement and of the omission or mis-statement; and
- (2) the grounds on which the application is made.

10.5 The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

Application under section 2(3) of the Public Order Act 1936

11.1 The Attorney General may determine the persons who should be made defendants to an application under section 2(3) of the Public Order Act 1936.

11.2 If the court directs an inquiry under section 2(3), it may appoint the Official Solicitor to represent any interests it considers are not sufficiently represented and ought to be represented.

Proceedings under section 1 of the Railway and Canal Commission (Abolition) Act 1949

12.1 Paragraphs 15.3 to 15.14 apply, with appropriate modifications, to proceedings in which jurisdiction has been conferred on the High Court by section 1 of the Railway and Canal Commission (Abolition) Act 1949, except to the extent that—

- (1) an Act;
 - (2) a rule;
 - (3) a practice direction,
- provides otherwise.

Application under the Mines (Working Facilities and Support) Act 1966

13.1 In this paragraph—

- (1) 'the Act' means the Mines (Working Facilities and Support) Act 1966;
- (2) 'the applicant' means the person who has applied for the grant of a right under the Act.

13.2 This paragraph applies where the Secretary of State refers an application to the High Court under any provision of the Act.

13.3 The Secretary of State must—

(1) file a reference signed by him or a person authorised to sign on his behalf in the Chancery Division of the High Court;

(2) file, along with the reference, any documents and plans deposited with him by the applicant in support of his application; and

(3) within 3 days of filing the reference, give notice to the applicant that the reference has been filed.

13.4 Within 10 days of receiving the notice referred to in paragraph 13.3(3), the applicant must issue a claim form.

13.5 The claim form—

(1) must identify the application under the Act and the remedy sought; and

(2) need not be served on any other party.

13.6 Within 7 days of the claim form being issued, the applicant must—

(1) apply for the claim to be listed for a hearing before a Master; and

(2) give notice of the hearing date to the Secretary of State.

13.7 The applicant must, not less than 2 days before the date fixed for a hearing, file at court—

(1) a witness statement in support of the claim, giving details of all persons known to the applicant to be interested in, or affected by, the application; and

(2) a draft of any proposed advertisement or notice of the application.

13.8 At the hearing, the Master will—

(1) fix a date by which any notice of objection under paragraph 13.9 must be filed;

(2) fix a date for a further hearing of the claim; and

(3) give directions about—

(a) any advertisement that is to be inserted or notice of the application and hearing date that is to be given; and

(b) what persons are to be served with a copy of the application or any other document in the proceedings.

13.9 Any person who wishes to oppose the application must, within the time fixed by the court under paragraph 13.8, serve notice of objection on the applicant, stating—

(a) his name and address;

(b) the name and address of his solicitor, if any;

(c) the grounds of his objection;

(d) any alternative method for effecting the objects of the application that he alleges may be used; and

(e) the facts on which he relies.

13.10 Any document that is required to be served on the person who has given notice of objection ('the objector') may be served by posting it to the following address—

(1) where the notice of objection gives the name and address of a solicitor, to the solicitor;

(2) in any other case, to the objector at the address stated in the notice of objection.

13.11 The objector may appear, or be represented at any further hearing, and may take such part in the proceedings as the court allows.

13.12 The applicant must, not less than two days before the date set for the further hearing, file at court—

(1) any notices of objection served on him;

(2) a list of objectors, together with—

(a) their names and addresses;

(b) the names and addresses of their solicitors, if any; and

(c) a summary of their respective grounds of objection.

13.13 If the objector does not appear, or is not represented, at the further hearing—

(1) his notice of objection will have no effect; and

(2) he will not be entitled to take any further part in the proceedings unless the court orders otherwise.

13.14 At the further hearing, the court will—

(1) give directions about the future conduct of the claim, including—

(a) any further information the applicant is required to give in relation to any of the grounds or facts relied on in support of the application;

(b) any further information the objector is required to give in relation to any of the grounds or facts relied on in opposition to the application;

(c) whether the applicant may serve a reply to any notice of objection;

(d) whether any particular fact should be proved by a witness statement;

(e) whether any statements of case or points of claim or defence are to be served; and

(2) adjourn the claim for hearing before a judge.

Applications under article 10 of the Mortgaging of Aircraft Order 1972

14.1 This paragraph applies to an application under article 10 of the Mortgaging of Aircraft Order 1972 for an order to amend the Register of Aircraft Mortgages.

14.2 The application must be made by claim form under Part 8.

14.3 Every person (other than the claimant) who appears in the register as mortgagor or mortgagee of the aircraft concerned must be made a defendant to the claim.

14.4 A copy of the claim form must be sent to the Civil Aviation Authority.

14.5 The application will be assigned to the Chancery Division.

14.6 The Civil Aviation Authority is entitled to be heard in the proceedings.

Applications under section 344 of the Insolvency Act 1986 for registration of assignments of book debts

15.1 This paragraph applies to an application under section 344 of the Insolvency Act 1986 to register an assignment of book debts.

15.2 The application must be made—

(1) by claim form under Part 8; or

(2) by witness statement.

15.3 The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

15.4 Where the application is made by witness statement—

(1) Part 23 applies to the application;

(2) the witness statement constitutes the application notice under that Part;

(3) the witness statement does not need to be served on any other person; and

(4) the application will normally be dealt with without a hearing.

15.5 The application—

(1) must have exhibited to it a true copy of the assignment and of every schedule to it;

(2) must set out the particulars of the assignment and the parties to it; and

(3) must verify the date and time of the execution of the assignment, and its execution in the presence of a witness.

15.6 Upon the court being satisfied, the documents so exhibited will be filed and the particulars of the assignment and of the parties to it entered in the register.

Application under section 42 of the Senior Courts Act 1981

16.1 An application under section 42 of the Senior Courts Act 1981 is heard and determined by a Divisional Court.

16.2 The claim form must be filed at the Administrative Court and—

- (1) be accompanied by a witness statement in support; and
- (2) be served on the person against whom the order is sought.

Application for detailed assessment of a returning officer's account

17.1

(1) An application by—

- (a) the Secretary of State under section 30 of the Representation of the People Act 1983 or paragraph 4 of Schedule 1 to the Recall of MPs Act 2015;
- (b) the Welsh Ministers under article 24 of the National Assembly for Wales (Representation of the People) Order 2007; or
- (c) the Electoral Commission under paragraph 17 of Schedule 3 to the European Union Referendum Act 2015,

for the detailed assessment of a returning officer's account must be made by claim form.

(2) In this paragraph and paragraphs 17.3 to 17.5 and 17.8, references to the returning officer are to be read—

- (a) for applications under the Recall of MPs Act 2015, as references to the petition officer;
- (b) for applications under the National Assembly for Wales (Representation of the People) Order 2007, as references to—
 - (i) the constituency returning officer, in relation to a constituency election; and
 - (ii) the constituency and regional returning officer, in relation to a regional election; and
- (c) for applications under the European Union Referendum Act 2015, as references to the counting officer or Regional Counting Officer.

17.2 When it issues the claim form, the court will fix a date for the hearing of the detailed assessment to be dealt with if the application is granted.

17.3 The returning officer may, on the application, apply to the court to examine any claim made against him in respect of matters charged in the account.

17.4 To make an application under paragraph 17.3, the returning officer must file an application within 7 days of being served with a copy of the application for detailed assessment.

17.5 When an application is filed under paragraph 17.3, the court will—

- (a) fix a date for the hearing;
- (b) give notice of the hearing date to the returning officer; and
- (c) serve a copy of the application and notice of hearing on the claimant.

17.6 The examination and detailed assessment may take place on the same day, provided that the examination is determined before the detailed assessment is concluded.

17.7 The district judge may hear and determine—

- (a) an application for detailed assessment;
- (b) any application under paragraph 17.3.

17.8 The court will serve a copy of the order made in the application on—

- (a) the Secretary of State;
- (b) the returning officer; and
- (c) in an application under paragraph 17.3, the claimant.

Other proceedings under the Representation of the People Acts

18.1

(1) This paragraph applies to proceedings under the Representation of the People Acts (other than proceedings under section 30 of the Representation of the People Act 1983) and the European Union Referendum (Conduct) Regulations 2016 (“the 2016 Regulations”).

(2) The jurisdiction of the High Court under those Acts in matters relating to Parliamentary and local government elections, or under the 2016 Regulations, will be exercised by a Divisional Court except that—

- (a) any jurisdiction, under a provision of any of those Acts, or under the 2016 Regulations, exercisable by a single judge will be exercised by a single judge;
- (b) any jurisdiction, under any such provision, exercisable by a Master will be exercised by a Master; and
- (c) where the court’s jurisdiction in matters relating to Parliamentary elections is exercisable by a single judge, that jurisdiction in matters relating to local government elections is also exercisable by a single judge.

Application under Mental Health Act 1983

19.1 In this paragraph—

(1) a section referred to by a number refers to the section so numbered in the Mental Health Act 1983 and ‘Part II’ means Part II of that Act;

(2) 'hospital manager' means the manager of a hospital as defined in section 145(1) of the Act; and

(3) 'place of residence' means, in relation to a patient who is receiving treatment as an in-patient in a hospital or other institution, that hospital or institution.

19.2 The claim form must be filed—

(1) in the County Court hearing centre serving the patient's place of residence is situated; or

(2) in the case of an application under section 30, in the court or County Court hearing centre that made the order under section 29 which the application seeks to discharge or vary.

19.3 Where an application is made under section 29 for an order that the functions of the nearest relative of the patient are to be exercisable by some other person –

(1) the nearest relative must be made a respondent, unless—

(a) the application is made on the grounds that the patient has no nearest relative or that it is not reasonably practicable to ascertain whether he has a nearest relative; or

(b) the court orders otherwise; and

(2) the court may order that any other person shall be made a respondent.

19.4 Subject to paragraph 18.5, the court may accept as evidence of the facts relied upon in support of the application, any report made—

(1) by a medical practitioner; or

(2) by any of the following acting in the course of their official duties—

(a) a probation officer;

(b) an officer of a local authority;

(c) an officer of a voluntary body exercising statutory functions on behalf of a local authority; or

(d) an officer of a hospital manager.

19.5 The respondent must be informed of the substance of any part of the report dealing with his fitness or conduct that the court considers to be material to the determination of the claim.

19.6 An application under Part II shall be heard in private unless the court orders otherwise.

19.7 The judge may, for the purpose of determining the application, interview the patient. The interview may take place in the presence of, or separately from, the parties. The interview may be conducted elsewhere than at the court. Alternatively, the judge may direct the district judge to interview the patient and report to the judge in writing.

Applications under section 13 of the Coroners Act 1988

20.1 An application under section 13 of the Coroners Act 1988 is heard and determined by a Divisional Court.

20.2 The application must, unless made by the Attorney General, be accompanied by the Attorney General's fiat.

20.3 The claim form must—

- (1) state the grounds for the application;
- (2) be filed at the Administrative Court; and
- (3) be served upon all persons directly affected by the application within six weeks of the grant of the Attorney General's fiat.

Application for injunction to prevent environmental harm or unlicensed activities

21.1 This paragraph relates to applications under—

- (1) section 187B or 214A of the Town and Country Planning Act 1990;
- (2) section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- (3) section 26AA of the Planning (Hazardous Substances) Act 1990; or
- (4) section 12 or 26 of the Energy Act 2008.

21.2 An injunction may be granted under those sections against a person whose identity is unknown to the applicant.

21.3 In this paragraph, an injunction refers to an injunction under one of those sections and 'the defendant' is the person against whom the injunction is sought.

21.4 In the claim form, the applicant must describe the defendant by reference to—

- (1) a photograph;
- (2) a thing belonging to or in the possession of the defendant; or
- (3) any other evidence.

21.5 The description of the defendant under paragraph 20.4 must be sufficiently clear to enable the defendant to be served with the proceedings.

(The court has power under Part 6 to dispense with service or make an order permitting service by an alternative method or at an alternative place).

21.6 The application must be accompanied by a witness statement. The witness statement must state—

- (1) that the applicant was unable to ascertain the defendant's identity within the time reasonably available to him;
- (2) the steps taken by him to ascertain the defendant's identity;

- (3) the means by which the defendant has been described in the claim form; and
- (4) that the description is the best the applicant is able to provide.

21.7 When the court issues the claim form it will—

- (1) fix a date for the hearing; and
- (2) prepare a notice of the hearing date for each party.

21.8 The claim form must be served not less than 21 days before the hearing date.

21.9 Where the claimant serves the claim form, he must serve notice of the hearing date at the same time, unless the hearing date is specified in the claim form.

(CPR rules 3.1(2) (a) and (b) provide for the court to extend or shorten the time for compliance with any rule or practice direction, and to adjourn or bring forward a hearing)

21.10 The court may on the hearing date—

- (1) proceed to hear the case and dispose of the claim; or
- (2) give case management directions.

Proceedings under the Financial Services and Markets Act 2000

22.1 This paragraph applies to proceedings in the High Court under the Financial Services and Markets Act 2000.

22.2 Proceedings in the High Court under the Act (other than applications for a mandatory order) and actions for damages for breach of a statutory duty imposed by the Act shall be assigned to the Chancery Division.

22.3 Such proceedings and actions must be begun by claim form (except for applications by petition by the Financial Conduct Authority or the Prudential Regulation Authority under section 367 of the Act).

22.4 The Financial Conduct Authority or the Prudential Regulation Authority may make representations to the court where there is a question about the meaning of any rule or other instrument made by, or with the approval or consent of, the Financial Conduct Authority or the Prudential Regulation Authority.

22.5 When the court makes a voting rights suspension order under section 89NA of the Act, the Financial Conduct Authority must within 7 days, or such period as the Court may direct, serve a copy of the order on the company which issued the shares to which it relates

Proceedings under The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2015

23.1 This paragraph applies to proceedings under The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2015 (“the TRO Regulations”).

23.2 An application under regulation 3(1) for a Telecommunications Restriction Order (“TRO”) must be made at the Clerkenwell and Shoreditch County Court hearing centre.

23.3 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.

23.4 The court must when it issues the claim form fix a date for hearing of the application for a TRO, which must unless the court orders otherwise be no later than 21 days after the date of issue.

23.5 In accordance with regulation 10 of the TRO Regulations, if a hearing is held, it must be held in private unless the court orders otherwise.

23.6 Rule 44.2(2)(a) (the general rule on costs) does not apply to proceedings to which this paragraph applies.

(Regulation 6 of the TRO Regulations makes specific provision for costs in relation to an application for a TRO.)

23.7 Rule 5.4B (supply of court documents to a party) applies subject to any order made by the court under regulation 5(2) of the TRO Regulations.

23.8 Unless the court orders otherwise, rule 5.4C (supply of court documents to a non-party) does not apply to any proceedings to which this paragraph applies.

Proceedings under the Drug Dealing Telecommunication Restriction Orders Regulations 2017

24.1 This paragraph applies to proceedings under The Drug Dealing Telecommunication Restriction Orders Regulations 2017 (“the DDTRO Regulations”); and references in this paragraph to a regulation by number alone are to a regulation in the DDTRO Regulations.

24.2 An application under regulation 3(1) for a Drug Dealing Telecommunication Restriction Order (“DDTRO”) must be made at one of the following County Court hearing centres—

- Clerkenwell and Shoreditch
- Manchester
- Liverpool

- Birmingham
- Newcastle
- Bristol.

24.3 The court must when it issues the claim form fix a date for hearing of the application for a DDTRO, which must unless the court orders otherwise be no later than 21 days after the date of issue.

24.4 In accordance with regulation 4(2), an application for a DDTRO must be made and heard without notice of the application or hearing having been given to an affected person or their legal representative and be heard and determined in the absence of an affected person or their legal representative.

24.5 Rule 5.4B (supply of court documents to a party) applies subject to any order made by the court under regulation 9(1) of the DDTRO Regulations.

24.6 Unless the court orders otherwise, rule 5.4C (supply of court documents to a non-party) does not apply to any proceedings to which this paragraph applies.

24.7 In accordance with regulation 9(4), an application for a non-disclosure order may be determined in advance of, or at the same time as, a DDTRO application or appeal.

24.8. In accordance with regulation 9(7), if the claimant indicates in the claim form that the claimant is also applying for a non-disclosure order under regulation 9 of the DDTRO Regulations, the claimant's evidence in respect of the DDTRO 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 DDTRO application. If the non-disclosure application is not granted and the claimant withdraws the claim, then the court must return the DDTRO claim form, and any documents submitted in connection with the DDTRO application, to the claimant.

Proceedings under Chapter 3A of Part 5 of the Proceeds of Crime Act 2002 and Part 4A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001

25.1 This paragraph applies to applications which are transferred from a magistrates' court to the High Court under Section 303R of the Proceeds of Crime Act 2002 or paragraph 10J of Schedule 1 to the Anti-terrorism Crime and Security Act 2001 ("transferred forfeiture applications").

25.2 The Part 8 procedure applies to transferred forfeiture applications with the following modifications.

25.3 Rules 8.2 and 8.2A(2)-(4), and paragraphs 4.1, 4.2, and paragraphs 7.1 to 7.5 of this practice direction, do not apply, and—

- (1) the application made to the magistrates' court ("the MC document") shall be treated as equivalent to a Part 8 claim form (whether or not any defendant is named in it);
- (2) no separate claim form is to be issued;
- (3) the applicant to the magistrates' court shall be "the claimant";

- (4) the address of the claimant given in the MC document shall be the claimant's address for service;
- (5) any person named in the MC document as being a person the application was being brought against or who has sought to oppose or who has failed or refused to agree to the application whilst it was in the magistrates' court shall be a defendant; and
- (6) any evidence filed by the claimant with the magistrates' court prior to the transfer of the application to the High Court shall be treated as evidence filed by the claimant in support of the Part 8 Claim; and any evidence so filed by any defendant or other person shall be treated as evidence filed in relation to the Part 8 Claim.

25.4 On receipt of a transferred forfeiture application—

- (1) the court shall give the proceedings a number;
- (2) the proceedings are to be heard in the Queen's Bench Division unless the court shall otherwise order;
- (3) if the court considers it is necessary, the court shall order that the claimant must provide the court with any of the information listed in rule 8.2(b) to (e), and with the names (or other means of identification) of the defendant(s), where that information is not otherwise provided in the MC document; and
- (4) the court shall order a directions hearing to be listed on the first available date after twenty-eight days after the end of the service period (see paragraph 25.5), at which the court will—
 - (i) fix a date for the hearing of the application or for a further directions hearing;
 - (ii) give directions as to the exchange of evidence between the parties;
 - (iii) give directions as to any other matters which are required in advance of that hearing, for example regarding the joinder of or service upon any further persons.

25.5 Rule 7.5 shall not apply and, subject to any direction made by the Court in accordance with paragraph 25.6 (or order made under rules 6.15, 6.16, 6.27 or 6.28), the claimant shall serve (in like manner as provided by Part 6 of the Rules in relation to service of claim forms or as provided by any enactment) upon the defendant the following documents within two months of the date of the order made under paragraph 25.4 ("the service period")—

- (1) the transferred application, and any evidence described in paragraph 25.3(6);
- (2) a statement of who are the defendants (unless such is apparent from the MC document) which must also be filed at court;
- (3) the order transferring the application to the High Court under Section 303R of the Proceeds of Crime Act 2002 or paragraph 10J of Schedule 1 to the Anti-terrorism Crime and Security Act 2001 (as appropriate);
- (4) the order made under paragraph 25.4; and
- (5) an acknowledgment of service form.

25.6 The court may extend the service period by making a direction of its own initiative or on application of any party, whether before or after the expiry of the period described in paragraph 25.5. An application for a direction to extend the service period is to be supported by evidence, with the court having a general discretion (and, for the avoidance of doubt, no sanction is imposed by paragraph 25.5), and rule 3.1(2)(a) shall apply and rules 7.6 and 7.7 shall not apply.

25.7 Rule 8.3 applies with the modification that the acknowledgment of service must be filed not more than 14 days after service of the documents listed in paragraph 25.5.

25.8 Rule 8.5 does not apply, and, except as provided by paragraphs 25.3(6) above, the parties—

- (1) may (but without any obligation to do so) file and serve evidence not less than 7 days before the first directions hearing; and
- (2) must file and serve evidence in accordance with the directions given by the court, and any such evidence must (unless the court otherwise directs) be in the form of a witness statement or an affidavit.

25.9 Rule 8.6 applies with the modification that no written evidence may be relied on at the hearing of the claim unless—

- (1) it is as described in paragraphs 25.3(6) or 25.8(1) or it has been filed and served in accordance with the court's directions; or
- (2) the court gives permission (for which any party may apply).

SCHEDULE 7

PRACTICE DIRECTION 49F – PRE-ACTION PROTOCOL FOR LOW VALUE PERSONAL INJURY CLAIMS IN ROAD TRAFFIC ACCIDENTS AND LOW VALUE PERSONAL INJURY (EMPLOYERS’ LIABILITY AND PUBLIC LIABILITY) CLAIMS – STAGE 3 PROCEDURE

This Practice Direction supplements CPR Part 49

Contents of this Practice Direction

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Modification of Part 8	Para. 2.1
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Filing and serving written evidence	Para. 6.1
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Settlement at Stage 2 where the claimant is a child	Para. 12.1
Settlement at Stage 3 where the claimant is a child	Para. 13.1
Adjournment	Para. 14.1
Appeals – determination on the papers	Para. 15.1
Limitation	Para. 16.1

Modification to the general rules	Para. 17.1

General

1.1 This Practice Direction sets out the procedure (‘the Stage 3 Procedure’) for a claim where—

(1) the parties—

(a) have followed the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (‘the RTA Protocol’) or the Pre-Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’); but

(b) are unable to agree the amount of damages payable at the end of Stage 2 of the relevant Protocol;

(2) (a) the claimant is a child;

(b) a settlement has been agreed by the parties at the end of Stage 2 of the relevant Protocol; and

(c) the approval of the court is required in relation to the settlement in accordance with rule 21.10(2); or

(3) compliance with the relevant Protocol is not possible before the expiry of a limitation period and proceedings are started in accordance with paragraph 16 of this Practice Direction.

1.2 A claim under this Practice Direction must be started in a county court and will normally be heard by a district judge.

Modification of Part 8

2.1 The claim is made under the Part 8 procedure as modified by this Practice Direction and subject to paragraph 2.2.

2.2 The claim will be determined by the court on the contents of the Court Proceedings Pack. The following rules do not apply to a claim under this Practice Direction—

(1) rule 8.2A (issue of claim form without naming defendants);

(2) rule 8.3 (acknowledgment of service);

(3) rule 8.5 (filing and serving written evidence);

(4) rule 8.6 (evidence – general);

(5) rule 8.7 (part 20 claims);

(6) rule 8.8 (procedure where defendant objects to use of the Part 8 procedure); and

(7) rule 8.9(c).

Definitions

3.1 References to ‘the Court Proceedings Pack (Part A) Form’, ‘the Court Proceedings Pack (Part B) Form’ and ‘the CNF Response Form’ are references to the forms used in the Protocols.

3.2 ‘Protocol offer’ has the meaning given by rule 36.17.

3.3 ‘Settlement hearing’ means a hearing where the court considers a settlement agreed between the parties (whether before or after proceedings have started) and the claimant is a child.

3.4 ‘Stage 3 hearing’ means a final hearing to determine the amount of damages that remain in dispute between the parties.

3.5 ‘Accredited medical expert’, ‘fixed costs medical report’, ‘MedCo’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (10A), (12A), and (16A), respectively, of the RTA Protocol.

Types of claim in which this modified Part 8 procedure may be followed

4.1 The court may at any stage order a claim that has been started under Part 7 to continue under the Part 8 procedure as modified by this Practice Direction.

An application to the court to determine the amount of damages

5.1 An application to the court to determine the amount of damages must be started by a claim form.

5.2 The claim form must state—

- (1) that the claimant has followed the procedure set out in the relevant Protocol;
- (2) the date when the Court Proceedings Pack (Part A and Part B) Form was sent to the defendant. (This provision does not apply where the claimant is a child and the application is for a settlement hearing);
- (3) whether the claimant wants the claim to be determined by the court on the papers (except where a party is a child) or at a Stage 3 hearing;
- (4) where the claimant seeks a settlement hearing or a Stage 3 hearing, the dates which the claimant requests should be avoided; and
- (5) the value of the claim.

Filing and serving written evidence

6.1 The claimant must file with the claim form—

- (1) the Court Proceedings Pack (Part A) Form;
- (2) the Court Proceedings Pack (Part B) Form (the claimant and defendant's final offers) in a sealed envelope. (This provision does not apply where the claimant is a child and the application is for a settlement hearing);
- (3) copies of medical reports;
- (4) evidence of special damages; and
- (5) evidence of disbursements (for example the cost of any medical report) in accordance with rule 45.19(2).

6.2

(1) In a soft tissue injury claim, the claimant may not proceed unless the medical report is a fixed cost medical report. Where the claimant includes more than one medical report, the first report obtained must be a fixed cost medical report from an accredited medical expert selected via the MedCo Portal (website at: www.medco.org.uk) and any further report from an expert in any of the following disciplines must also be a fixed cost medical report—

- (a) Consultant Orthopaedic Surgeon;
- (b) Consultant in Accident and Emergency Medicine;
- (c) General Practitioner registered with the General Medical Council;
- (d) Physiotherapist registered with the Health and Care Professions Council.

(2) The cost of obtaining a further report from an expert not listed in paragraph (1)(a) to (d) is not subject to rule 45.19(2A)(b), but the use of that expert and the cost must be justified.

6.3 The filing of the claim form and documents set out in paragraph 6.1 represent the start of Stage 3 for the purposes of fixed costs.

6.4 Subject to paragraph 6.6 the claimant must only file those documents in paragraph 6.1 where they have already been sent to the defendant under the relevant Protocol.

6.5 The claimant's evidence as set out in paragraph 6.1 must be served on the defendant with the claim form.

6.6 Where the claimant is a child the claimant must also provide to the court the following in relation to a settlement made before or after the start of proceedings—

- (1) the draft consent order;
- (2) the advice by counsel, solicitor or other legal representative on the amount of damages; and
- (3) a statement verified by a statement of truth signed by the litigation friend which confirms whether the child has recovered in accordance with the prognosis and whether

there are any continuing symptoms. This statement will enable the court to decide whether to order the child to attend the settlement hearing.

6.7 Where the defendant is uninsured and the Motor Insurers' Bureau ('MIB') or its agents have consented in the CNF Response Form to the MIB being joined as a defendant, the claimant must name the MIB as the second defendant and must also provide to the court a copy of the CNF Response Form completed by or on behalf of the MIB.

6.8 Where this Practice Direction requires a step to be taken by the defendant, it will be sufficient for this step to be taken by the MIB.

Evidence – general

7.1 The parties may not rely upon evidence unless—

- (1) it has been served in accordance with paragraph 6.5;
- (2) it has been filed in accordance with paragraph 8.2 and 11.3: or
- (3) (where the court considers that it cannot properly determine the claim without it), the court orders otherwise and gives directions.

7.2 Where the court considers that—

- (1) further evidence must be provided by any party; and
- (2) the claim is not suitable to continue under the Stage 3 Procedure,

the court will order that the claim will continue under Part 7, allocate the claim to a track and give directions.

7.3 Where paragraph 7.2 applies the court will not allow the Stage 3 fixed costs.

Acknowledgment of Service

8.1 The defendant must file and serve an acknowledgment of service in Form N210B not more than 14 days after service of the claim form.

8.2 The defendant must file and serve with the acknowledgment of service, or as soon as possible thereafter, a certificate that is in force.

('Certificate' is defined in rule 36.15(1)(e)(i).)

8.3 The acknowledgment of service must state whether the defendant—

- (1) (a) contests the amount of damages claimed;
 - (b) contests the making of an order for damages;
 - (c) disputes the court's jurisdiction; or
 - (d) objects to the use of the Stage 3 Procedure;
- (2) wants the claim to be determined by the court on the papers or at a Stage 3 hearing.

8.4 Where the defendant objects to the use of the Stage 3 Procedure reasons must be given in the acknowledgment of service.

8.5 The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

Dismissal of the claim

9.1 Where the defendant opposes the claim because the claimant has—

(1) not followed the procedure set out in the relevant Protocol; or

(2) filed and served additional or new evidence with the claim form that had not been provided under the relevant Protocol,

the court will dismiss the claim and the claimant may start proceedings under Part 7.

(Rule 45.24 sets out the costs consequences of failing to comply with the relevant Protocol.)

Withdrawal of the Protocol offer

10.1 A party may only withdraw a Protocol offer after proceedings have started with the court's permission. Where the court gives permission the claim will no longer continue under the Stage 3 Procedure and the court will give directions. The court will only give permission where there is good reason for the claim not to continue under the Stage 3 Procedure.

Consideration of the claim

11.1 The court will order that damages are to be assessed—

(1) on the papers; or

(2) at a Stage 3 hearing where—

(a) the claimant so requests on the claim form;

(b) the defendant so requests in the acknowledgment of service (Form N210B); or

(c) the court so orders,

and on a date determined by the court.

11.2 The court will give the parties at least 21 days notice of the date of the determination on the papers or the date of the Stage 3 hearing.

11.3 Where further deductible amounts have accrued since the final offer was made by both parties in the Court Proceedings Pack (Part B) Form, the defendant must file an up to date certificate at least 5 days before the date of a determination on the papers.

11.4 Where the claim is determined on the papers the court will give reasons for its decision in the judgment.

(‘Deductible amount’ is defined in rule 36.15(1)(d).)

Settlement at Stage 2 where the claimant is a child

12.1 Paragraphs 12.2 to 12.5 apply where—

- (1) the claimant is a child;
- (2) there is a settlement at Stage 2 of the Protocol; and
- (3) an application is made to the court to approve the settlement.

12.2 Where the settlement is approved at the settlement hearing the court will order the costs to be paid in accordance with rule 45.21(2).

12.3 Where the settlement is not approved at the first settlement hearing and the court orders a second settlement hearing at which the settlement is approved, the court will order the costs to be paid in accordance with rule 45.21(4) to (6).

12.4 Where the settlement is not approved at the first settlement hearing and the court orders that the claim is not suitable to be determined under the Stage 3 Procedure, the court will order costs to be paid in accordance with rule 45.23 and will give directions.

12.5 Where the settlement is not approved at the second settlement hearing the claim will no longer continue under the Stage 3 Procedure and the court will give directions.

Settlement at Stage 3 where the claimant is a child

13.1 Paragraphs 13.2 and 13.3 apply where—

- (1) the claimant is a child;
- (2) there is a settlement after proceedings have started under the Stage 3 Procedure; and
- (3) an application is made to the court to approve the settlement.

13.2 Where the settlement is approved at the settlement hearing the court will order the costs to be paid in accordance with rule 45.22(2).

13.3 Where the settlement is not approved at the settlement hearing the court will order the claim to proceed to a Stage 3 hearing.

Adjournment

14.1 Where the court adjourns a settlement hearing or a Stage 3 hearing it may, in its discretion, order the costs to be paid in accordance with rule 45.27.

Appeals – determination on the papers

15.1 The court will not consider an application to set aside a judgment made after a determination on the papers. The judgment will state the appeal court to which an appeal lies.

Limitation

16.1 Where compliance with the relevant Protocol is not possible before the expiry of a limitation period the claimant may start proceedings in accordance with paragraph 16.2.

16.2 The claimant must—

- (1) start proceedings under this Practice Direction; and
- (2) state on the claim form that—
 - (a) the claim is for damages; and
 - (b) a stay of proceedings is sought in order to comply with the relevant Protocol.

16.3 The claimant must send to the defendant the claim form together with the order imposing the stay.

16.4 Where a claim is made under paragraph 16.1 the provisions in this Practice Direction, except paragraphs 1.2, 2.1, 2.2 and 16.1 to 16.6, are disapplied.

16.5 Where—

- (1) a stay is granted by the court;
 - (2) the parties have complied with the relevant Protocol; and
 - (3) the claimant wishes to start the Stage 3 Procedure,
- the claimant must make an application to the court to lift the stay and request directions.

16.6 Where the court orders that the stay be lifted—

- (1) the provisions of this Practice Direction will apply; and
- (2) the claimant must—
 - (a) amend the claim form in accordance with paragraph 5.2; and
 - (b) file the documents in paragraph 6.1.

16.7 Where, during Stage 1 or Stage 2 of the relevant Protocol—

- (1) the claim no longer continues under that Protocol; and
 - (2) the claimant wishes to start proceedings under Part 7,
- the claimant must make an application to the court to lift the stay and request directions.

Modification to the general rules

17.1 The claim will not be allocated to a track. Parts 26 to 29 do not apply.

SCHEDULE 8

PRACTICE DIRECTION 54E – ENVIRONMENTAL REVIEW CLAIMS

This practice direction supplements Part 54

Contents of this practice direction

Title	Number
SECTION I – GENERAL	Para 1.1
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The Claim Form	Para 2.1
The claim bundle	Para 3.1
Devolution issues	Para 4.1
Service of Claim Form	Para 5.1
Acknowledgment of Service and Detailed Grounds	Para 6.1
Evidence	Para 7.1
Rule 54.34—Where Claimant Seeks to Rely upon Additional Grounds	Para 8.1
Rule 54.17 and 54.35—Court’s Powers to Hear Any Person	Para 9.1
Skeleton arguments, the hearing bundle and the authorities bundle	Para 10.1
Agreed final order	Para 11.1

Section I – General

1.1 This Practice Direction supplements Part 54. It applies to claims for environmental review.

1.2 In this Practice Direction the term ‘environmental review’ has the same meaning as in rule 54.25(2).

Section II – Environmental review

The Claim Form

2.1 (1) The Claim Form must include or be accompanied by the following documents—

(a) a clear and concise statement of the facts relied on set out in numbered paragraphs – “the Statement of Facts”; and

(b) a clear and concise statement of the grounds for bringing the claim – “the Statement of Grounds”. The Statement of Grounds should: identify in separate, numbered paragraphs each ground of challenge; identify the relevant provision or principle of law said to have been breached; and provide sufficient detail of the alleged breach to enable the parties and the court to identify the essential issues alleged to arise. The Statement of Grounds should succinctly explain the claimant’s case by reference to the Statement of Facts and state precisely what relief is sought.

(2) The Statement of Facts and the Statement of Grounds may be contained in a single document.

(3) The Statements of Facts and Grounds should be as concise as possible. The two documents together (or the single document if the two are combined) shall not exceed 40 pages. In many cases the court will expect the documents to be significantly shorter than 40 pages. The court may grant permission to exceed the 40-page limit.

2.2 Any application (a) to extend the time limit for filing the Claim Form; and/or (b) for directions in the claim, should be included in or contained in a document that accompanies the Claim Form.

2.3 (1) In addition, the Claim Form must be accompanied by—

(a) any written evidence in support of the claim (in this regard, see also rules 8.5(1) and 8.5(7)).

(b) any written evidence in support of any other application contained in the Claim Form;

(c) a copy of any order or decision that the claimant seeks to have quashed;

(d) where the claim relates to a decision of a public authority an approved copy of the reasons for reaching that decision and a copy of any record of the decision under challenge;

(e) copies of any documents on which the claimant proposes to rely;

(f) copies of any relevant statutory material; and

(g) a list of essential documents for advance reading by the court (with page references to the passages relied on).

(2) Where it is not possible to file all the above documents, the claimant must indicate which documents have not been filed and the reasons why they are not currently available.

The claim bundle

3.1 (1) The claimant must prepare a paginated and indexed bundle containing all the documents referred to in paragraphs 2.1 and 2.3. An electronic version of the bundle must also be prepared in accordance with the Guidance on the Administrative Court website.

(2) The claimant shall (unless otherwise requested) lodge the bundle with the Court in both electronic and hard copy form. For Divisional Court cases the number of hard copy bundles required will be one set for each judge hearing the case.

Devolution issues

4.1 (1) In this Practice Direction “devolution issue” has the same meaning as in paragraph 1, Schedule 9 to the Government of Wales Act 2006, paragraph 1, Schedule 10 to the Northern Ireland Act 1998; and paragraph 1, Schedule 6 to the Scotland Act 1998.

(2) Where the claimant intends to raise a devolution issue, the Claim Form must: (a) specify that the claimant wishes to raise a devolution issue and identify the relevant provisions of the Government of Wales Act 2006, the Northern Ireland Act 1998 or the Scotland Act 1998; and (b) contain a summary of the facts, circumstances and points of law on the basis of which it is alleged that a devolution issue arises.

Service of Claim Form

5.1 Part 6 contains provisions about the service of Claim Forms.

5.2 Where the defendant or interested party to the claim is the Crown, service of the Claim Form must be effected on the solicitor acting for the relevant government department as if the proceedings were civil proceedings as defined in the Crown Proceedings Act 1947. Practice Direction 66 gives the list published under section 17 of the Crown Proceedings Act 1947 of the solicitors acting in civil proceedings (as defined in that Act) for the different government departments on whom service is to be effected, and of their addresses.

Acknowledgment of Service and Detailed Grounds

6.1 The Acknowledgment of Service must contain the information specified in rules 8.3(2) and 10.5. See also the requirements set out in Practice Direction 10.

6.2 (1) If a defendant or other party chooses to file an Acknowledgement of Service, the Detailed Grounds referred to in CPR 54.32(1)(a) should meet the following requirements.

(2) The Detailed Grounds should identify succinctly any relevant facts. Material matters of factual dispute (if any) should be highlighted.

(3) The Detailed Grounds should (again succinctly) explain the legal basis of that party's response to the claimant's case, by reference to relevant facts.

(4) The Detailed Grounds should be as concise as possible, and shall not exceed 40 pages. The court may grant permission to exceed the 40-page limit.

(5) Where a party filing Detailed Grounds intends to rely on written evidence or on documents not already filed, the party must prepare a paginated and indexed bundle containing that evidence and those documents. An electronic version of the bundle shall also be prepared in accordance with the Guidance on the Administrative Court website.

6.3 The party shall file and serve electronic and hard copy versions of the bundle when filing and serving the Detailed Grounds.

Evidence

7.1 In accordance with the duty of candour, the defendant should, in its Detailed Grounds or evidence, identify any relevant facts, and the reasoning, underlying the matter the subject of the claim for environmental review.

7.2 Disclosure is not required unless the court orders otherwise.

7.3 It will rarely be necessary in an environmental review for the court to hear oral evidence. Any application under rule 8.6(2) for permission to adduce oral evidence or to cross-examine any witness must be made promptly, in accordance with the requirements of Part 23, and be supported by an explanation of why the evidence is necessary for the fair determination of the claim.

Rule 54.34—Where Claimant Seeks to Rely upon Additional Grounds

8.1 Where the claimant intends to apply for environmental review on grounds additional to those set out in the Claim Form, the claimant must make an application to the court for permission to amend the Claim Form. The application should be made in accordance with the requirements of Part 23.

8.2 The application must be made promptly and should include, or be accompanied by, a draft of the amended grounds and be supported by evidence explaining the need for the proposed amendment and any delay in making the application for permission to amend.

8.3 The application, the proposed additional grounds and any written evidence, must be served on the defendant and any interested party named in the Claim Form or an Acknowledgement of Service.

8.4 For the purposes of determining an application to rely on additional grounds, rules 17.1 and 17.2 shall apply. Where permission to rely on additional grounds is given, the court may give directions as to amendments to be made to the defendant's Detailed Grounds and/or such other case management directions as appropriate.

Rule 54.17 and 54.35—Court's Powers to Hear Any Person

9.1 An application for permission to intervene under rules 54.17 and 54.35 should be made by application in the relevant proceedings, in accordance with the provisions of Part 23.

9.2 Any such application must be made promptly. The Court is unlikely to accede to an application to intervene if it would have the consequence of delaying the hearing of the relevant proceedings.

9.3 The Application Notice must be served on all parties to the proceedings.

9.4 (1) The duty of candour applies. The Application Notice should explain who the applicant is and indicate why and in what form the applicant wants to participate in the hearing.

(2) If the applicant requests permission to make representations at the hearing, the application should include a summary of the representations the applicant proposes to make.

(3) If the applicant requests permission to file and serve evidence in the proceedings a copy of that evidence should be provided with the Application Notice. The application should explain the relevance of any such evidence to the issues in the proceedings.

9.5 Where the court gives permission for a person to file evidence or make representations at the hearing of the claim for environmental review (whether orally or in writing), it may do so on conditions and may give case management directions.

9.6 Where all the parties consent, the court may deal with an application under rules 54.17 and 54.35 without a hearing.

Skeleton arguments, the hearing bundle and the authorities bundle

10.1 Paragraphs 14.1 to 15.5 of Practice Direction 54A shall apply to the environmental review procedure, save that references to “judicial review” shall be read as referring to “environmental review”.

Agreed final order

11.1 Paragraphs 16.1 to 16.4 of Practice Direction 54A shall apply to the environmental review procedure.

SCHEDULE 9

“PRACTICE DIRECTION 56A – RENTING HOMES (WALES) CLAIMS

This practice direction supplements CPR Part 56

Contents of this Practice Direction

Title	Paragraph number
Introduction	1.1
Starting the claim	2.1
Contents of the claim form in all cases	3.1
Particular Renting Homes (Wales) claims	4.1

Introduction

- 1.1 In addition to any relevant definitions in Part 56, particularly those in rule 56.5, which all apply to this practice direction in any event, terms defined in the 2016 Act have the same meaning in this practice direction.
- 1.2 This practice direction makes provision for the bringing of Renting Homes (Wales) claims. Where a claim for possession, the making of a prohibited conduct standard contract order, or a claim for damages for disrepair is made at the commencement of proceedings Section III of Part 56 does not apply and the procedure for those particular claims should be followed.

Starting the claim

2.1(1) “Permission to make an out of time application” means an application for permission to make an application out of time under the following provisions of the 2016 Act –

- (a) section 14(4);
- (b) paragraph 16(4) of Schedule 2;
- (c) paragraph 5(4) of Schedule 4; or
- (d) paragraph 6(4) of Schedule 7.

- (2) Where permission to make an out of time application is sought before the substantive application is made, it should be sought by written request.
- (3) Where permission to make an out of time application is sought at the same time as the substantive application is made it should be sought as part of substantive claim using the procedure appropriate for that claim.
- 2.2 Renting Homes (Wales) claims should normally be brought in the county court. Only exceptional circumstances justify starting a claim in the High Court even if the High Court has jurisdiction.
- 2.3 If a claimant starts a claim in the High Court and the court decides that it should have been started in the County Court, the court will normally either strike the claim out or transfer it to the County Court on its own initiative. This is likely to result in delay and the court will normally disallow the costs of starting the claim in the High Court and of any transfer.
- 2.4 Circumstances which may, in an appropriate case, justify starting a claim in the High Court are if –
- (a) there are complicated disputes of fact; or
 - (b) there are points of law of general importance.
- 2.5 The value of the property and the amount of any financial claim may be relevant circumstances, but these factors alone will not normally justify starting the claim in the High Court.
- 2.8 A Renting Homes (Wales) claim started in the High Court must be brought in the Chancery Division.

Contents of the claim form in all cases

- 3.1 The claim form must contain details of –
- (a) the dwelling to which the claim relates;
 - (b) the particulars of the current occupation contract (including date, parties and duration) insofar as the claimant is able to confirm the same;
 - (c) any notice relevant to the claim;
 - (d) the provisions of the 2016 Act under which the claim is brought.

Particular Renting Homes (Wales) claims

Application under section 14(2) of the 2016 Act (review of the landlord's decision to give notice of standard contract)

- 4.1 The evidence in support of the Renting Homes (Wales) claim must include a copy of the notice given by the landlord under section 13 of the 2016 Act.

Applications under sections 34, 36 and 37 of the 2016 Act (application for declaration about an occupation contract: missing, incomplete or incorrect contract terms)

- 4.2 The claim form or evidence in support of the Renting Homes (Wales) claim must give details of any fundamental or supplementary provision which the claimant claims was not incorporated into the occupation contract or was incorporated with modification and identify such modifications.

Application under section 44 of the 2016 Act (application for order to return security)

- 4.3 The claim form must give details of the security that has been given and the person who appears to be holding the property constituting that security.

Application under section 66 of the 2016 Act (application by sub-holder to end contract-holder's occupation contract)

- 4.4 The claim form must give details of the landlord and the evidence in support of the Renting Homes (Wales) claim must include a copy of the notice given under section 66(3) of the 2016 Act and proof that such notice was given to both the contract-holder and to the contract-holder's landlord.

Appeal under section 78 of the 2016 Act (appeal as to who is to succeed to an occupation contract)

- 4.5 The claim form must give details of all relevant successors and any reasons given by the landlord for the selection made by the landlord.

Application under section 85 of the 2016 Act (application for declaration or order about a landlord's refusal, or conditions of, giving consent)

- 4.6 The claim form must give details of the request for consent and the evidence in support of the Renting Homes (Wales) claim must include the landlord's written statement giving reasons for refusing consent or consenting subject to conditions.

Application under section 87 of the 2016 Act (compensation for failure relating to provision of written statements)

- 4.7 Where a Renting Homes (Wales) claim is made for compensation under section 87 of the 2016 Act whether on its own or in combination with other claims under the 2016 Act the proceedings should normally be commenced under Part 7. The claim form must provide details of the rent payable under the occupation contract and the amount of compensation claimed.

Application under section 140 of the 2016 Act (application for order requiring a joint contract-holder to join a transfer)

- 4.8 The evidence in support of such a Renting Homes (Wales) claim must include a copy of the occupation contract or give full details of the terms relied upon and the reasons why a copy of the contract cannot be provided.

Claim under section 208 of the 2016 Act (claim for misrepresentation or concealment of facts used to obtain order for possession)

- 4.9 If the Renting Homes (Wales) claim for compensation is not made in the original proceedings the claim should normally be commenced under Part 7.

Application under sections 222, 226 and 228 of the 2016 Act (remedies against the landlord: order or declaration of the court)

- 4.10 The claim form must give details of the grounds on which the claimant relies and the evidence in support of the Renting Homes (Wales) claim must include copies of any notices given to the contract-holder under sections 220, 225 or 227 of the 2016 Act.

Application under paragraph 16 of Schedule 2 of the 2016 Act (review of decision to extend the period of a licence or tenancy that is not an occupation contract)

- 4.11 The evidence in support of the Renting Homes (Wales) claim for a review must include a copy of the landlord's notice of extension.

Application under paragraph 5 of Schedule 4 of the 2016 Act (review of decision to confirm extension of introductory period)

- 4.12 The evidence in support of the Renting Homes (Wales) claim for a review must include copies of the landlord's notice of extension of the introductory period and the landlord's notice after review confirming their decision to give a notice of extension of the introductory period.

Application under paragraphs 2 or 3 of Schedule 5 of the 2016 Act (applications in relation to deposit schemes)

- 4.13 The Renting Homes (Wales) claim should normally be commenced under Part 7 and the particulars of claim must confirm –
- (a) the amount of the deposit paid; and
 - (b) the ground or grounds on which the application is made.

Application under paragraph 6 of Schedule 7 of the 2016 Act (review of decision to extend probation period)

- 4.14 The evidence in support of the Renting Homes (Wales) claim for a review must include copies of the landlord's notice of extension of the probation period and the landlord's notice after review confirming their decision to give a notice of extension of the probation period.

Application under paragraph 7 of Schedule 7 of the 2016 Act (application for order to end a probation period early)

- 4.15 The claim form must identify the ground or grounds on which the Renting Homes (Wales) claim is made. The evidence in support of such application must include a copy of the order made under section 116 of the 2016 Act imposing the periodic standard contract and

confirm that the landlord had not made an appropriate programme of social support available to the contract-holder and that it is unlikely that such support will be made available if paragraph 7(3)(b) of Schedule 7 of the 2016 Act is relied upon.”.

SCHEDULE 10

“PRACTICE DIRECTION 57AD – DISCLOSURE IN THE BUSINESS AND PROPERTY COURTS

This practice direction supplements CPR Part 57A

Contents of this practice direction

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1. General

1.1 This Practice Direction provides for disclosure in the Business and Property Courts.

1.2 The Commencement Date is 1 October 2022. This Practice Direction applies to existing and new proceedings in the Business and Property Courts of England and Wales and the Business and Property Courts in Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester and Newcastle. For the avoidance of doubt, it does not apply in the County Court. This Practice Direction is substantially in the form of (and replaces) Practice Direction 51U.

1.3 This Practice Direction shall not disturb an order for disclosure made before the Commencement Date or before the transfer of proceedings into a Business and Property Court, unless that order is varied or set aside. If proceedings are transferred out of one of the Business and Property Courts into a court that is not one of the Business and Property Courts, any order for disclosure made under this Practice Direction will stand unless and until any other order is made by the transferee court.

1.4 This Practice Direction shall not, unless otherwise ordered, apply to proceedings which are—

- (1) a Competition claim as defined in Practice Direction 31C;
- (2) a Public Procurement claim;
- (3) within the Intellectual Property and Enterprise Court;
- (4) within the Admiralty Court;
- (5) within the Shorter and Flexible Trials Schemes;
- (6) within a fixed costs regime or a capped costs regime; or
- (7) claims proceeding under Part 8.

1.5 In the Patents Court, PD63 paragraphs 6.1 to 6.3 will continue to apply under this Practice Direction with the following modification: unless the court expressly orders otherwise, no provision in this practice direction nor any disclosure order made under this Practice Direction will take effect as requiring disclosure wider than is provided for in PD 63 paragraph 6.1.

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

1.7 Terms in Section I of this Practice Direction shall have the meaning given to them in the schedule of definitions at Appendix 1.

1.8 Save for those provisions of CPR Part 31 that are set out in Section II, and the related provisions of Practice Directions 31A and 31B, CPR Part 31 and Practice Directions 31A and 31B shall not apply to any proceedings falling within this Practice Direction.

1.9 Save that references in Section II to an Electronic Documents Questionnaire should be treated as references to the Disclosure Review Document, nothing in this Practice Direction is intended to change the application or working of those provisions of CPR Part 31 that are set out in Section II and the related provisions of Practice Directions 31A and 31B, and CPR Part 31 as a whole should still be used to interpret those provisions.

1.10 Provisions relating to Extended Disclosure in Less Complex Claims are contained in Appendix 5. Less Complex Claims are defined in paragraph 1.9 of Appendix 1 to this Practice Direction.

1.11 This Practice Direction applies in multi-party cases. However, the court may order that the timetable and procedure is to be varied so as to provide a bespoke timetable and procedure to meet the needs of the individual multi-party case. Any application to the court in this connection should be made at an early stage.

1.12 A party seeking an order for disclosure in a Part 8 claim shall serve and file a List of Issues for Disclosure in relation to which disclosure is sought and the Models that are to be adopted for each issue. The court may adapt the provisions of this Practice Direction in such manner as may be appropriate when making an order for disclosure in a Part 8 claim.

SECTION I

2. Principles, “document”, “adverse” and “known adverse documents”

2.1 Disclosure is important in achieving the fair resolution of civil proceedings. It involves identifying and making available documents that are relevant to the issues in the proceedings.

2.2 For the purpose of disclosure, the term “document” includes any record of any description containing information. The term is further defined below.

2.3 The court expects the parties (and their representatives) to cooperate with each other and to assist the court so that the scope of disclosure, if any, that is required in proceedings can be agreed or determined by the court in the most efficient way possible.

2.4 The court will be concerned to ensure that disclosure is directed to the issues in the proceedings and that the scope of disclosure is not wider than is reasonable and proportionate (as defined in paragraph 6.4) in order fairly to resolve those issues, and specifically the Issues for Disclosure (as defined in paragraph 7.6).

2.5 A “document” may take any form including but not limited to paper or electronic; it may be held by computer or on portable devices such as memory sticks or mobile phones or within databases; it includes e-mail and other electronic communications such as text messages, webmail, social media and voicemail, audio or visual recordings.

2.6 In addition to information that is readily accessible from computer systems and other electronic devices and media, the term “document” extends to information that is stored on servers and back-up systems and electronic information that has been ‘deleted’. It also extends to metadata, and other embedded data which is not typically visible on screen or a printout.

2.7 Disclosure extends to “adverse” documents. A document is “adverse” if it or any information it contains contradicts or materially damages the disclosing party’s contention or version of events on an issue in dispute, or supports the contention or version of events of an opposing party on an issue in dispute, whether or not that issue is one of the agreed Issues for Disclosure.

2.8 “Known adverse documents” are documents (other than privileged documents) that a party is actually aware (without undertaking any further search for documents than it has already undertaken or caused to be undertaken) both (a) are or were previously within its control and (b) are adverse.

2.9 For this purpose a company or organisation is “aware” if any person with accountability or responsibility within the company or organisation for the events or the circumstances which are the subject of the case, or for the conduct of the proceedings, is aware. For this purpose it is also necessary to take reasonable steps to check the position with any person who has had such accountability or responsibility but who has since left the company or organisation.

3. Duties in relation to disclosure

3.1 A person who knows that it is or may become a party to proceedings that have been commenced or who knows that it may become a party to proceedings that may be commenced is under the following duties (“the Disclosure Duties”) to the court—

(1) to take reasonable steps to preserve documents in its control that may be relevant to any issue in the proceedings;

(2) by no later than the time(s) set out in paragraphs 9.1 to 9.3, to disclose known adverse documents, unless they are privileged. This duty exists regardless of whether or not any order for disclosure is made;

(3) to comply with any order for disclosure made by the court;

(4) to undertake any search for documents in a responsible and conscientious manner to fulfil the stated purpose of the search;

(5) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and

(6) to use reasonable efforts to avoid providing documents to another party that have no relevance to the Issues for Disclosure in the proceedings.

3.2 Legal representatives who have the conduct of litigation on behalf of a party to proceedings that have been commenced, or who are instructed with a view to the conduct of litigation where their client knows it may become a party to proceedings that have been or may be commenced, are under the following duties to the court—

(1) to take reasonable steps to preserve documents within their control that may be relevant to any issue in the proceedings;

(2) to take reasonable steps to advise and assist the party to comply with its Disclosure Duties;

(3) to liaise and cooperate with the legal representatives of the other parties to the proceedings (or the other parties where they do not have legal representatives) so as to promote the reliable, efficient and cost-effective conduct of disclosure, including through the use of technology;

(4) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and

(5) to undertake a review to satisfy themselves that any claim by the party to privilege from disclosing a document is properly made and the reason for the claim to privilege is sufficiently explained.

3.3 The duties under paragraphs 3.1 and 3.2 above are continuing duties that last until the conclusion of the proceedings (including any appeal) or until it is clear there will be no proceedings.

3.4 Where there is a known adverse document but it has not been located, the duty to disclose the document is met by that fact being disclosed, subject to any further order that the court may make.

4. Preservation of documents

4.1 Documents to be preserved in accordance with the duties under paragraphs 3.1(1) and 3.2(1) above include documents which might otherwise be deleted or destroyed in accordance with a document retention policy or in the ordinary course of business. Preservation includes, in suitable cases, making copies of sources and documents and storing them.

4.2 The duty under paragraph 3.1(1) and 3.2(1) includes—

(1) an obligation to suspend relevant document deletion or destruction processes for the duration of the proceedings;

(2) in accordance with paragraph 4.3 below, an obligation to send a written notification in any form to relevant employees and former employees of the party where there are reasonable grounds for believing that the employee or former employee may be in possession of disclosable documents which are not also in the party's possession; and

(3) an obligation to take reasonable steps so that agents or third parties who may hold documents on the party's behalf do not delete or destroy documents that may be relevant to an issue in the proceedings.

4.3 A written notification under paragraph 4.2 above should—

(1) identify the documents or classes of documents to be preserved; and

(2) notify the recipient that they should not delete or destroy those documents and should take reasonable steps to preserve them.

4.4 Legal representatives who have the conduct of litigation on behalf of a party to proceedings that have been commenced, or who are instructed with a view to the conduct of litigation where their client knows it may become a party to proceedings that have been or may be commenced, must within a reasonable period of being instructed—

(1) notify their client of the need to preserve documents and of their obligations under paragraph 3.1 above; and

(2) obtain written confirmation from their client or an appropriate representative of their client that their client has taken the steps required under paragraphs 4.2 and 4.3 above.

4.5 Each party must confirm in writing (and may do so by their legal representative) when serving their particulars of claim or defence (as appropriate), that steps have been taken to preserve relevant documents in accordance with the duties under paragraph 3.1(1) and 3.2(1) above, and as required by paragraph 4.1 to 4.4 above.

5. Initial Disclosure

5.1 Save as provided below, and save in the case of a Part 7 claim form without particulars of claim, each party must provide to all other parties at the same time as its statement of case an Initial Disclosure List of Documents that lists and is accompanied by copies of—

(1) the key documents on which it has relied (expressly or otherwise) in support of the claims or defences advanced in its statement of case (and including the documents referred to in that statement of case); and

(2) the key documents that are necessary to enable the other parties to understand the claim or defence they have to meet.

5.2 This form of disclosure is known as “Initial Disclosure”.

5.3 Initial Disclosure is not required where—

(1) the parties have agreed to dispense with it (see paragraph 5.8 below);

(2) the court has ordered that it is not required (see paragraph 5.10 below); or

(3) a party concludes and states in writing, approaching the matter in good faith, that giving Initial Disclosure would involve it or any other party providing (after removing duplicates, and including documents referred to at paragraph 5.4(3)(a)) more than (about) whichever is the larger of 1000 pages or 200 documents (or such higher but reasonable figure as the parties may agree), at which point the requirement to give Initial Disclosure ceases for all parties for the purposes of the case.

Documents comprising media not in page form are not included in the calculation of the page or document limit at (3) but, where provided pursuant to a requirement to give Initial Disclosure, should be confined strictly to what is necessary to comply with paragraph 5.1 above.

5.4 A party giving Initial Disclosure—

(1) is under no obligation to undertake a search for documents beyond any search it has already undertaken or caused to be undertaken for the purposes of the proceedings (including in advance of the commencement of the proceedings);

(2) need not provide unless requested documents by way of Initial Disclosure if such documents—

(a) have already been provided to the other party, whether by disclosure before proceedings start (see CPR 31.16) or through pre-action correspondence or otherwise in the period following intimation of the proceedings (and including when giving Initial Disclosure with a statement of case that is being amended); or

(b) are known to be or have been in the other party’s possession;

(3) need not disclose adverse documents by way of Initial Disclosure.

5.5 Unless otherwise ordered, or agreed between the parties, copies of documents shall be provided in electronic form for the purpose of Initial Disclosure. The Initial Disclosure List of Documents should be filed but the documents must not be filed.

5.6 In proceedings where a statement of case is to be served on a defendant out of the jurisdiction Initial Disclosure is not required in respect of that defendant unless and until that defendant files an acknowledgement of service that does not contest the jurisdiction, or files a further acknowledgement of service under CPR 11(7)(b).

5.7 For the avoidance of doubt, Initial Disclosure does not require any document to be translated.

5.8 The parties may agree in writing, before or after the commencement of proceedings, to dispense with, or defer, Initial Disclosure. They may also agree to dispense with the requirement to produce an Initial Disclosure List of Documents. Each party should record its respective reasons for any agreement, so that those reasons may be available to the court, on request, at any case management conference. The court may set aside an agreement to dispense with or defer Initial Disclosure if it considers that Initial Disclosure is likely to provide significant benefits and the costs of providing Initial Disclosure are unlikely to be disproportionate to such benefits.

5.9 The court shall disregard any prior agreement to dispense with Initial Disclosure when considering whether to order Extended Disclosure.

5.10 A party may apply to the court for directions limiting or abrogating the obligation to provide Initial Disclosure. In particular, if a party is requested but does not agree to dispense with Initial Disclosure, the requesting party may apply to the court with notice to the other party for directions limiting or abrogating the obligation to provide Initial Disclosure if it considers compliance with the obligation will incur disproportionate cost or be unduly complex. Such an application must be made by application notice, supported by evidence where necessary, and, save in exceptional cases, will be dealt with without a hearing or at a short telephone hearing.

5.11 In an appropriate case the court may, on application, and whether or not Initial Disclosure has been given, require a party to disclose documents to another party where that is necessary to enable the other party to understand the claim or defence they have to meet or to formulate a defence or a reply.

5.12 A complaint about Initial Disclosure shall be dealt with at the first case management conference unless, exceptionally and on application, the court considers that the issue should be resolved at an earlier hearing.

5.13 A significant failure to comply with the obligation to provide Initial Disclosure may be taken into account by the court when considering whether to make an order for Extended Disclosure and the terms of such an order. It may also result in an adverse order for costs.

5.14 For the avoidance of doubt, nothing in this paragraph affects the operation of paragraph 7.3 of Practice Direction 16.

6. Extended Disclosure

6.1 A party wishing to seek disclosure of documents in addition to, or as an alternative to, Initial Disclosure must request Extended Disclosure. No application notice is required. However, the parties will be expected to have completed the Disclosure Review Document pursuant to paragraphs 7 and following below.

6.2 Save where otherwise provided, Extended Disclosure involves using Disclosure Models (see paragraph 8 below) in respect of Issues for Disclosure which have been identified (see paragraph 7 below).

6.3 The court will only make an order for Extended Disclosure that is search-based (ie Models C, D and/or E) where it is persuaded that it is appropriate to do so in order fairly to resolve one or more of the Issues for Disclosure.

6.4 In all cases, an order for Extended Disclosure must be reasonable and proportionate having regard to the overriding objective including the following factors—

- (1) the nature and complexity of the issues in the proceedings;
- (2) the importance of the case, including any non-monetary relief sought;
- (3) the likelihood of documents existing that will have probative value in supporting or undermining a party's claim or defence;
- (4) the number of documents involved;
- (5) the ease and expense of searching for and retrieval of any particular document (taking into account any limitations on the information available and on the likely accuracy of any costs estimates);
- (6) the financial position of each party; and
- (7) the need to ensure the case is dealt with expeditiously, fairly and at a proportionate cost.

6.5 A request for search-based Extended Disclosure (ie Models C, D and/or E) must specify which of the Disclosure Models listed in paragraph 8 below is proposed for each Issue for Disclosure defined in paragraph 7 below. It is for the party requesting Extended Disclosure to show that what is sought is appropriate, reasonable and proportionate (as defined in paragraph 6.4).

6.6 The objective of relating Disclosure Models to Issues for Disclosure is to limit the searches required and the volume of documents to be disclosed. Issues for Disclosure may be grouped. Disclosure Models should not be used in a way that increases cost through undue complexity.

6.7 It is important that the parties consider what types of documents and sources of documents there are or may be, including what documents another party is likely to have, in order that throughout a realistic approach may be taken to disclosure.

Court control over disclosure

6.8 The court will determine whether to order Extended Disclosure at the first case management conference or, if directed by the court, at another hearing convened for that purpose or without a hearing.

6.9 The court may determine any point at issue between the parties about disclosure including the application or effect of any provision in this Practice Direction or an order made by the court and about the scope of searches, the manner in which searches are to be carried out and the use of

technology. The parties may, at any time, apply to the court to seek the determination of an issue concerning disclosure by issuing an application notice.

6.10 The court may also provide disclosure guidance in accordance with paragraph 11.

6.11 Upon the application of the parties/a party, or on its own motion, the court may vary any period of time for a party/the parties to complete a step in disclosure. If the variation is agreed between the parties and will not affect the date set for the Case Management Conference or trial (as appropriate), court approval is not required.

7. Identifying the Issues for Disclosure and Models

7.1 Within 28 days of the final statement of case each party should state, in writing, whether or not it is likely to request search-based Extended Disclosure to include one or more of Models C, D or E (see paragraph 8 below) on one or more Issues for Disclosure in the case. At this point it should not particularise the Model(s) or the issue(s) in the case.

7.2 Where one or more of the parties has indicated it is likely to request search-based Extended Disclosure (i.e. Models C, D and/or E), the claimant must within 42 days of the final statement of case prepare and serve on the other parties a draft List of Issues for Disclosure unless an agreed list of issues for trial already exists and the parties agree that it is suitable (with or without adaptation) to be used for disclosure. The draft List of Issues for Disclosure should be set out in Section 1A of the Disclosure Review Document.

7.3 At the same time as serving a draft List of Issues for Disclosure, the claimant shall identify for each Issue for Disclosure which Model of Extended Disclosure it proposes for each party. If the claimant proposes Model C Disclosure for any Issue for Disclosure it should indicate, using Section 1B of the Disclosure Review Document, how the particular documents or narrow class of documents it proposes should be defined for that purpose (see paragraph 8 below).

7.4 If the claimant fails to prepare and serve a List of Issues for Disclosure within 42 days of the final statement of case any defendant may prepare and serve its own draft List of Issues for Disclosure on the other parties together with its proposed Models including any Model C requests.

7.5 A List of Issues for Disclosure is not required if the parties are agreed that Extended Disclosure is to be confined to Models A and B.

7.6 The List of Issues for Disclosure should be as short and concise as possible. “Issues for Disclosure” means for the purposes of disclosure only those key issues in dispute, which the parties consider will need to be determined by the court with some reference to contemporaneous documents in order for there to be a fair resolution of the proceedings. It does not extend to every issue which is disputed in the statements of case by denial or non-admission. For the purposes of producing a List of Issues for Disclosure the parties should consider what matters are common ground but should only include the key issues in dispute in the list.

7.7 When drafting Issues for Disclosure the parties should have regard to the primary functions of those Issues namely (i) to help the parties to consider, and the court to determine, whether Extended Disclosure is required and, if so, which Model or Models should be used; (ii) to assist the

parties in identifying documents and categories of documents that are likely to exist and require to be disclosed; (iii) to assist those carrying out the disclosure process to do so in a practical and proportionate way including, in the case of search-based disclosure, to help define and guide the searches; (iv) to assist with the process of reviewing documents produced by searches; and (v) to avoid the production of documents that are not relevant to the issues in the proceedings.

7.8 The claimant should seek to ensure that the draft List of Issues for Disclosure provides a fair and balanced summary of the key areas of dispute identified by the parties' statements of case and in respect of which it is likely that one or other of the parties will be seeking search-based Extended Disclosure.

7.9 A party served with a draft List of Issues for Disclosure and proposals on Models shall, as soon as practicable but in any event no later than 21 days from service, indicate using Section 1A (and, if applicable, 1B) of the Disclosure Review Document whether it agrees with the proposals (including any proposals as to how Model C Disclosure should be defined). If the party served with the proposals does not agree, or wishes to propose alternative or additional Issues for Disclosure, other Models and/or other Model C proposals, it should set out its alternative or additional proposals in Sections 1A and 1B of the Disclosure Review Document.

7.10 In advance of the first case management conference, the parties must discuss and seek to agree the draft List of Issues for Disclosure, the Models identified for each Issue for Disclosure, and the wording of any Model C proposals. They should consider whether any draft Issue for Disclosure can be removed.

7.11 Whilst reasonable and proportionate efforts are required to agree the List of Issues for Disclosure, if agreement cannot be reached after such efforts the List should be concluded by showing the areas of disagreement. The parties should consider seeking Disclosure Guidance from the court at an early stage as a means to help resolve the differences between them. One situation in which Disclosure Guidance should be considered is where one party believes the other is proposing a list of issues that is far too complex to serve as a List of Issues for Disclosure.

7.12 The List of Issues for Disclosure does not bind the parties at trial. The List of Issues for Disclosure need not contain / include a list of all the issues in the case and the issues in the case may develop or be refined as the case proceeds. The List of Issues for Disclosure may be revised or supplemented at any time prior to or following the case management conference, including as a result of statements of case or amended statements of case subsequently served or discussions between the parties in relation to the Disclosure Review Document.

7.13 If the parties are (subject to the court) agreed that there are preliminary issues suitable for determination before other issues in the case, or that the case should be divided into stages, the parties may apply to the court before any case management conference for an order for the trial of those issues or for trial in stages (and related directions), and they may agree in writing to limit the work towards disclosure required by this Practice Direction until that application has been heard.

7.14 In an appropriate case where the claimant is acting in person and a defendant is not the court may request the legal representatives of the defendant to lead on the preparation of the List of Issues for Disclosure.

7.15 The parties may agree a revised timetable for completion of the Disclosure Review Document (including the List of Issues for Disclosure, Models and Model C requests) where appropriate,

provided always that any such revision to the timetable does not affect the date set for the Case Management Conference.

7.16 In a multi-party case, where the risk of undue complexity in Lists of Issues for Disclosure is heightened, while the provisions of this Practice Direction remain the default arrangement, an application may be made under paragraph 1.11 above to request that the Court order for a bespoke timetable and procedure to be set in order to meet the needs of the multi-party case.

8. The Extended Disclosure Models

8.1 Extended Disclosure may take the form of one or more of the Disclosure Models set out below.

8.2 There is no presumption that a party is entitled to search-based Extended Disclosure (Extended Disclosure Models C, D and/or E). No Model will apply without the approval of the court.

8.3 The court may order that Extended Disclosure be given using different Disclosure Models for different Issues for Disclosure in the case. It is important that there is moderation in the number of Models used and the way in which they are applied to the Issues for Disclosure so that the disclosure process that will follow, using the Models and the Issues for Disclosure, will be practical. In the interests of avoiding undue complexity the court will rarely require different Models for the same set or repository of documents. The court may also order that Extended Disclosure be given by only one party, or that different Models are to apply to each party's Disclosure on a particular Issue for Disclosure. In some cases, it may be appropriate, practical and proportionate for different Models to be applied to different types of documents (e.g. one Model for physical documents and another Model for electronic documents).

Model A: Disclosure confined to known adverse documents

The court may order that the only disclosure required in relation to some or all of the Issues for Disclosure is of known adverse documents in accordance with the (continuing) duty under paragraph 3.1(2) above.

Model B: Limited Disclosure

(1) The court may order the parties to disclose (where and to the extent that they have not already done so by way of Initial Disclosure, and without limit as to quantity)—

(a) the key documents on which they have relied (expressly or otherwise) in support of the claims or defences advanced in their statement(s) of case; and

(b) the key documents that are necessary to enable the other parties to understand the claim or defence they have to meet;

and in addition to disclose known adverse documents in accordance with their (continuing) duty under paragraph 3.1(2) above.

(2) A party giving Model B Disclosure is under no obligation to undertake a search for documents beyond any search already conducted for the purposes of obtaining advice on its claim or defence or preparing its statement(s) of case. Where it does undertake a search however then the (continuing) duty under paragraph 3.1(2) will apply.

Model C: Disclosure of particular documents or narrow classes of documents

(1) The court may order a party to give disclosure of particular documents or narrow classes of documents relating to a particular Issue for Disclosure, by reference to requests set out in or to be set out in Section 1B of the Disclosure Review Document or otherwise defined by the court.

(2) If the parties cannot agree that disclosure should be given, or the disclosure to be given, pursuant to a request, then the requesting party must raise the request at the case management conference. The court will determine whether the request is reasonable and proportionate and may either order the disclosing party to search for the documents requested, refuse the request, or order the disclosing party to search for a narrower class of documents than that requested. Any appropriate limits to the scope of the searches to be undertaken will be determined by the court using the information provided in the Disclosure Review Document. A party may address Model C requests not only to the other party or parties, but also propose that Model C be used in respect of documents which it may propose searching for and disclosing.

(3) For the avoidance of doubt, a party giving Model C Disclosure must still comply with the duty under paragraph 3.1(2) above to disclose known adverse documents; these will include any arising from the search directed by the court.

Model D: Narrow search-based disclosure, with or without Narrative Documents

(1) Under Model D, a party shall disclose documents which are likely to support or adversely affect its claim or defence or that of another party in relation to one or more of the Issues for Disclosure.

(2) Each party is required to undertake a reasonable and proportionate search in relation to the Issues for Disclosure for which Model D disclosure has been ordered. Any appropriate limits to the scope of the searches to be undertaken will be determined by the court using the information provided in the Disclosure Review Document.

(3) The court may order the parties to include or exclude Narrative Documents. In the absence of an order, the parties are encouraged to take reasonable steps to exclude Narrative Documents where it is reasonable and proportionate to do so with a view to reducing the overall volume and the cost of any subsequent review by the party receiving the disclosure.

(4) For the avoidance of doubt, a party giving Model D Disclosure must still comply with the duty under paragraph 3.1(2) above to disclose known adverse documents; these will include any arising from the search directed by the court.

Model E: Wide search-based disclosure

(1) Under Model E, a party shall disclose documents which are likely to support or adversely affect its claim or defence or that of another party in relation to one or more of the Issues for Disclosure or which may lead to a train of inquiry which may then result in the identification of other documents for disclosure (because those other documents are likely to support or adversely affect

the party's own claim or defence or that of another party in relation to one or more of the Issues for Disclosure).

(2) Model E is only to be ordered in an exceptional case.

(3) Each party is required to undertake a reasonable and proportionate search in relation to the Issues for Disclosure for which Model E Disclosure has been ordered. The scope of the search will be determined by the court using the information provided in the Disclosure Review Document and is likely to be broader than that ordered for Model D Disclosure.

(4) Narrative Documents must also be searched for and disclosed, unless the court otherwise orders.

(5) For the avoidance of doubt, a party giving Model E Disclosure must still comply with the duty under paragraph 3.1(2) above to disclose known adverse documents; these will include any arising from the search directed by the court.

9. Other provisions concerning Disclosure Models

9.1 Where an order for Model B, C, D or E Extended Disclosure is made on one or more Issues for Disclosure, any known adverse documents to be disclosed in compliance with the duty under paragraph 3.1(2) above and not already disclosed must be disclosed at the time ordered for that Extended Disclosure.

9.2 In a case where no order for Extended Disclosure is made in respect of a party on any Issue for Disclosure, that party must still disclose all known adverse documents within 60 days of the first case management conference and provide a Disclosure Certificate certifying that this has been done.

9.3 The provisions of paragraph 8 and this paragraph 9 do not affect the fact that the duty under paragraph 3.1(2) above is a continuing duty as provided by paragraph 3.3 above: if adverse documents in the control of a party come to its knowledge at a later date they must (unless privileged) be disclosed without delay.

9.4 The court may make an order for Extended Disclosure in stages.

9.5 When it is necessary to decide any question of what is reasonable and proportionate under a particular Disclosure Model, the court will consider all the circumstances of the case including the factors set out in paragraph 6.4 above and the overriding objective.

9.6 Where the Disclosure Model requires searches to be undertaken, the parties must discuss and seek to agree, and the court may give directions, on the following matters with a view to reducing the burden and cost of the disclosure exercise—

(1) that the scope of the searches which the disclosing parties are required to undertake be limited to—

(a) particular date ranges and custodians of documents;

- (b) particular classes of documents and/or file types;
 - (c) specific document repositories and/or geographical locations;
 - (d) specific computer systems or electronic storage devices;
 - (e) documents responsive to specific keyword searches, or other automated searches (by reference, if appropriate, to individual custodians, creators, repositories, file types and/or date ranges, concepts);
- (2) if Narrative Documents are to be excluded, how that is to be achieved in a reasonable and proportionate way;
- (3) the use of—
- (a) software or analytical tools, including technology assisted review software and techniques;
 - (b) coding strategies, including to reduce duplication.
- (4) prioritisation and workflows.

9.7 In making an order for Extended Disclosure, the court may include any provision that is appropriate including provision for all or any of the following—

- (1) requiring the use of specified software or analytical tools;
- (2) identifying the methods to be used to identify duplicate or near-duplicate documents and remove or reduce such documents;
- (3) requiring the use of data sampling;
- (4) specifying the format in which documents are to be disclosed;
- (5) identifying the methods that the court regards as sufficient to be used to identify privileged documents and other non-disclosable documents;
- (6) the use of a staged approach to the disclosure of electronic documents;
- (7) excluding certain classes of document from the disclosure ordered.

9.8 In considering Extended Disclosure as well as when complying with an order for Extended Disclosure the parties should have regard to the guidance set out in Section 3 of the Disclosure Review Document.

9.9 In an appropriate case, the court may order that the question of which party bears the costs of disclosure is to be given separate consideration at a later stage rather than the costs being treated automatically as costs in the case;

9.10 For the avoidance of doubt, Extended Disclosure does not require any document to be translated.

10. Completion of the Disclosure Review Document

10.1 The Disclosure Review Document is the document by which the parties must identify, discuss and seek to agree the scope of any Extended Disclosure sought of Model C, D or E, and provide that information in due course to the court.

10.2 The Disclosure Review Document may be modified (shortened or lengthened) as required in order that key information is exchanged and in due course provided to the court in an efficient, convenient and helpful format. This may include revising some of the questions asked in Section 2 of the DRD or adding others relevant to the particular disclosure exercise to be undertaken. In cases where there is likely to be limited disclosure or the identification and retrieval of documents is straightforward, not every section of the Disclosure Review Document will need to be completed. For such cases, the parties should consider whether it would be more appropriate to use the Less Complex Claims regime.

10.3 The parties' obligation to complete, seek to agree and update the Disclosure Review Document is ongoing. If a party fails to co-operate and constructively to engage in this process the other party or parties may apply to the court for an appropriate order at or separately from the case management conference, and the court may make any appropriate order including the dismissal of any application for Extended Disclosure and/or the adjournment of the case management conference with an adverse order for costs.

10.4 Where Model C is proposed for any Issue(s) for Disclosure, these should be limited in number, focused in scope and concise so that the responding party may be clear as to the particular document(s) or narrow classes of document relating to a particular Issue for Disclosure for which it is being asked to undertake searches. Broad and wide-ranging formulations such as "any or all documents relating to..." should not be used. Model C requests should not be used in a tactical or oppressive way.

10.5 Having sought to agree the List of Issues for Disclosure, proposals on Model(s) for Extended Disclosure and the wording of any Model C requests, the parties should prepare and exchange drafts of Section 2 of the Disclosure Review Document (including costs estimates of different proposals, and where possible estimates of likely amount of documents involved) as soon as reasonably practicable and in any event not later than 14 days before the case management conference. Section 2 of the Disclosure Review Document should be completed only if any party is seeking an order for search-based Extended Disclosure (i.e. Models C, D and/or E).

10.6 The parties must seek to resolve any disputes over the scope of any Extended Disclosure sought in advance of the first case management conference. Any disputes which have not been resolved will normally be decided by the court at the first case management conference.

10.7 A finalised single joint Disclosure Review Document should be filed by the claimant not later than 5 days before the case management conference. Related correspondence and earlier drafts should not ordinarily be filed.

10.8 The parties must each file and serve a signed Certificate of Compliance substantially in the form set out in Appendix 3 not less than two days before the case management conference. A

Certificate of Compliance is not required for cases where a Disclosure Review Document has been dispensed with under paragraph 10.5.

10.9 In an appropriate case where the claimant is acting in person and a defendant is not the court may request the legal representatives of the defendant to lead on the preparation and filing of the Disclosure Review Document.

11. Disclosure Guidance

11.1 A party may seek guidance from the court on any point concerning the operation of this Practice Direction in a particular case, where—

- (1) there is a significant difference of approach between the parties;
- (2) the parties require guidance from the court in order to address the point of difference between them without a formal determination; and
- (3) the point is suitable for guidance to be provided either on the papers or, other than in substantial claims, within the maximum hearing length and maximum time for pre-reading provided at paragraph 11.2.

11.2 Disclosure Guidance may be obtained by issuing an application notice. The application notice should contain a statement identifying the point upon which guidance is sought and confirming the matters at (1) to (3) of paragraph 11.1 above. Evidence will not normally be required for Disclosure Guidance. If a hearing is requested, or is fixed by the court, the application will ordinarily have a maximum hearing length of 60 minutes and a maximum time of 30 minutes for pre-reading. However, where suitable the Court may decide to deal with the application on the documents and without an oral hearing. The Court may also direct a longer maximum hearing length or time for pre-reading, if it is required.

11.3 At a hearing the court will generally expect a legal representative with direct responsibility for the conduct of disclosure to be the person who participates on behalf of each party in the discussion.

11.4 The guidance given by the court will be recorded in a short note, to be approved by the court. Whilst the primary function of Disclosure Guidance is to provide guidance (see paragraph 11.1(2) above), for the avoidance of doubt the court may, where it considers it is appropriate to do so, make an order.

11.5 Unless otherwise ordered, the costs of an application for Disclosure Guidance are costs in the case and no order from the court to that effect is required.

11.6 The provisions in this paragraph do not affect or limit the court's jurisdiction to determine any point about the scope of disclosure, the application of any provision in this Practice Direction or the effect of any order made by the court. A party may apply to the court seeking the determination of an issue about disclosure at any time (see paragraphs 6.8 to 6.11 above).

12. Complying with an order for Extended Disclosure

12.1 An order for Extended Disclosure is complied with by undertaking the following steps—

- (1) service of a Disclosure Certificate substantially in the form set out in Appendix 4 signed by the party giving disclosure, to include a statement supported by a statement of truth signed by the party or an appropriate person at the party that all known adverse documents have been disclosed;
- (2) service of an Extended Disclosure List of Documents (unless dispensed with, by agreement or order); and
- (3) production of the documents which are disclosed over which no claim is made to withhold production or (if the party cannot produce a particular document) compliance with paragraph 12.3.

12.2 The order for Extended Disclosure will not have been complied with until each step specified in paragraph 12.1 has taken place.

12.3 If a party cannot produce a particular document (because the document no longer exists, the party no longer has it in its possession or for any other reason) the disclosing party is required to describe each such document with reasonable precision and explain with reasonable precision the circumstances in which, and the date when, the document ceased to exist or left its possession or the other reason for non-production. If it is not possible to identify individual documents, the class of documents must be described with reasonable precision.

12.4 In the case of a company, firm, association or other organisation, or where the Disclosure Certificate is signed by a party on behalf of other parties, the certificate must—

- (1) identify the person signing the Disclosure Certificate; and
- (2) explain why she or he is considered to be an appropriate person to sign it.

12.5 A party may not without the permission of the court or agreement of the parties rely on any document in its control that it has not disclosed at the time required for Extended Disclosure (or within 60 days after the first case management conference in a case where there will be no Extended Disclosure). For the avoidance of doubt the party and its legal representatives remain under the duties under paragraph 3.1 (the Disclosure Duties) and 3.2 above.

12.6 A Disclosure Certificate may be signed by the legal representative for the party concerned, provided always that the legal representative has explained the significance of the Disclosure Certificate to his or her client(s) and has been given written authority to sign the Disclosure Certificate on the client(s) behalf. In such cases, the party will be deemed to have agreed to and be bound by the certifications given by its legal representative.

13. Production of documents

13.1 Save where otherwise agreed or ordered, a party shall produce—

(1) disclosable electronic documents to the other parties by providing electronic copies in the documents' native format, in a manner which preserves metadata; and

(2) (save as provided by paragraph 5.5 above in the case of Initial Disclosure) disclosable hard copy documents by providing scanned versions or photocopied hard copies.

13.2 Electronic documents should generally be provided in the form which allows the party receiving the documents the same ability to access, search, review and display the documents (including metadata) as the party providing them.

13.3 A party should provide any available searchable OCR versions of electronic documents with the original, unless they have been redacted. If OCR versions are provided, they are provided on an "as is" basis, with no assurance to the other party that the OCR versions are complete or accurate.

13.4 A party should not disclose more than one copy of a document unless additional copies contain or bear modifications, obliterations or other markings or features which of themselves cause those additional copies to fall within a party's Initial or Extended Disclosure obligations.

13.5 In multi-party cases, the parties should discuss and seek to agree whether it is appropriate for all of the disclosing party's documents to be given to all of the other parties or to some only. In the event of disagreement, the parties may seek Disclosure Guidance from the Court pursuant to paragraph 11 or, if appropriate, apply by application notice to the court for directions.

14. Right to withhold production of documents (other than public interest immunity)

14.1 A person who wishes to claim a right or duty (other than on the basis of public interest immunity) to withhold disclosure or production of a document, or part of a document, or a class of documents which would otherwise fall within its obligations of Initial Disclosure or Extended Disclosure may exercise that right or duty without making an application to the court subject to—

(1) describing the document, part of a document or class of document; and

(2) explaining, in the Disclosure Certificate, the grounds upon which the right or duty is being exercised.

A claim to privilege may (unless the court otherwise orders) be made in a form that treats privileged documents as a class, provided always that paragraph 3.2(5) is complied with.

14.2 A party who wishes to challenge the exercise of a right or duty to withhold disclosure or production must apply to the court by application notice supported where necessary by a witness statement.

14.3 The court may inspect the document or samples of the class of documents if that is necessary to determine whether the claimed right or duty exists or the scope of that right or duty.

15. Confidentiality

If there are material concerns over the confidentiality of a document (whether the confidentiality benefits a party to the proceedings or a third party), the court may order disclosure to a limited class of persons, upon such terms and subject to such conditions as it thinks fit. The court may make further orders upon the request of a party, or on its own initiative, varying the class of persons, or varying the terms and conditions previously ordered, or removing any limitation on disclosure.

16. Redaction

16.1 A party may redact a part or parts of a document on the ground that the redacted data comprises data that is—

- (1) irrelevant to any issue in the proceedings, and confidential; or
- (2) privileged.

16.2 Any redaction must be accompanied by an explanation of the basis on which it has been undertaken and confirmation, where a legal representative has conduct of litigation for the redacting party, that the redaction has been reviewed by a legal representative with control of the disclosure process. A party wishing to challenge the redaction of data must apply to the court by application notice supported where necessary by a witness statement.

17. Failure adequately to comply with an order for Extended Disclosure

17.1 Where there has been or may have been a failure adequately to comply with an order for Extended Disclosure the court may make such further orders as may be appropriate, including an order requiring a party to—

- (1) serve a further, or revised, Disclosure Certificate;
- (2) undertake further steps, including further or more extended searches, to ensure compliance with an order for Extended Disclosure;
- (3) provide a further or improved Extended Disclosure List of Documents;
- (4) produce documents; or
- (5) make a witness statement explaining any matter relating to disclosure.

17.2 The party applying for an order under paragraph 17.1 must satisfy the court that making an order is reasonable and proportionate (as defined in paragraph 6.4).

17.3 An application for any order under paragraph 17.1 should normally be supported by a witness statement.

18. Varying an order for Extended Disclosure; making an additional order for disclosure of specific documents

18.1 The court may at any stage make an order that varies an order for Extended Disclosure. This includes making an additional order for disclosure of specific documents or narrow classes of documents relating to a particular Issue for Disclosure.

18.2 The party applying for an order under paragraph 18.1 must satisfy the court that varying the original order for Extended Disclosure is necessary for the just disposal of the proceedings and is reasonable and proportionate (as defined in paragraph 6.4).

18.3 An application for an order under paragraph 18.1 must be supported by a witness statement explaining the circumstances in which the original order for Extended Disclosure was made and why it is considered that order should be varied.

18.4 The court's powers under this paragraph include, but are not limited to, making an order for disclosure in the form of Models A to E and requiring a party to make a witness statement explaining any matter relating to disclosure.

19. Restriction on use of a privileged document which has been inadvertently produced

19.1 Where a party inadvertently produces a privileged document, the party who has received the document may use it or its contents only with the permission of the court.

19.2 Where a party is told, or has reason to suspect, that a document has been produced to it inadvertently, that party shall not read the document and shall promptly notify the party who produced it to him. If that party confirms that the document was produced inadvertently, the receiving party shall, unless on application the court otherwise orders, either return it or destroy it, as directed by the producing party, without reading it.

20. Sanctions

20.1 Throughout disclosure the court retains its full powers of case management and the full range of sanctions available to it.

20.2 If a party has failed to comply with its obligations under this Practice Direction including by—

(1) failing to comply with any procedural step required to be taken;

(2) failing to discharge its Disclosure Duties; or

(3) failing to cooperate with the other parties, including in the process of seeking to complete, agree and update the Disclosure Review Document,

the court may adjourn any hearing, make an adverse order for costs or order that any further disclosure by a party be conditional on any matter the court shall specify. This provision does not limit the court's power to deal with the failure as a contempt of court in an appropriate case.

21. Documents referred to in evidence

21.1 A party may at any time request a copy of a document which has not already been provided by way of disclosure but is mentioned in—

(1) a statement of case;

(2) a witness statement;

(3) a witness summary;

(4) an affidavit; or

(5) an expert's report.

21.2 Copies of documents mentioned in a statement of case, witness evidence or an expert's report and requested in writing should be provided by agreement unless the request is unreasonable or a right to withhold production is claimed.

21.3 A document is mentioned where it is referred to, cited in whole or in part or there is a direct allusion to it.

21.4 Subject to rule 35.10(4), the court may make an order requiring a document to be produced if it is satisfied such an order is reasonable and proportionate (as defined in paragraph 6.4).

22. Cost

22.1 The parties are required to provide an estimate of what they consider to be the likely costs of giving the disclosure proposed by them in the Disclosure Review Document, and the likely volume of documents involved, in order that a court may consider whether such proposals on disclosure are reasonable and proportionate (as defined in paragraph 6.4). These estimated costs may be used by the court in the cost budgeting process.

22.2 In cases where the cost budgeting scheme applies, if it is not practical to complete the disclosure section of Form H in relation to disclosure prior to the court making an order in relation to disclosure at the case management conference, the parties may notify the court that they have agreed to postpone completion of that section of Form H until after the case management

conference. If they have agreed to postpone they must complete the disclosure section within such period as is ordered by the court after an order for disclosure has been made at the case management conference. Where possible the court will then consider (and if appropriate, approve) that part of the cost budget without an oral hearing.

23. False Disclosure Certificates

23.1 Proceedings for contempt of court may be brought against a person who signs, or causes to be signed by another person, a false Disclosure Certificate without an honest belief in its truth.

SECTION II

Disclosure before proceedings start

31.16.—(1) This rule applies where an application is made to the court under any Act for disclosure before proceedings have started.

(2) The application must be supported by evidence.

(3) The court may make an order under this rule only where—

(a) the respondent is likely to be a party to subsequent proceedings;

(b) the applicant is also likely to be a party to those proceedings;

(c) if proceedings had started, the respondent's duty by way of standard disclosure, set out in rule 31.6, would extend to the documents or classes of documents of which the applicant seeks disclosure; and

(d) disclosure before proceedings have started is desirable in order to—

(i) dispose fairly of the anticipated proceedings;

(ii) assist the dispute to be resolved without proceedings; or

(iii) save costs.

(4) An order under this rule must—

(a) specify the documents or the classes of documents which the respondent must disclose; and

(b) require him, when making disclosure, to specify any of those documents—

(i) which are no longer in his control; or

(ii) in respect of which he claims a right or duty to withhold inspection.

(5) Such an order may—

(a) require the respondent to indicate what has happened to any documents which are no longer in his control; and

(b) specify the time and place for disclosure and inspection.

Orders for disclosure against a person not a party

31.17.—(1) This rule applies where an application is made to the court under any Act for disclosure by a person who is not a party to the proceedings.

(2) The application must be supported by evidence.

(3) The court may make an order under this rule only where—

(a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and

(b) disclosure is necessary in order to dispose fairly of the proceedings or to save costs.

(4) An order under this rule must—

(a) specify the documents or the classes of documents which the respondent must disclose; and

(b) require the respondent, when making disclosure, to specify any of those documents—

(i) which are no longer in his control; or

(ii) in respect of which he claims a right or duty to withhold inspection.

(5) Such an order may—

(a) require the respondent to indicate what has happened to any documents which are no longer in his control; and

(b) specify the time and place for disclosure and inspection.

Rules not to limit other powers of the court to order disclosure

31.18.—Rules 31.16 and 31.17 do not limit any other power which the court may have to order—

(a) disclosure before proceedings have started; and

(b) disclosure against a person who is not a party to proceedings.

Claim to withhold inspection or disclosure of a document (public interest immunity)

31.19.—(1) A person may apply, without notice, for an order permitting him to withhold disclosure of a document on the ground that disclosure would damage the public interest.

(2) Unless the court orders otherwise, an order of the court under paragraph (1)—

(a) must not be served on any other person; and

(b) must not be open to inspection by any person.

...

(8) This Part does not affect any rule of law which permits or requires a document to be withheld from disclosure or inspection on the ground that its disclosure or inspection would damage the public interest.

Subsequent use of disclosed documents and completed Electronic Documents Questionnaires

31.22.—(1) A party to whom a document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed, except where—

(a) the document has been read to or by the court, or referred to, at a hearing which has been held in public;

(b) the court gives permission; or (c) the party who disclosed the document and the person to whom the document belongs agree.

(2) The court may make an order restricting or prohibiting the use of a document which has been disclosed, even where the document has been read to or by the court, or referred to, at a hearing which has been held in public.

(3) An application for such an order may be made—

(a) by a party; or

(b) by any person to whom the document belongs.

(4) For the purpose of this rule, an Electronic Documents Questionnaire which has been completed and served by another party pursuant to Practice Direction 31B is to be treated as if it is a document which has been disclosed.

Appendix 1 to Practice Direction 57AD

Definitions for the purpose of Section I

1.1 “Control” in the context of disclosure includes documents: (a) which are or were in a party’s physical possession; (b) in respect of which a party has or has had a right to possession; or (c) in respect of which a party has or has had a right to inspect or take copies.

1.2 “Copy” means a facsimile of a document either in the same format as the document being copied or in a similar format that is readable by the recipient, and in all cases having identical content.

1.3 “Data Sampling” means the process of checking data by identifying and checking representative individual documents.

1.4 “Disclose” comprises a party stating that a document that is or was in its control has been identified or forms part of an identified class of documents and either producing a copy, or stating why a copy will not be produced.

1.5 “Disclosure Certificate” means a certificate that is substantially in the form set out in Appendix 3 and signed in accordance with the Practice Direction.

1.6 “Disclosure Review Document” means as the case may be the Disclosure Review Document at Appendix 2, or in the case of Less Complex Claims the Disclosure Review Document at Appendix 6, which is to be completed by the parties pursuant to the Practice Direction, in respect of any application for Extended Disclosure.

1.7 “Electronic Image” means an electronic representation of a paper document.

1.8 “Keyword Search” means a software-aided search for words across the text of an electronic document.

1.9 “Less Complex Claim” means a claim which the parties have agreed or the Court has ordered is one that meets the criteria for the Less Complex Claims regime as set out in Appendix 5 of this Practice Direction.

1.10 “List of Documents” means a list of documents in chronological order (or if appropriate classes of documents in chronological order), identifying each document with a clear description including the date and, where applicable any author, sender or recipient. Where appropriate the list must distinguish between documents which exist and those that no longer exist.

1.11 “Metadata” means data about data. In the case of an electronic document, metadata is typically embedded information about the document which is not readily accessible once the native electronic document has been converted into an electronic image or paper document. It may include (for example) the date and time of creation or modification of a word-processing file, or the author and the date and time of sending an e-mail. Metadata may be created automatically by a computer system or manually by a user.

1.12 “Narrative Document” means a document which is relevant only to the background or context of material facts or events, and not directly to the Issues for Disclosure; for the avoidance of doubt an adverse document (as defined at paragraph 2.6) is not to be treated as a Narrative Document

1.13 “Native Electronic Document” or “Native Format” means an electronic document stored in the original form in which it was created by a computer software program;

1.14 “Optical Character Recognition” (OCR) means the computer-facilitated recognition of printed or written text characters in an electronic image in which the text-based contents cannot be searched electronically.

1.15 “Technology Assisted Review” includes all forms of document review that may be undertaken or assisted by the use of technology, including but not limited to predictive coding and computer assisted review.

**Appendix 2 to Practice Direction 57AD
Disclosure in the Business and Property Courts**

**Disclosure Review Document
Section 1A: Issues for Disclosure and proposed Disclosure Models**

Brief description of the Issue for Disclosure ²	Reference to statement of case	Issue agreed?		Proposed Model of Extended Disclosure (A – E)		Decision (for the court)
		Yes	No (party not agreeing)	To be completed by claimant	To be completed by defendant	
<i>[Alternative proposed wording, if not agreed]¹</i>						

1 If the wording of any Issue for Disclosure cannot be agreed, the alternative wording proposed should be included immediately under the claimant's formulation.

Brief description of the Issue for Disclosure ²		Reference to statement of case	Issue agreed?		Proposed Model of Extended Disclosure (A – E)		Decision (for the court)
			Yes	No (party not agreeing)	To be completed by claimant	To be completed by defendant	

Brief description of the Issue for Disclosure ²		Issue agreed?		Proposed Model of Extended Disclosure (A – E)		Decision (for the court)
		Reference to statement of case	Yes	No (party not agreeing)	To be completed by claimant	

Section 1B: Model C requests for Disclosure

Claimant / Defendant (delete as appropriate)				
	Issue for Disclosure	Request for document or narrow classes of documents relating to the Issue for Disclosure	Response	Decision (for the court)
1.	Issue []:			
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

[Note: Parties should refer to the guidance on 'Completion of section 2 of the DRD' in the 'Explanatory notes for the DRD' when completing this section]

Section 2: Questionnaire

Claimant / Defendant (delete as appropriate)		
	Question	Details
1.	Hard copy documents / files Confirm whether hard copy documents (for example, notebooks, lever arch files, note pads, drawings/plans and handwritten notes) that are not originally electronic files should be included in the collection of documents which you propose to search. Please propose an approach for the production of hard copy documents: if they will be scanned and made searchable or if they will be disclosed and made available for inspection in hard copy only.	

2. Electronic files: data sources/locations

Please set out details on data sources to be considered at collection which you propose to search. Please include details of any sources that are unavailable but may host relevant documents or which may raise particular difficulties due to their location, format or any other reason.

Examples of sources to be considered may include the following:

	Question	Details
	<ol style="list-style-type: none"> (1) Document repositories and/or geographical locations (2) Computer systems or electronic storage devices (3) Mobile phones, tablets and other handheld devices (4) Document management systems (5) Email servers (6) Cloud based data storage (7) Webmail accounts e.g. Gmail, Hotmail, Instant Messaging / collaboration systems (8) Back-up systems (9) Social media accounts (10) Third parties who may have relevant documents which are under your control (e.g. agents or advisers). <p>The list above is not intended to be exhaustive, and it may be appropriate to consider other relevant data sources. If a data source is likely only to host documents relevant to particular issues for Disclosure, this should be noted in this section.</p>	

	Question	Details
3.	Please identify and provide details of any bespoke or licensed proprietary software in which relevant documents have been created or stored which may not be available to the other party but without which it is not possible to review the relevant data (e.g. Microsoft Project, Lotus Notes, Bloomberg Chat etc.).	

4.	<p>Custodians and date ranges</p> <p>Please set out a list of custodians whose files you propose to search and the date range(s) within which you would propose to search for documents which are relevant to Issues for Disclosure for which any party seeks Extended Disclosure.</p> <p>If a custodian or range of dates is only relevant to certain Issues for Disclosure, or if a certain date range is only relevant to a particular custodian, please indicate this next to their name if this might allow the scope of the search to be narrowed. If the list is extensive, please set out a proposal to prioritise key custodians.</p>	
5.	<p><i>(For completion after discussions between the parties)</i></p> <p>Are the proposals at 4. agreed? If not, set out any areas of disagreement.</p>	

6. Search proposals

Please list any searches and methods of searching (including any automated searches or techniques other than keyword searches) you have identified at this stage that you may use to search the data to identify documents that may need to be disclosed.

If a certain method of searching, proposed search or keyword is relevant only to a particular Issue for Disclosure, please indicate this if it might allow the scope of the search to be narrowed.

Note: The use of initial keywords may assist the parties to identify the likely volume of data that may need to be reviewed. However, keywords will need to be tested and refined during the disclosure process. Accordingly, any keywords proposed at this stage are for the purposes of discussion only.

The fact that a party may propose a keyword at this stage should not be taken as an acceptance that the keyword should ultimately be used, particularly if, on testing the keyword against the available data, it provides false positive results.

If it is not practicable to provide a list of keywords prior to the CMC, the parties should engage and seek to co-operate following the CMC to identify and agree the key words they propose using and thereafter test those key words against the data to determine whether or not they are appropriate.

	Question	Details
7.	<p><i>(For completion after discussions between the parties)</i></p> <p>Are the proposals at 6. agreed? If not, set out areas of disagreement.</p>	
8.	<p>Irretrievable documents</p> <p>Please state if you anticipate any documents being irretrievable due to, for example, their destruction or loss, the destruction or loss of devices upon which they were stored, or other reasons.</p>	

<p>9.</p>	<p>Technology / computer assisted review</p> <p>Parties are to consider the use of technology to facilitate the efficient collection of data and its further use for data review. This may include the use of some of the more sophisticated forms of technology / computer assisted review software (TAR / CAR / analytics). If the parties are in a position to propose the use of any technology or computer assisted review tools in advance of the CMC, those proposals should be set out in this section.</p> <p>Where parties have considered the use of such tools but decided against this at this stage (particularly where the review universe is in excess of 50,000 documents), they should explain why such tools will not be used, particularly where this may mean that large volumes of data will have to be the subject of a manual review exercise. Parties should update this form and draw any material updates to the attention of all parties and the Court if they later determine it would be appropriate to use such tools.</p>	
<p>10</p>	<p>Estimates of costs</p> <p>Where the parties have agreed searches to be undertaken, state the estimated cost of collection, processing, search, review and production of your Extended Disclosure.</p>	

11	Where any aspect of the approach to Disclosure is not agreed, estimate your costs of collection, processing, search, review and production of your documents based on Extended Disclosure (Models and scope of any search required) requested by the claimant(s).	
12	Where any aspect of the approach to Disclosure is not agreed, estimate your costs of collection, processing, search, review and production of your documents based on Extended Disclosure (Models and scope of any search required) requested by the defendant(s).	

Appendix 2 to Practice Direction 57AD
Explanatory notes for Disclosure Review Document

Introduction

1. The Disclosure Review Document (“DRD”) is intended to:
 - (1) facilitate the exchange of information and provide a framework for discussions about the scope of Extended Disclosure;
 - (2) help the parties to agree a sensible and cost-effective approach to disclosure and identify areas of disagreement; and
 - (3) provide the court with parties’ proposals on disclosure, agreed or otherwise, so the court can make appropriate case management decisions at the case management conference.
2. The explanatory notes provide guidance. While not all of this guidance will be suitable for every claim, parties are nevertheless encouraged to follow this guidance unless there are good reasons not to do so.
3. Unless otherwise stated, references to paragraph numbers in the DRD are to the paragraph numbers in Practice Direction 57AD. If there is a conflict between the DRD and the Practice Direction, the Practice Direction will prevail.
4. The DRD does not need to be completed in cases where an order for only Models A and/or B Extended Disclosure is sought. Section 1A and Section 2 of the DRD only need to be completed if the parties are seeking an order for Extended Disclosure involving a search-based Disclosure Model (i.e. Models C, D and/or E). Where Model C Extended Disclosure is proposed, Section 1B of the DRD will also need to be completed.
5. The DRD may be modified (shortened or lengthened) as required to ensure that key information is provided to the court in a convenient and helpful format. This may include revising some of the questions asked in Section 2 of the DRD or adding others relevant to the particular disclosure exercise to be undertaken.
6. In some proceedings, not every section of the DRD will need to be completed, particularly if the proceedings are likely to require limited disclosure and/or if the identification and retrieval of documents is expected to be straightforward.

7. The DRD should be completed and submitted electronically as a single document to the court by the parties. The claimant will be responsible for doing this.
8. The timetable for completion of the DRD is set out in paragraphs 7 and 10 of the Practice Direction. The parties may agree a revised timetable for completion of the Disclosure Review Document (including the List of Issues for Disclosure, Models and Model C requests) where appropriate, provided always that any such revision to the timetable does not affect the date set for the Case Management Conference. For convenience the timetable is summarised below as follows:

	Stage to be completed	PD Ref.	Deadline
Step 1	Each party should state, in writing, whether or not it is likely to request search-based Extended Disclosure to include one or more of Models C, D or E on one or more issues in the case. At this point it should not particularise the Model(s) or the issue(s) in the case.	Para 7.1	Within 28 days of the closure of statements of case
Step 2	Where one or more of the parties has indicated it is likely to request search-based Extended Disclosure (i.e. Models C, D and/or E), the claimant must prepare and serve on the other parties a draft List of Issues for Disclosure unless the equivalent of such a list has already been agreed between the parties (for example, as part of a fuller list of issues). At the same time, the claimant shall identify for each Issue for Disclosure which Model of Extended Disclosure it proposes for each party. If the claimant proposes Model C Disclosure for any Issue for Disclosure it should indicate, using Section 1B of the Disclosure Review Document, the particular documents or narrow class of documents it proposes should be defined for that purpose.	Para 7.2	Within 42 days of the closure of statements of case

	If the claimant fails to take these steps, the defendant may, but is not obliged to, prepare and serve its own draft List of Issues for Disclosure on the other parties together with its proposals on Models and any Model C requests.		
Step 3	A party served with a draft List of Issues for Disclosure and proposals on Models shall indicate using Section 1A (and, if applicable, 1B) of the Disclosure Review Document whether it agrees with the proposed Issues for Disclosure and corresponding Model(s) for Extended Disclosure (including any proposals as to how Model C Disclosure should be defined). If the party does not agree, or wishes to propose alternative or additional Issues for Disclosure, other Models and/or other Model C proposals, it should set out its alternative or additional proposals in Sections 1A and 1B of the Disclosure Review Document.	Para 7.9	As soon as practicable but in any event no later than 21 days after service of the draft List of Issues for Disclosure

<p>Step 4</p>	<p>The parties must discuss and seek to agree the draft List of Issues for Disclosure, the Models identified for each Issue for Disclosure, and the wording of any Model C proposals. They should consider whether any draft Issue for Disclosure can be removed.</p>	<p>Paras 7.10 and 10.6</p>	<p>In advance of the first case management conference</p>
<p>Step 5</p>	<p>Having sought to agree the List of Issues for Disclosure, proposals on Model(s) for Extended Disclosure and the wording of any Model C requests, the parties should prepare and exchange drafts of Section 2 of the Disclosure Review Document (including costs estimates of different proposals, and where possible estimates of the likely amount of documents involved).</p> <p>Section 2 of the Disclosure Review Document should be completed only if the parties are seeking an order for Extended Disclosure involving a search-based</p>	<p>Para 10.5</p>	<p>As soon as reasonably practicable and in any event not later than 14 days before the case management conference.</p>

	Disclosure Model (i.e. Models C, D and/or E).		
Step 6	A finalised single joint Disclosure Review Document should be filed by the claimant. Related correspondence and earlier drafts should not ordinarily be filed.	Para 10.7	Not later than 5 days before the case management conference
Step 7	The parties must independently file assigned Certificate of Compliance substantially in the form set out in Appendix 3 to the Practice Direction	Para 10.8	Not less than two days before the case management conference

Completing Section 1A of the DRD

1. The purpose of Section 1A of the DRD is to provide a concise summary of the parties' proposals in relation to Extended Disclosure by identifying the Issues for Disclosure and the proposed Models for Disclosure in respect of such issues. The list of Issues for Disclosure must be completed in accordance with paragraphs 7 and 10 of the Practice Direction¹.
2. Issues for Disclosure are defined at paragraph 7.6 of the Practice Direction as only those key issues in dispute, which the parties consider will need to be determined by the court with some reference to contemporaneous documents in order for there to be a fair resolution of the proceedings. It does not extend to every issue which is disputed in the statements of case by denial or non-admission.
3. The Issues for Disclosure are a point of reference for further discussions between the parties about the manner and scope of disclosure to be given. They are not a statement of case. Nor are they intended to replace the List of Issues, which the parties may be required to prepare and file in advance of the case management conference, although the two documents should ultimately be consistent with each other.
4. The List of Issues for Disclosure should:
 - (1) state whether each Issue for Disclosure is agreed or opposed and, if so, by whom;
 - (2) seek to avoid any duplication of issues, by using consolidated wording for any overlapping Issues for Disclosure where possible.
5. In accordance with paragraph 7.9 of the Practice Direction, if a particular Issue for Disclosure has not been included in Section 1A by the claimant, or is described in a manner that is unacceptable to the defendant, using Section 1A of the DRD the defendant should provide the claimant with its proposed wording or alternative wording for inclusion in the draft list of Issues for Disclosure as soon as reasonably practicable but in any event no later than 21 days after service of the draft List of Issues for Disclosure.
6. If the parties cannot agree whether certain issues should be included as an Issue for Disclosure, such issues should be included with a tick in the "No" section of the "Issue Agreed?" column, along with an indication of the party not agreeing to it (C for claimant, D for defendant, D1 etc. for each defendant in cases with multiple defendants).

¹ It is to be completed as a Word Document, with any amendments proposed in redline by the parties during period when it is being discussed and finalised. A clean version should ultimately be provided to the court.

7. Where the parties disagree as to the need for Extended Disclosure or seek Extended Disclosure on different Models in relation to an Issue for Disclosure, that should be recorded in the “Proposed model of Extended Disclosure” column.

Specifying Disclosure Models in Section 1A of the DRD

8. The Disclosure Models under paragraph 8 are:

Model A: Disclosure confined to known adverse documents²

Model B: Limited Disclosure

Model C: Disclosure of particular documents or narrow classes of documents

Model D: Narrow search-based Disclosure, with or without Narrative Documents

Model E: Wide Search-based Disclosure

9. In addition to completing a List of Issues for Disclosure in Section 1A of the DRD, the parties should also specify which of the above Disclosure Models is proposed in respect of particular Issues for Disclosure.
10. If a party proposes that a different Disclosure Model should apply to each party in the case of a particular Issue for Disclosure, this should be noted (e.g. “Model B for C” (Claimant), “Model D for D” (Defendant)).
11. The claimant must update and re-circulate Section 1A of the DRD to identify areas of agreement and disagreement following the discussions required by paragraph 7.

Updating the Issues for Disclosure

12. The scope of disclosure may require ongoing review, discussion and co-operation between the parties.

² Under Model A, the only further disclosure that is required is to disclose any known adverse documents in relation to the relevant Issue for Disclosure (without the need for any search), in accordance with the duty under paragraph 3.1(2) of the Practice Direction.

13. The fact that a party has not included a particular Issue for Disclosure in the DRD, does not prevent that party from later proposing that a new Issue for Disclosure should be added to the list. For example, new factual issues relevant to the parties' statements of case may be identified because of documents disclosed or evidence exchanged during the proceedings, or because of amendments to a statement of case. In the usual way, if the issues in dispute change during the proceedings, then it may well be appropriate to update the Issues for Disclosure and, as a consequence, Section 2 of the DRD.
14. The parties may agree changes to the Issues for Disclosure after the first CMC without having to seek the court's approval, unless the effect of such changes will be to materially change an order already made, or impact in a material way on the procedural timetable, costs and/or trial date.

**Completion of Section 1B of the DRD
(Disclosure of particular documents or narrow classes of documents - Model C)**

1. In accordance with paragraph 10.5, any party proposing Model C Extended Disclosure must complete Section 1B of the DRD.
2. Any party provided with a completed Section 1B in this way must respond within 21 days by completing the “response” column either agreeing to the request or giving concise reasons for not agreeing to the request.
3. Model C requests are not intended to be used to replicate the approach sometimes taken in arbitration with Redfern schedules where parties may include a large number of broad requests for disclosure from the other side, addressing all issues in dispute and all potential data sources. As described in paragraph 8.3 of the Practice Direction, the approach envisaged with Model C is very different.
4. The parties’ requests should be limited in number, focused in scope and concise in order that the responding party may be clear as to the particular document(s) or narrow classes of documents relating to a particular Issue for Disclosure for which it is being asked to undertake searches. Broad and wide-ranging formulations such as “any or all documents relating to...” should not be used.
5. In addition, Model C requests should not be used where extensive search-based disclosure is sought other than “to give disclosure of particular documents or narrow classes of documents relating to a particular Issue(s) for Disclosure”.³ In such cases, it may well be more efficient to use a combination of Models A, B and D. It will rarely be appropriate to have a large number of Model C requests in respect of the same data set, because that is likely to (a) make it more difficult for the parties to agree what the Model C requests should be; and b) increase the complexity, costs and time required to undertake the subsequent review exercise. Further, using multiple Model C requests can, in fact, undermine rather than facilitate the use of technology / computer assisted review tools and should therefore be avoided.
6. Model C should not be used in a tactical or oppressive way.

³ See paragraph 8 of the Practice Direction

Completion of Section 2 of the DRD

1. Section 2 of the DRD only needs to be completed if the parties are seeking an order for Extended Disclosure involving a search-based Disclosure Model (i.e. Models C, D and/or E). This is because Models A and B do not require mandatory searches to be undertaken.
2. In cases where a search-based Disclosure Model (Models C, D or E) is proposed by the parties, the purpose of Section 2 of the DRD is to provide the court with information about the data held by each party, including:
 - (1) where and how the data is held;
 - (2) how the parties propose to process and search the data where a search-based Disclosure Model (Models C, D and E) is sought in relation to particular Issues for Disclosure); and
 - (3) whether there are any points that the parties have not been able to agree through discussions and which they therefore need the court to determine at the case management conference.
3. Section 2 of the DRD should also be used to identify data that can be excluded from the review process, for example, particular custodians, data ranges and back up data to ensure that the data pool is it is reasonable and proportionate, having particular regard to the factors in section 6.4 of the Practice Direction.
4. In cases where no documents are held by a party, that party may confirm this in writing rather than complete Section 2 of the DRD.
5. In Section 2 of the DRD, the parties should seek to provide information about how they intend to approach disclosure so that the court is then in a position to decide what, if any, orders for Extended Disclosure should be made.
6. The parties should include in Section 2 any information that will assist the court in determining the appropriate scope of disclosure for each Issue for Disclosure. The information listed in Section 2 should be treated as a guide and not an exclusive list of the information that should be provided. The DRD may be adapted to meet the needs of the particular case and the parties are not required to answer all of the questions. In particular:
 - (1) In cases where the disclosure exercise is likely to be complex and substantial with multiple sources of data, it may be necessary to raise additional questions and to provide other information. Conversely, it may not in fact be possible to answer all of the questions in Section 2 of the DRD questionnaire in advance of the case management conference because that information may not yet be available.
 - (2) In cases where the disclosure exercise is likely to be less complex or involving a very limited number of documents or sources of data, the parties may complete only those parts of Section 2 which are relevant or helpful for a particular case.
 - (3) The parties are expected to take a reasonable and proportionate approach in completing Section 2 and to seek to agree upon on any such changes to achieve that outcome as far as possible.
7. The parties must confer and seek to agree the contents of Section 2 of the DRD as it applies to their disclosure, in advance of the case

management conference. The parties are expected to do this by phone, video conference or in person. Extensive correspondence in relation to the DRD is unlikely to be efficient or helpful. Where particular points cannot be agreed, they should be recorded, in a summary form in the relevant sections of the DRD after discussions between the parties.

8. For the avoidance of doubt, if only one party considers that disclosure of certain materials is required, the other party must nevertheless state its proposals as to how the disclosure of such materials should be effected, without prejudice to its position that no order for disclosure should be made.

9. The provision of information about the data that might be relevant to a request for Extended Disclosure shall not be treated as a concession that Extended Disclosure is appropriate.

10. In advance of the production of documents, parties should consider and discuss whether in a case involving multiple parties, it will be appropriate for the entirety of a party's disclosure to be provided to all parties or only to those parties to whom the disclosure is relevant.

Who has responsibility for incorporating the parties' comments on the DRD?

11. Unless otherwise agreed or ordered, the claimant is to be responsible for updating the DRD throughout the proceedings to ensure that it reflects the parties' combined comments and discussions. Where the claimant is unrepresented, it may be appropriate for the defendant's advisers to assist the claimant and/or take responsibility for completion of the DRD by agreement.

12. When a party other than the claimant is completing Section 2 of the DRD, it may do so by completing and sending across just Section 2 of the DRD completed (i.e. there is no need for the party to carry across any text already discussed and agreed in relation to Sections 1A and 1B). The claimant should then ensure that the information provided to it in Section 2 by the other party is incorporated into the latest draft of the DRD, over which it has ultimate carriage.

Estimates as to costs

13. In accordance with paragraph 22 of the Practice Direction, the parties are required to provide an estimate of what they consider to be the likely costs of giving the disclosure proposed by them in the DRD, and the likely amount of documents involved, in order that a court may consider whether such proposals on disclosure are reasonable and proportionate. This information is to be provided in answer to questions 10 to 12 of Section 2.

14. If the approach to Extended Disclosure is not fully agreed, the parties should be ready to provide more detailed information at the CMC as to how their global estimates were arrived at and the impact upon them of particular requests for Extended Disclosure.

15. In cases where the costs budgeting scheme applies, if it is not practical to complete the disclosure section of Form H in relation to disclosure prior to the court making an order in relation to disclosure at the case management conference, the parties may notify the court that they have agreed to postpone completion of that section of Form H until after the case management conference (see paragraph 22.2 of the Practice Direction).

Guidance on process after any order for Extended Disclosure has been made

1. Where the court orders the parties to give Extended Disclosure, the parties will need to consider the appropriate methodology for the disclosure exercise, which includes the collection, processing, review and production of documents.
2. The parties and their advisers are reminded of their Disclosure Duties to the court to discuss and endeavour to agree the approach to be taken to disclosure, always with a view to reducing the burden and cost of this process.
3. Although the parties are under a duty to liaise and cooperate with the legal representatives of the other parties to the proceedings (or the other parties where they do not have legal representatives) so as to promote the reliable, efficient and cost-effective conduct of disclosure, including through the use of technology, there may be points which cannot be agreed despite the best efforts of the parties, in which case the parties should request the assistance of the court in a Disclosure Guidance Hearing as set out paragraph 11 of the Practice Direction.
4. This guidance identifies various forms of analytics, and technology or computer assisted review software which are currently available and in use. The parties should not, however, feel constrained from proposing new forms of processing and review software, which may be developed in the future and which may be appropriate for use in any given case.⁴

Appropriate methodology

5. Although the parties may approach the disclosure exercise in different ways and using different technology, an appropriate methodology for a case involving electronic documents should always include the following:
 - (1) Electronic documents should be collected in a format that preserves and does not alter the underlying document metadata (where possible)³ thereby allowing the party receiving the documents the same ability to access, search, review and display the documents as the party giving disclosure. This approach should generally be taken unless a document has been redacted.

⁴ The onus is on the parties to ensure they engage appropriate IT forensic expertise to assist with this process if they or their legal advisers do not have such expertise in house.

(2) A record should be kept of each stage of the process so that the methodology can be explained to the court if necessary after the event (see Methodology record below).

(3) To the fullest extent practicable, deduplication of the data set (for example by using the hash values of the documents) should be undertaken during processing and prior to giving disclosure of data to the other side.

Agreeing aspects of methodology

6. To the extent that this has not already been agreed between the parties or determined by the court, the parties should seek to agree the following as early in the process as possible:

(1) How the collection data set is to be identified and collected.

(2) Data culling measures applied at collection (i.e. date range, custodians, search terms).

(3) Any limitations that will be applied to the document collection process and the reasons for such limitations.

(4) Data exclusion measures applied during or post-collection (e.g. Domains such as [@CompanyA.com](#)).

(5) How each party intends to use analytics to conduct a proportionate review of the data set.

(6) How each party intends to use technology assisted review to conduct a proportionate review of the data set (particularly where the review data set is likely to be in excess of 50,000 documents).

(7) The approach and format for production. This will have an impact on the approach to the review exercises, so parties should endeavour to agree this point at an early stage.

(8) Format of documents to be exchanged – parties are encouraged to exchange documents in native format unless there is a reasonable justification not to do so (e.g. redacted documents). Electronic documents should generally be made available in the form which allows the party receiving documents the same ability to access, search, review and display the documents as the party giving disclosure.

(9) Management of document groups for production – parties should describe and agree the approach they will adopt for document groups (families). Often, it will be appropriate to agree not to break document groups (families) and to review a document group as a whole.

(10) If documents within a group are to be withheld at the production stage the parties should consider and agree whether to use placeholders indicating the reasons for document being withheld (e.g. Withheld for Privilege).

(11) Format for electronic exchange – parties are encouraged to agree database load file format and details to be included in load file/document index. All documents to be produced should be assigned a Disclosure Identification/Number. There is no need to produce a typed list of documents in the traditional sense, unless that will be of assistance to the parties.

(12) Methodology record

7. The parties should keep records of their methodology during the disclosure exercise, to include the following:

(1) Document sources not considered at collection and why.

(2) The deduplication⁵ method applied.

(3) Any DeNISTing⁶ applied.

(4) Approach to non-text searchable items.

(5) Approach with encrypted/password protected items (i.e. what measures were applied to decrypt).

(6) Search terms, including the number of search term responsive documents and search term responsive documents plus family members.

(7) Any use of clustering, concept searching, e-mail threading, categorisation and any other form of analytics or technology assisted review.

⁵ The options for deduplication are as follows; (A) Global - where documents across the entire processed data set are deduplicated against each other. This means that where a document exists in any location within the data set only one copy of it is retained; (B) Custodian - where documents held by the same custodian are deduplicated against each other only or (C) Custom – specific to the project.

⁶ “DeNISTing” is a method of reducing the number of documents subject to lawyer or computer review by removing file types that are highly unlikely to have evidentiary value. DeNISTing” is the [National Institute of Standards and Technology](#) and the process of DeNISTing is based on a list of file types maintained by the agency.

Appendix 3 to Practice Direction 57AD

Certificate of Compliance (represented parties)

By submitting the disclosure review document to the court, I hereby confirm that I have discussed, explained and advised my client on the following:

1. The alternative orders that can be made by the court in relation to disclosure, including the question of whether or not an order for Extended Disclosure should be sought at all and, if so, what the Issues for Disclosure should be and which of the Disclosure Models are appropriate to achieve a fair determination of those Issues for Disclosure;
2. The duties that I and my client are under in relation to disclosure pursuant to paragraph 3 of Practice Direction 57AD;
3. The overriding objective in all cases to seek to ensure that the burden and costs of disclosure are reasonable and proportionate in the context of the proceedings.
4. The likely costs that will be incurred in respect of the disclosure orders sought.

I further confirm that the information provided in this disclosure review document is, to the best of my knowledge and belief, true and accurate.

Name:

Position:

[Claimant / Defendant]

Certificate of Compliance (unrepresented parties)

By submitting the disclosure review document to the court, I hereby confirm as follows:

1. I understand the duties that I am under in relation to disclosure pursuant to paragraph 3 of Practice Direction 57AD.
2. I am aware of the overriding objective in all cases to seek to ensure that the burden and costs of disclosure are reasonable and proportionate in the context of the proceedings.
3. The information provided in this DRD is, to the best of my knowledge and belief, true and accurate.

Name:

Position:

[Claimant / Defendant]

Appendix 4 to Practice Direction 57AD

Disclosure Certificate

Notes: This Disclosure Certificate is for use in all claims where Practice Direction 57AD (Disclosure in the Business and Property Courts) applies.

In the	
Claim No.	
Claimant (including ref)	
Defendant (including ref)	
Date	
Party returning form	

Initial Disclosure

Either:

On [date] [party], [with its Statement of Case] [or state if the parties agreed to defer the time for provision of Initial Disclosure] , provided [to party/parties] by way of Initial Disclosure [a List, and/or] copies of the following:

- the key documents on which it has relied (expressly or otherwise) in support of the claims or defences advanced in its statement of case (and including the documents referred to in that statement of case); and
- the key documents that are necessary to enable the other parties to understand the claim or defence they have to meet.

(These comprise Initial Disclosure as defined at paragraphs 5.1 and 5.2 of Practice Direction 57AD.)

[The Initial Disclosure List is found at [at Appendix A]] or [The parties agreed to dispense with the requirement to produce an Initial Disclosure List of Documents, as permitted by paragraph 5.8 of

Practice Direction 57AD.]

Or

[No Initial Disclosure was required because [the parties agreed to dispense with it] [the Court ordered that it was not required] [it would involve [name of party] providing (after removing duplicates, and including documents referred to at paragraph 5.4(3)(a)) more than (about) whichever is the larger of 1000 pages or 200 documents (or such higher but reasonable figure as the parties may agree)].

Where the parties agreed to dispense with Initial Disclosure, please set out here your reasons for this agreement.

Extended Disclosure

Please list the orders made in the proceedings that have imposed Extended Disclosure obligations (together, "the Disclosure Order/s"):

Please state if the Extended Disclosure List of Documents has been dispensed with, by agreement or order.

Unless already particularised in the Disclosure Review Document or in any Extended Disclosure List of Documents, if any of Models C, D or E (search-based Extended Disclosure) were ordered in respect of any Issues for Disclosure, set out here the limits of the search conducted, by reference to custodians, date ranges, locations, document types, keyword searches and any relevant limits specified.

To the extent any of these limits were not contained in the Disclosure Order/s or recorded in an agreement in writing between the parties either in the Disclosure Review Document or elsewhere, please identify them and explain why they were necessary and why they were not agreed with the other part[y/ies]

I, [name] certify [for and on behalf of the above-named Party] that I am aware of and, to the best of my knowledge and belief, have complied with [my / Party's] duties under Practice Direction 57AD, including having:

- A) taken and caused to be taken reasonable steps to preserve documents in [the Party's] control that may be relevant to any issue in the proceedings;
- B) disclosed documents I am aware (or, in the case of a company or organisation, of which the company or organisation is aware, within the meaning of paragraph 2.9 of Practice Direction 57AD) are or have been in [my] or [the Party's / company's] control and adverse to [my/the Party's] case on any issue in the proceedings, unless they are privileged;
- C) [*in the case of an order for Extended Disclosure of Model C, D or E only*] undertaken and caused to be undertaken any search for documents in a responsible and conscientious manner to fulfil the stated purpose of the search and in accordance with [my/the Party's] obligations as set out in Practice Direction 57AD and [the Disclosure Order/s];
- D) acted honestly in relation to the process of giving disclosure;
- E) used reasonable efforts to avoid providing documents to another party that have no relevance to the Issues for Disclosure in the proceedings.
- F) produced electronic copies of documents in their native format, in a manner which preserves metadata and produced disclosable hard copy documents by providing scanned versions or photocopied hard copies.

I certify [on behalf of the Party] that I am aware of and, to the best of my knowledge and belief, have complied with the Disclosure Order.

I understand that I [and Party] must inform the court and the other parties if any further document required to be disclosed (whether under Practice Direction 57AD or the Disclosure Order/s) comes into [the Party's] control at any time before the conclusion of the case.

I wish to withhold production of the following [document, part of a document, or class of documents] which would otherwise fall within [my/the Party's] obligations:

Description of document, part of a document or class of documents

Grounds upon which production is being withheld

e.g. Privilege, already in other party's possession (inter-partes correspondence etc)

Documents no longer within party's control

I am aware that proceedings for contempt of court can be brought against me if I sign a false Disclosure Certificate without an honest belief in its truth.

Signed

Date

(Party) (Party's representative or legal representative)

If the party making disclosure is a company or other organisation, the person signing this Disclosure Certificate should be someone from within the organisation with appropriate authority and knowledge of the disclosure exercise or the party's legal representative. This person will have received confirmation from all those people with accountability or responsibility within the company or organisation either for the events or circumstances the subject of the case or for the conduct of the litigation that they have provided for disclosure all adverse documents of which they are aware, and will have taken reasonable steps to check the position with any such person who has since left the company or organisation. Identify here who the person making the disclosure statement is and why he or she is the appropriate person to make it:

Name:
Role and explanation of why you are the appropriate person to sign this Certificate:

Appendix A

List/s of Documents

Please either attach copies of any Initial Disclosure and/or Extended Disclosure Lists of Documents, or incorporate the text of the lists here.

APPENDIX 5 TO PRACTICE DIRECTION 57AD LESS COMPLEX CLAIMS

- 1.** This appendix contains provisions for a simplified disclosure regime for Less Complex Claims. All the provisions of the main body of Practice Direction 57AD on disclosure in the Business and Property Courts apply to Less Complex Claims, including the provisions relating to Initial Disclosure in accordance with paragraph 5 of Practice Direction 57AD, unless they are expressly varied by this appendix or are required to be applied with appropriate changes as a consequence of its provisions.
- 2.** Parties to a dispute should always consider whether a dispute or claim is suitable for the Shorter Trials Scheme rather than being treated as a Less Complex Claim.

Designating claims as Less Complex Claims

- 3.** A Less Complex Claim is a claim which by virtue of its nature, value, complexity and the likely volume of Extended Disclosure may not benefit from the full procedure set out in the main body of Practice Direction 57AD. The value of a claim means a reasonable estimate, made in good faith, of the total financial value at risk in the claim taken with the value, so far as ascertainable, of any non-financial relief sought.
- 4.** If the value of a claim is less than £1,000,000 then unless the other factors specified in paragraph 3 above indicate to the contrary, the claim should be treated as a Less Complex Claim. The fact that the value of a claim may exceed £1,000,000 does not, of itself, mean that the claim should not be treated as a Less Complex Claim if the other factors specified in paragraph 3 above indicate that it should be.
- 5.** A claim may be treated as a Less Complex Claim for the purposes of Extended Disclosure either by an agreement made between all the parties to the claim or by order of the court.
- 6.** An agreement to treat a claim as a Less Complex Claim may be made between parties before or after a claim is issued and these provisions may be used in respect of existing as well as new proceedings. If an agreement is reached before a claim is issued it takes effect upon service of the claim on the parties to the agreement. An agreement between the parties may not vary the provisions for Extended Disclosure contained in this appendix, unless approved by court order.
- 7.** If there is no agreement between the parties before the claim is issued, the claimant may by letter or in its particulars of claim notify the defendant that it wishes the claim to be treated as a Less Complex Claim. If no such notification is given by the claimant, a defendant may by letter or in its defence notify the claimant that it wishes to treat the claim as a Less Complex Claim.
- 8.** A request to treat a claim as a Less Complex Claim must include brief reasons for believing that the claim meets the criteria specified in paragraph 3 of this appendix.
- 9.** If the parties acting reasonably and in good faith do not agree to the claim being treated as a Less Complex Claim, the provisions of this appendix shall not apply unless the court makes an order to the contrary. The court may make such an order of its own volition or upon determining an application made by application notice. The application notice must contain or be accompanied by a fair summary of the parties' competing contentions in relation to the application of the criteria specified in paragraph 3 of this appendix and copies of any relevant correspondence. Where possible, the court will make a determination in writing without a hearing.

Simplified procedure for Less Complex Claims

10. Where the parties have agreed that this appendix shall apply to the claim, or the court has so ordered, the provisions in the main body of Practice Direction 57AD shall be varied and shall operate as follows:

10.1 Extended Disclosure will be given using only Models A, B or D. Models C and E are not available for use in a Less Complex Claim.

10.2 The parties shall complete a disclosure review document in the form set out in Appendix 6 in accordance with the timetable contained within paragraphs 7 and 10 of Practice Direction 57AD and Appendix 7.

10.3 As provided for in paragraphs 7.1 and 10.1 of Practice Direction 57AD, if none of the parties are requesting search-based Extended Disclosure (ie Model D), but instead are only proposing Models A and/or B, then the provisions in Appendices 5, 6 and 7 shall not apply (unless the court orders to the contrary) and there shall be no requirement to identify the Issues for Disclosure or to complete a Disclosure Review Document, although the parties may agree to do so if they consider this will assist.

10.4 “Issues for Disclosure” has the same meaning as in paragraph 7.6 of Practice Direction 57AD. However, the definition is to be applied with the following additional guidance. Issues for Disclosure in a Less Complex Claim must be brief and be drafted at a high level of abstraction. Only rarely should the number of Issues for Disclosure exceed five and they should not be defined by reference to sub-issues if that will materially increase the length and complexity of the List of Issues for Disclosure.

10.5 When drafting Issues for Disclosure the parties should have regard to the primary functions of those Issues namely (i) to help the parties to consider, and the court to determine, whether Extended Disclosure is required and, if so, which Model or Models should be used; (ii) to assist the parties in identifying documents and categories of documents that are likely to exist and require to be disclosed; (iii) to assist those carrying out the disclosure process to do so in a practical and proportionate way including, in the case of search-based disclosure, to help define and guide the searches; (iv) to assist with the process of reviewing documents produced by searches; and (v) to avoid the production of documents that are not relevant to the issues in the proceedings.

10.6 The parties may use issues for trial as a starting point for defining Issues for Disclosure but it is not the function of Issues for Disclosure to replace issues for trial.

10.7 The parties must discuss and seek to agree the draft List of issues for Disclosure in advance of the date fixed for the first case management conference.

10.8 The parties must at all times have regard to their duties under paragraph 3 (in particular the duty placed upon legal representatives under paragraph 3.2(3)) of Practice Direction 57AD and their duty to assist the court to further the overriding objective, in particular to deal with the claim at proportionate cost. The parties should recognise that there may be genuine differences of view about whether Extended Disclosure should be ordered and, if so, what order should be made. If the parties are unable to agree the terms of an order for Extended Disclosure after reasonable engagement between them, brief submissions on the differences of approach should be made to the court at the case management conference and the court requested to make a determination.

11. For the avoidance of doubt, all provisions in the main body of Practice Direction 57AD regarding Known Adverse Documents apply to Less Complex Claims.

END

Appendix 6 to Practice Direction 57AD

Disclosure in the Business and Property Courts

Disclosure Review Document for Extended Disclosure in Less Complex Claims

1	Issues for Disclosure and disclosure Model proposals	Issue for Disclosure	Proposed Disclosure Models	Issue agreed?¹	Model Agreed?⁷
		1. <i>[Concise description of the issue for disclosure]</i> <i>[Alternative proposed wording of the Claimant(s)/Defendant(s):]</i>	<i>[B / D]</i>	<i>[Y/N]</i>	<i>[Y/N]</i> <i>[Alternative proposed disclosure model of the Claimant(s)/Defendant(s):]</i>
		2.			
		3.			
		4.			
		5.			

⁷ If the parties cannot agree the wording of any issue and/or any disclosure model proposals, the parties who disagree with the formulation of an issue for disclosure or model proposal should include alternative proposals or wording under the formulation. The parties should also briefly outline the areas of disagreement and state the reasons for the disagreement and for any alternative proposals in section 6 of this form.

2	<p>Data collection sources to be searched by the parties</p> <p>Each party should confirm whether there are any data sources or locations, or categories of hard copy or electronic documents (as applicable) which should be included in the collection of documents which are likely to be relevant to the Issues for Disclosure and which the party proposes to search for the disclosure. Please set out details of the data sources, locations and categories which are proposed to be included.</p>				
3	<p>Unavailable sources or irretrievable/inaccessible documents</p> <p>Please identify and briefly set out details for any documents likely to be</p>				

<p>relevant to Issues for Disclosure which it is known or anticipated may be irretrievable or otherwise unavailable or difficult to access in order to be searched for the purpose of the disclosure (e.g. due to destruction or loss, or the need for bespoke or licenced software to review the data)</p>	
<p>4 Search proposals</p> <p>Please set out any initial search proposals to identify any documents which may need to be disclosed (including any automated searches or techniques other than keyword searches, as applicable). The proposals should indicate any custodians' files the parties propose to search, any applicable date ranges for the searches, and which particular Issues for</p>	

Disclosure the custodians or date ranges are relevant to.

Parties should also set out proposals to use technology to facilitate the disclosure exercise if the parties consider the use of technology to be appropriate.

When considering the use of technology parties should have regard to the following factors: (i) whether it would be efficient and proportionate to use technology, (ii) the number of documents in the potential pool of documents to be searched and potentially reviewed for the proposed disclosure, (iii) the estimated cost of the disclosure (including estimated costs of using technology compared with not using technology), (iv) the

<p>value of the claim, (v) the complexity of the claim, (vi) the nature of the claim, and (vii) any other relevant factors.</p>	
<p>5 Costs estimates</p> <p>Where the parties have agreed / sought to agree for searches to be undertaken, please state the estimated cost of collection, processing, search, review and production of each parties' Extended Disclosure (as applicable).</p>	

<p>6 Areas of disagreement</p> <p>Please indicate any areas of disagreement between the parties in respect of any of the matters set out in sections 1 – 5 of this form and briefly set out the reasons for any areas of disagreement and for any alternative wording proposed for Issues for Disclosure or alternative Models proposals.</p> <p>Where any aspect of the approach to Extended Disclosure is not agreed, each party should indicate their estimated costs of collection, processing, search, review and production of their documents based on the Extended Disclosure (Models and scope of any search required) requested: (i)</p>	<p><i>[E.g. Description of area of disagreement]</i></p> <p><i>Claimant'(s)' position:</i></p> <p><i>Defendant'(s)' position:]</i></p>

by the claimant(s) and (ii) by the defendant(s).	
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Appendix 7 to Practice Direction 57AD

Explanatory notes for the Disclosure Review Document for Extended Disclosure in Less Complex Claims

1. The Less Complex Claims Disclosure Review Document (“**LCCDRD**”) is intended to:
 - a. facilitate the exchange of information and provide a framework for discussions about the scope of Extended Disclosure;
 - b. help the parties to agree a sensible and cost-effective approach to Extended Disclosure for Models A, B and/or D and identify areas of disagreement; and
 - c. provide the court with parties’ proposals on Extended Disclosure for Models A, B and/or D, agreed or otherwise, so that the court can make appropriate case management decisions at the case management conference.
2. These explanatory notes provide guidance. While not all of this guidance will be suitable for every claim, parties are nevertheless encouraged to follow this guidance unless there are good reasons not to do so.
3. Unless stated otherwise below, the explanation and guidance in the Introduction of the Explanatory notes for Disclosure Review Document in Appendix 2 will apply for the completion of this form. If an order for Extended Disclosure is made by the court, the parties may also find it helpful to refer to the “Guidance on process after any order for Extended Disclosure has been made”, which is also in Appendix 2.
4. References to paragraph numbers in the LCCDRD are to the paragraphs in Appendix 5 to Practice Direction 57AD (the “**Practice Direction**”) unless stated otherwise and if there is a conflict between the LCCDRD and the Practice Direction, the Practice Direction will prevail.
5. The LCCDRD only needs to be completed where one or more of the parties are seeking Extended Disclosure in a Less Complex Claim. Parties do not need to complete a LCCDRD in Less Complex Claims where only Model A or B or no Extended Disclosure is sought by the parties. Where only Model B is requested, if the parties consider that it would nevertheless assist to identify and seek to agree upon a List of Issues for Disclosure or to complete any other sections of the LCCDRD, the parties may agree to do so.
6. Unless agreed by the parties or ordered otherwise by the court, the claimant(s) will be responsible for ensuring that the form is completed and a single agreed version is filed with the court. If the claimant(s) is not seeking any search-based Disclosure (i.e. Model D disclosure)

but one or more of the defendants is, the parties may agree that the defendant(s) shall be responsible for producing the LCCDRD and ensuring that the form is filed with the court. If there is more than one defendant, the parties should seek to agree which defendant shall bear this responsibility for the form.

7. The parties must seek to agree and complete a List of Issues for Disclosure. Apart from the List of Issues for Disclosure in section 1, which must be completed in all cases where a LCCDRD is required under paragraph 10.1 of Appendix 5 to the Practice Direction, the parties are not required to complete all of the other sections of the form. They only should complete the sections which are applicable and relevant to the disclosure being requested in the particular case. This should as a minimum include the key information which the parties consider would assist the court in deciding what disclosure to order in the case.
8. If the parties agree that any of the sections in the form are not applicable or relevant at all to the case, they should leave the response box next to those sections blank. If the parties cannot agree on whether a section is not applicable or is irrelevant, or if a section is only not applicable to a particular party or to a particular extent, they should include the wording “Not applicable” next to that section and a brief explanation, in order to assist the court in understanding the parties’ positions and in its review of the form.
9. The parties are encouraged to confer (in person or by phone or video conference) and seek to agree the contents of the LCCDRD as it applies to their disclosure, in advance of the case management conference. Extensive correspondence in relation to the LCCDRD is unlikely to be efficient or helpful.
10. If the parties cannot agree on any aspects of the LCCDRD (including the List of Issues for Disclosure) this should be recorded in summary form in section 6. The parties may also apply if appropriate for guidance from the court under paragraph 11 of the Practice Direction in order to seek to resolve any differences in advance of the case management conference.
11. The fact that a party may propose initial searches (including keyword searches) at the stage of completing the LCCDRD should not be taken as acceptance by that party that those searches should ultimately be used (particularly if, on testing the keyword searches against the available data, it provides false positive results).
12. If it is not practicable to provide a list of keywords for searches prior to the case management conference, the parties should engage and seek to co-operate following the case management conference to identify and agree the key words they propose using and thereafter test those key words against the data to determine whether or not they are appropriate.

Timetable for completing the LCCDRD

13. The timetable for completion of the LCCDRD is set out in paragraphs 7 and 10 of the Practice Direction. The parties may agree a revised timetable for completion of the LCCDRD (including the List of Issues for Disclosure and Models) where appropriate, provided always that any such revision to the timetable does not affect the date set for the Case Management Conference. For convenience the timetable is summarised below as follows:

	Stage to be completed	Deadline
Step 1	Each party should state, in writing, whether or not it is likely to request Extended Disclosure Models A, B and/or D on one or more issues in the case. At this point it should not particularise the Model(s) or the issue(s) in the case.	Within 28 days of the closure of statements of case
Step 2	<p>Where one or more of the parties has indicated it is likely to request search-based Extended Disclosure (i.e. Models D), unless the parties agree otherwise, the claimant must prepare and serve on the other parties a draft List of Issues for Disclosure unless the equivalent of such a list has already been agreed between the parties (for example, as part of a fuller list of issues).</p> <p>At the same time, the claimant shall identify for each Issue for Disclosure which Model of Extended Disclosure it proposes for each party.</p> <p>If the claimant fails to take these steps, the defendant may, but is not obliged to, prepare and serve its own draft List of Issues for Disclosure on the other parties.</p>	Within 42 days of the closure of statements of case

<p>Step 3</p>	<p>A party served with a draft List of Issues for Disclosure and proposals on Models shall indicate within section 1 of the LCCDRD whether it agrees with the proposed Issues for Disclosure and corresponding Model(s) for Extended Disclosure by completing the "Issue Agreed" and "Model Agreed" columns in section 1.</p> <p>If the party does not agree, or wishes to propose alternative or additional Issues for Disclosure or other Models, it should set out its alternative or additional proposals in section 1 of the LCCDRD and briefly explain and set out in section 6 of the LCCDRD the reasons why it disagrees with the Issues for Disclosure or Models proposals of the other party the reasons for the alternative proposals it is proposing.</p>	<p>As soon as practicable but in any event no later than 21 days after service of the draft List of Issues for Disclosure</p>
<p>Step 4</p>	<p>Having sought to agree the List of Issues for Disclosure and proposals on Model(s) for Extended Disclosure, the parties should prepare and exchange drafts of the LCCDRD (with all applicable sections of the document completed) in accordance with the guidance in Appendix 7.</p>	<p>As soon as reasonably practicable and in any event not later than 14 days before the case management conference</p>
<p>Step 5</p>	<p>The parties must seek to resolve any disputes over the scope of any Extended Disclosure sought or any other aspect of the completion of the LCCDRD.</p>	<p>In advance of the first case management conference</p>
<p>Step 6</p>	<p>Unless otherwise agreed by the parties or ordered by the court, the claimant(s) shall be responsible for ensuring that the form is completed and a single agreed version is filed with the court. Related correspondence and earlier drafts should not ordinarily be filed.</p>	<p>Not later than 5 days before the first case management conference</p>

Step 7	The parties must independently file a signed Certificate of Compliance substantially in the form set out in Appendix 3 to the Practice Direction.	Not less than two days before the case management conference
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