

79th UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Directions and amendments to the existing Practice Directions supplementing the Civil Procedure Rules 1998 are made by the Master of the Rolls under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Lord Faulks, Minister of State, by the authority of the Lord Chancellor.

The new Practice Directions and the amendments to the existing Practice Directions, and the new Pre-Action Protocols and the amendments to the existing Pre-Action Protocol come into force as follows—	
Practice Direction 2B – Allocation of Cases to Levels of Judiciary	6 April 2015
Practice Direction 6B – Service out of the Jurisdiction	6 April 2015
Practice Direction 36B	6 April 2015
Practice Direction 51J – Electronic Working Pilot Scheme	27 April 2015
Practice Direction 51K – The County Court Legal Advisers Pilot Scheme	1 October 2015
Practice Direction 52C – Appeals to the Court of Appeal	6 April 2015
Practice Direction – Solicitors’ Negligence in Right to Buy Cases (Transfer of Existing and New Claims to the Chancery Division and Appointment of Designated Judge)	6 April 2015
Practice Direction – Pre-Action Conduct and Protocols	6 April 2015
SCHEDULE 1: Practice Direction 2B – Allocation of Cases to Levels of Judiciary	
SCHEDULE 2: Practice Direction 51J – Electronic Working Pilot Scheme	
SCHEDULE 3: Practice Direction 51K – The County Court Legal Advisers Pilot Scheme	
SCHEDULE 4: Practice Direction – Pre-Action Conduct and Protocols	

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

Signed by authority of the Lord Chancellor:

Minister of State
Ministry of Justice

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

- 1) For Practice Direction 2B – Allocation of Cases to Levels of Judiciary, substitute the revised Practice Direction 2B as set out in Schedule 1 to this instrument.

PRACTICE DIRECTION 6B – SERVICE OUT OF THE JURISDICTION

- 2) In paragraph 3.1, for subparagraph (12) substitute—

“(12) 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 is governed by the law of England and Wales.

(12A) 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 provides that jurisdiction in respect of such a claim shall be conferred upon the courts of England and Wales.”.

PRACTICE DIRECTION 36B

- 3) Omit Practice Direction 36B.

PRACTICE DIRECTION 51J – ELECTRONIC WORKING PILOT SCHEME

- 4) After Practice Direction 51I, insert Practice Direction 51J (The Electronic Working Pilot Scheme), set out in Schedule 2 to this instrument.

PRACTICE DIRECTION 51K – THE COUNTY COURT LEGAL ADVISERS PILOT SCHEME

- 5) After Practice Direction 51J, insert Practice Direction 51K (The County Court Legal Advisers Pilot Scheme), set out in Schedule 3 to this instrument.

PRACTICE DIRECTION 52C – APPEALS TO THE COURT OF APPEAL

- 6) For paragraph 19 substitute—

“Respondents actions when served with the appellant’s notice

19.

(1)

- (a) If the appellant seeks permission to appeal a respondent is permitted, and is encouraged, within 14 days of service of the appellant’s notice or skeleton argument if later to file and serve upon the appellant and any other respondent a brief statement of any reasons why permission should be refused, in whole or in part.
- (b) The statement should be not more than 3 pages long, and should be directed to the relevant threshold test for the grant of permission to appeal. The statement must also comply with paragraph 31(1)(b).
- (c) The statement should identify issues to which the appeal should be limited, and any conditions to which the appeal should be subject (see Rule 52.3(7)).

(2)

- (a) If the appellant makes any application in addition to an application for permission to appeal (such as a stay of execution, an injunction pending appeal or an extension of time for appeal) a respondent should include in its written statement under paragraph 19(1)(a) any reasons why that application should be refused or granted only on terms.
- (b) If, exceptionally, a respondent wishes to rely upon evidence for that purpose its evidence should be included in its written statement, supported by a statement of truth, or filed and served upon the appellant and any

other respondent at the same time as its written statement under paragraph 19(1)(a).”.

(3) Unless the court directs otherwise, a respondent need take no further steps when served with an appellant’s notice prior to being notified that permission to appeal has been granted.”.

7) For paragraph 20(1) substitute—

“(1) There will normally be no order for the recovery of the costs of a respondent’s written statement. In most cases an application for permission to appeal will be determined without the need for the respondent to attend a hearing. In such circumstances an order for costs will not normally be made in favour of a respondent who voluntarily attends a hearing.”.

PRACTICE DIRECTION – SOLICITORS’ NEGLIGENCE IN RIGHT TO BUY CASES (TRANSFER OF EXISTING AND NEW CLAIMS TO THE CHANCERY DIVISION AND APPOINTMENT OF DESIGNATED JUDGE)

8) In paragraphs 7.1 and 7.2, for the words “Mr Justice Sales”, in each place his name appears, substitute “a judge nominated by the Chancellor”.

9) In paragraph 8, for the words “Mr Justice Sales” substitute “a judge already so nominated”.

PRACTICE DIRECTION – PRE-ACTION CONDUCT AND PROTOCOLS

10) For Practice Direction - Pre-Action Protocols, substitute the new Practice Direction – Pre-Action Conduct and Protocols in Schedule 4 to this instrument.

“PRACTICE DIRECTION 2B – ALLOCATION OF CASES TO LEVELS OF JUDICIARY

Contents of this Practice Direction

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SECTION I - SCOPE AND INTERPRETATION

1.1 Rule 2.4 provides that Judges, Masters and District Judges may exercise any function of the court except where an enactment, rule or practice direction provides otherwise. In respect of proceedings in the High Court, Section II of this Practice Direction sets out the matters over which Masters or District Judges do not have jurisdiction or which they may deal with only on certain conditions. References to Circuit Judges include Recorders and references to Masters and District Judges include Deputies.

1.1A Circuit Judges and District Judges may exercise any jurisdiction conferred on the County Court or on a judge of the County Court. Section III of this Practice Direction sets out the matters that will be allocated to a Circuit Judge as well as those that may, or will normally, be allocated to a District Judge.

1.1B This Practice Direction does not affect jurisdiction conferred by other enactments. Reference should also be made to other relevant Practice Directions (e.g. Part 24, paragraph 3 and Part 26, paragraphs 12.1-10). The jurisdiction conferred on Masters and District Judges by this Practice Direction shall be exercised in accordance with directions from time to time provided by the President of the Queen's Bench Division, the Chancellor of the High Court, the Presiding Judges, or the Chancery Supervising Judges.

1.1C This Practice Direction is not concerned with family proceedings. It is also not concerned with proceedings in the Family Division except to the extent that such proceedings can be dealt with in the Chancery Division or the Family Division, e.g. proceedings under the Inheritance (Provision for Family and Dependants) Act 1975 or under section 14 of the Trusts of Land and Appointment of Trustees Act 1996. District Judges (including District Judges of the Principal Registry of the Family Division) have jurisdiction to hear such proceedings, subject to any Direction given by the President of the Family Division

1.2 Masters or District Judges who have jurisdiction to hear a matter or to whom a matter has been allocated, may refer that matter to a Judge instead of dealing with it themselves.

1.3 For the purpose of this Practice Direction, in the County Court—

(a) 'Circuit Judge' means, in addition to a Circuit Judge, all judges of the Senior Courts, including retired and deputy judges of those courts, Recorders and Upper Tribunal judges (including the Senior President of Tribunals, Chamber Presidents, deputy Presidents of the Upper Tribunal and deputy judges of the Upper Tribunal, but excluding District Judges and District Judges (Magistrates' Courts)) and the Judge Advocate General; and

(b) 'District Judge' means all other Courts and tribunal judges, and High Court Officers (for example, Masters and Registrars), including deputy or temporary High Court Officers, who are judges of the County Court under section 5 of the County Courts Act 1984.

SECTION II - THE HIGH COURT

Injunctions, Pre-trial Orders and Interim Remedies

2. Search orders (rule 25.1(1)(h)), freezing orders (rule 25.1(1)(f)) and an ancillary order under rule 25.1(1)(g) may only be made by a Judge.

3.1 A Master or District Judge may not make orders or grant interim remedies-

- (a) relating to the liberty of the subject;
- (b) relating to criminal proceedings or matters except procedural applications in appeals to the High Court (including appeals by case stated) under any enactment;
- (c) relating to a claim for judicial review, except that interim applications in claims for judicial review may be made to Masters of the Queen's Bench Division;
- (d) relating to appeals from Masters or District Judges;
- (e) in appeals against costs assessment under Parts 44 to 47, except on an appeal under rule 47.21 against the decision of an authorised court officer;
- (f) in applications under section 42 of the Senior Courts Act 1981 by a person subject to a Civil or a Criminal or an All Proceedings Order (vexatious litigant) for permission to start or continue proceedings; or
- (g) in applications under section 139 of the Mental Health Act 1983 for permission to bring proceedings against a person.

3.1A Notwithstanding the provisions of paragraph 3.1 a Master of the Crown Office or a Master of the Administrative Court may–

- (a) make orders and grant interim remedies relating to claims for judicial review (including claims for judicial review relating to criminal causes, appeals under the Extradition Act 2003 and applications to vary bail conditions, provided the prosecutor does not oppose the variation);
- (b) determine liability for costs and make summary assessments of costs in relation to claims for judicial review; and
- (c) make orders and grant interim remedies relating to applications under section 42 of the Senior Courts Act 1981 for permission to start or continue claims for judicial review.

Early Trials

4.1 A Master or District Judge may only give directions for early trial after consulting the Head of the relevant Division or a Judge nominated by the Head of Division.

Assignment of Claims to Masters and Transfer between Masters

6.1 The Senior Master and the Chief Master will make arrangements for proceedings to be assigned to individual Masters. They may vary such arrangements generally or in particular cases, for example, by transferring a case from a Master to whom it had been assigned to another Master.

6.2 The fact that a case has been assigned to a particular Master does not prevent another Master from dealing with that case if circumstances require, whether at the request of the assigned Master or otherwise.

Freezing Orders: Cross Examination of Deponents about Assets

7 Where the court has made a freezing order under rule 25.1(f) and has ordered a person to make a witness statement or affidavit about his assets and to be cross-examined on its contents, unless the Judge directs otherwise, the cross-examination will take place before a Master or a District Judge, or if the Master or District Judge directs, before an examiner of the Court.

Human Rights

7A A deputy High Court Judge, a Master or District Judge may not try –

(1) a case in a claim made in respect of a judicial act under the Human Rights Act 1998, or

(2) a claim for a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998.

Chancery Proceedings

7B.1 In proceedings in the Chancery Division, a Master may not deal with the following without the consent of the Chancellor of the High Court–

(a) granting an indemnity for costs out of the assets of a company on the application of minority shareholders bringing a derivative action; or

(b) making orders in proceedings in the Patents Court except–

- (i) orders by way of settlement, except settlement of procedural disputes;
- (ii) applications for extension of time;
- (iii) applications for permission to serve out of the jurisdiction;
- (iv) applications for security for costs;
- (v) other matters as directed by a judge of the court; and
- (vi) enforcement of money judgments.

7B.2 In proceedings in the Chancery Division, a District Judge may not deal with the following without the consent of the Supervising Judge for the region in which the District Judge is sitting, or without the consent of their nominee—

(a) approving compromises (other than applications under the Inheritance (Provision for Family and Dependants) Act 1975) (i) on behalf of a person under disability where that person's interest in a fund, or if there is no fund, the maximum amount of the claim, exceeds £100,000 or any larger sum specified by the Chancellor of the High Court and (ii) on behalf of absent, unborn and unascertained persons;

(b) making final orders under section 1(1) of the Variation of Trusts Act 1958, except for the removal of protective trusts where the interest of the principal beneficiary has not failed or determined;

(c) giving permission to executors, administrators and trustees to bring or defend proceedings or to continue the prosecution or defence of proceedings, and granting an indemnity for costs out of the trust estate;

(d) granting an indemnity for costs out of the assets of a company on the application of minority shareholders bringing a derivative action;

(e) making an order for rectification, except for—

(i) rectification of the register under the Land Registration Act 1925; or

(ii) alteration or rectification of the register under the Land Registration Act 2002.

7B.3 The consent of the Supervising Judge for a District Judge to deal with proceedings specified in paragraph 7B.2 may be given either in respect of an individual case, or in respect of the categories of cases listed at 7B.2(a) to (e). The

consent of the Supervising Judge's nominee may only be given in respect of an individual case.

7B.4 Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with, at the Royal Courts of Justice, by a Registrar and, in a District Registry with insolvency jurisdiction, by a District Judge.

SECTION III - THE COUNTY COURT

Injunctions, Anti-social Behaviour Orders, Committal and Freezing Orders

8.1 Applications for orders and interim applications which may not be made or granted by a District Judge in the High Court may not be allocated to a District Judge in the County Court. In the first instance, the following applications for orders and interim remedies will be allocated to a District Judge—

(a) proceedings which have been allocated to a District Judge pursuant to paragraph 11.1 below;

(b) injunctions sought in money claims which have not yet been allocated to a track and the amount claimed does not exceed the fast track financial limit;

(c) injunctions that are to be made under any of the following provisions –

(i) section 153A, 153B or 153D of the Housing Act 1996;

(ii) section 3 of the Protection from Harassment Act 1997;

(iii) sections 34, 40 or 41 of the Policing and Crime Act 2009; or

(iv) Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014.

8.1A An application for an order under –

(1) section 1B or 1D of the Crime and Disorder Act 1998 (anti-social behaviour);

(2) section 26A, 26B or 26C of the Anti-social Behaviour Act 2003 (parenting orders);
and

(3) section 4 or 9 of the Violent Crime Reduction Act 2006 (drinking banning orders),
may be allocated to a District Judge.

8.2 An application for an order varying or discharging an injunction or an undertaking given to the court may be allocated to a District Judge.

8.3 Any proceedings in which the Court may make an order committing a person to prison or attach a power of arrest to an injunction or remand a person will be allocated to a Circuit Judge, unless the order, power of arrest or remand is made pursuant to section 23 of the Attachment of Earnings Act 1971, section 14 and section 118 (but only in relation to proceedings before a District Judge) of the County Courts Act 1984, sections 153C, 153D and 154-158 of and Schedule 15 to the Housing Act 1996; sections 36, 40-45 and 48 of, and Schedule 5 to, the Policing and Crime Act 2009, or Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014, and the relevant rules.

8.4

(1) An application for a freezing order will be allocated to a Circuit Judge authorised for the purpose by the Master of the Rolls or the Deputy Head of Civil Justice.

(2) If a Circuit Judge makes a freezing order, paragraph 7 applies as appropriate.

Homelessness Appeals

9 Appeals under section 204 or section 204A of the Housing Act 1996 will be allocated to a Circuit Judge.

Other pre-trial Orders and Interim Remedies

10 The proceedings specified paragraph 3.1(d) and (e) above will be allocated to a Circuit Judge.

Trials and Assessments of Damages

11.1 The following proceedings referred to in paragraph 8.1(a) will normally be allocated to a District Judge—

(a) any claim which has been allocated to the small claims track or fast track or which is treated as being allocated to the multi-track under rule 8.9(c), or any claim referred to in the table at Section B of Practice Direction 8A, except claims:

(i) under Part I of the Landlord and Tenant Act 1927;

- (ii) for a new tenancy under section 24 or for the termination of a tenancy under section 29(2) of the Landlord and Tenant Act 1954;
 - (iii) for an order under section 38 or 40 of the Landlord and Tenant Act 1987;
 - (iv) under paragraph 26 or 27 of Schedule 11 to or section 27 of the Agricultural Holdings Act 1986;
 - (v) under section 45(2) of the Matrimonial Causes Act 1973 for a declaration of legitimation by virtue of the Legitimacy Act 1976;
 - (vi) under section 35, 38 or 40 of the Fair Trading Act 1973; or
 - (vii) under Part II of the Mental Health Act 1983.
- (b) proceedings for the recovery of land, proceedings under section 82A(2) of the Housing Act 1985 or section 6A(2) of the Housing Act 1988 (demotion claims) or proceedings in the County Court under Chapter 1A of the Housing Act 1996 (demoted tenancies);
- (c) the assessment of damages or other sum due to a party under a judgment without any financial limit; and
- (d) any other proceedings with the direction or permission of the Designated Civil Judge or Supervising Judge or Supervising Judge's nominee.

11.2

- (1) A case allocated to the small claims track may only be assigned to a Circuit Judge to hear with their consent.
- (2) A case may only be referred to a Circuit Judge under section 65 of the County Courts Act 1984 with their consent.

Other proceedings

12

- (1) Proceedings under the following enactments will be allocated to a Circuit Judge—
 - (a) sections 29 and 30 of the Literary and Scientific Institutions Act 1854;
 - (b) the Bankers Books Evidence Act 1879;

- (c) section 1 of the Law of Distress Amendment Act 1895;
- (d) the Stannaries Court (Abolition) Act 1896;
- (e) section 6 of the Allotments Act 1922;
- (f) the Chancel Repairs Act 1932;
- (g) paragraph 7(b) of Schedule 8 to the Opencast Coal Act 1958;
- (h) sections 57, 66, 101(3) and 121 of the County Courts Act 1984; and
- (i) paragraph 6 of Schedule 18 to the Housing Act 1985.

(2) A request for the appointment of a court officer to take affidavits under section 56(1)(c) of the County Courts Act 1984, will be made to a Circuit Judge.

(3) Proceedings referred to in the following enactments will be allocated to a District Judge—

(a) sections 85, 101(1), 104 and Part VI of, and Schedule 1 to, the County Court's Act 1984;

(b) section 49 of the Vehicle Excise and Registration Act 1994;

(c) paragraphs 9 and 10 of Schedule 1 to the London Local Authorities Act 1996;

(d) paragraphs 6 and 7 of the Local Authorities and Transport for London Act 2003;
and

(e) section 64 of the Tribunals Courts and Enforcement Act 2007.

(4) In respect of any proceedings not referred to in this Section, if an enactment which specified the level of judge having jurisdiction to deal with those proceedings was amended by Schedule 9 to the Crime and Courts Act 2013 to confer jurisdiction on the County Court or a judge of the County Court, the proceedings will be allocated to a Circuit Judge or District Judge as if the enactment had not been so amended, unless any other enactment, rule or practice direction provides for the allocation of those proceedings.

Distribution of Business between Circuit Judge and District Judge

13 In any case where proceedings may be allocated to either a Circuit Judge or a District Judge, allocation is subject to any arrangements made by the Designated Civil Judge for the proper distribution of business between Circuit Judges and District Judges.

14.1 In district registries of the High Court and in the County Court, the Designated Civil Judge may make arrangements for proceedings to be assigned to individual District Judges and may vary such arrangements generally or in particular cases, save that in cases proceeding in the Chancery Division or the County Court Chancery Business List those arrangements shall be made by the Supervising Judge or their nominee.

14.2 The fact that a case has been assigned to a particular District Judge does not prevent another District Judge from dealing with the case if the circumstances require.

Human Rights

15 A case in which an allegation of indirect discrimination is made against a public authority that would, if the court finds that it occurred, be unlawful under section 19B of the Race Relations Act 1976 will be allocated to a Circuit Judge.

Appeals

16 The appeal of any decision by a District Judge in proceedings which, under this Section, should have been allocated to a Circuit Judge, will be determined as if that decision had been made by a Circuit Judge.”

SCHEDULE 2

“PRACTICE DIRECTION 51J – ELECTRONIC WORKING PILOT SCHEME

This Practice Direction supplements CPR rules 5.5 and 7.12

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1. General

1.1

- (1) This Practice Direction is made under rules 5.5, 7.12 and 51 of the Civil Procedure Rules (“CPR”). It provides for a pilot scheme (“Electronic Working”) to—
 - (a) operate from 27 April 2015;
 - (b) operate in the Technology and Construction Court in the High Court at the Royal Courts of Justice, Rolls Building, London (“the Rolls Building TCC”); and
 - (c) apply to existing claims and claims started on or after 27 April 2015.
- (2) Where the provisions of this Practice Direction conflict with the provisions of Practice Directions 5B or 5C this Practice Direction shall take precedence.

1.2

- (1) This Practice Direction provides for Electronic Working by which—
 - (a) proceedings may be started and all subsequent steps may be taken using Electronic Working; and
 - (b) proceedings which have not been started using Electronic Working, may be continued using Electronic Working after documents in paper format in those proceedings have been

converted to PDF format and the proceedings shall then continue as if they had been started using Electronic Working.

- (2) As an electronic system, the Electronic Working scheme will operate 24 hours a day all year round, including weekends and bank holidays. This will enable claim forms to be issued and documents to be filed in electronic format out of normal court office opening hours. However, there will be two exceptions to this—
- (a) planned “down-time”: as with all electronic systems, there will be some planned periods for system maintenance and upgrades when Electronic Working will not be available; and
 - (b) unplanned “down-time”: in the event of unplanned periods during which Electronic Working will not be available due, for example, to a system failure or power outage.

- 1.3** The Electronic Working scheme will be subject to the following provisions of the CPR, unless specifically excluded or revised by this Practice Direction—
- (a) Part 60 (Technology and Construction Court claims); and
 - (b) Part 62 (Arbitration claims).

(Litigants will need to give careful consideration to The Technology and Construction Court Guide.)

- 1.4** Electronic Working may be used to start and continue Part 7, Part 8, Part 20 and also Arbitration claims in the Rolls Building TCC.

- 1.5** Any form or document which is filed electronically—
- (a) must not be filed in paper format unless this is required by a court order, rule, or practice direction;
 - (b) must consist of one copy only with no further copies unless required by a court order, rule or practice direction; and
 - (c) will receive an automated notification acknowledging that the form or document has been submitted and is now pending approval by the Court staff. This notification will contain the submission date and a submission number.

1.6

- (1) Persons wishing to use Electronic Working are required to register for an account on the Website by providing personal information such as name, email address, postal address and name of firm (if applicable).
- (2) A claim form filed by a party using Electronic Working will be issued by the Rolls Building TCC and the claim will proceed in that court unless it is transferred to another court.
- (3) If the claim which has been issued using Electronic Working is transferred from the Rolls Building TCC to another court it will no longer use Electronic Working and this Practice Direction shall not apply to the proceedings in relation to any step taken after the date of transfer.

(Paragraph 6 contains further provisions about the transfer of proceedings.)

1.7 Unless the court orders otherwise, any form or document filed by any party or issued by the Court using Electronic Working in the Rolls Building TCC, which is required to be served shall be served by the parties and not the Court.

1.8 All forms or documents filed at court using Electronic Working are to be in PDF format except that draft orders are to be filed in Word format and the court may direct that any forms or documents to be filed in another format.

1.9

- (1) Any form or document filed using Electronic Working must not exceed 10 (ten) megabytes or such other limit that may be specified by Her Majesty's Courts and Tribunals Service.
- (2) In the event that any form or document exceeds the maximum limit in sub-paragraph (1), the party seeking to file the form or document shall contact the Registry for the Rolls Building TCC.

2. Security

Her Majesty's Courts and Tribunals Service will take such measures as it thinks fit to ensure the security of steps taken or information communicated or stored electronically. These may include requiring persons using Electronic Working to—

- (a) enter an email address as their customer identification and/or password;

- (b) provide personal information for identification purposes; and
- (c) comply with any other security measures, as may from time to time be required before using Electronic Working.

3. Fees

3.1 Where any Rule or Practice Direction provides for a fee to be paid, a party filing a form or document using Electronic Working must pay the appropriate fee by an online method specified by Her Majesty's Courts and Tribunals Service.

3.2 In certain circumstances, a party may be entitled to a remission or part remission of fees. A party who wishes to apply for remission or part remission of fees cannot use Electronic Working to file forms and documents.

3.3

- (1) Any form or document filed using Electronic Working will be subject to an administrative validation to ensure that it is in the correct form and properly filed.
- (2) Once validated and if the appropriate fee has been paid the form or document will, as appropriate, be issued and sealed by the Court and returned to the person filing it.

4. Filing forms and documents using Electronic Working

4.1 A party wishing to file any form or document using Electronic Working shall—

- (a) access the website at <https://efile.cefile-app.com> (“the Website”);
- (b) register for an account or log on to an existing account;
- (c) enter details of a new case or use the details of an existing case;
- (d) upload the appropriate form or document; and
- (e) pay the appropriate fee.

4.2

- (1) When a claim form is filed using Electronic Working then, subject to the validation referred to in paragraph 3.3, the claim form will be issued, sealed and returned in PDF format to the claimant for service.

- (2) When following validation the court issues a claim form which has been filed using Electronic Working–
 - (a) the court will seal the claim form with the date on which the claim form was filed using Electronic Working and this shall be the issue date; and
 - (b) the court will keep a record of when claim forms were filed using Electronic Working.
- (3) A claim form filed using Electronic Working out of normal court office opening hours will bear the date on which they are filed as the issue date.
- (4) If a claim form fails the validation referred to in paragraph 3.3 it will be returned to the claimant together with notice of the reasons for failure.

4.3

- (1) When a party files a form or document using Electronic Working then, subject to the validation referred to in paragraph 3.3, the form or document will be filed when a party receives the automated notification acknowledging that the form or document has been submitted.
- (2) The defendant may file forms and documents electronically through Electronic Working out of normal court office opening hours.
- (3) A form or document filed out of normal court office opening hours will be treated as having been filed on the day on which the automated notification acknowledging that the form or document has been submitted is received by a party.

(Paragraph 1.2(2) contains provisions about system “down-time” which may prevent immediate filing of forms or documents.)

- 4.4** Part 22 and the Practice Direction supplementing that Part which requires certain forms and documents to be verified by a statement of truth shall apply to any forms or documents filed using Electronic Working.

5. Filing forms or documents in paper format

- 5.1** Proceedings issued after 27 April 2015 in the Rolls Building TCC will be stored by the court in PDF format as an electronic case file (“the Electronic Working Case File”). Any claims which are not started by using Electronic

Working will be converted to PDF format and the provisions of paragraph 1.2(1)(b) shall apply to those proceedings.

5.2 Documents which the parties wish to file with the court may be lodged either by using Electronic Working or by lodging copies in paper format.

5.3 In the event that a party lodges a document in paper format the court will—

- (a) where appropriate, seal the paper copy of the document;
- (b) obtain payment of any fee due;
- (c) request the party to provide the document in PDF format or scan the document into PDF format and store it on the Electronic Working Case File;
- (d) any party may thereafter file any form or document using Electronic Working in accordance with paragraph 4.1.

6. Transfer of proceedings

6.1 If proceedings which have used Electronic Working are subsequently transferred to a court not operating Electronic Working the parties must ensure that a version of the court file in paper format is made available to that court.

6.2 If proceedings are transferred to the Rolls Building TCC all steps subsequent to the order transferring those proceedings may be taken using Electronic Working after documents in paper format in those proceedings have been converted to an electronic format pursuant to paragraph 1.2(1)(b).

7. Applications in proceedings

- (1) Where a party to proceedings files an application for an order using Electronic Working and a hearing is required, the party filing the application shall lodge an application bundle with the court.
- (2) The application bundle must—
 - (a) be filed in electronic format and, unless ordered otherwise, also be filed as a paper copy;
 - (b) contain the application notice and any evidence filed in the application, including exhibits together with such other documents as may be required by any rule, practice direction, order of the court or court guide; and

- (c) be filed in accordance with the time limits required by any applicable rule, practice direction, or order of the court or in the absence of such a requirement 3 (three) days before the hearing.
- (3) The electronic copy of the application bundle must—
 - (a) be filed using Electronic Working;
 - (b) be formatted as one PDF document with bookmarks as appropriate for each document and with section headings within the document;
 - (c) comply with the requirements of paragraph 1.9; and
 - (d) be updated as required and filed in compliance with subparagraphs (a) to (c) above.
- (4) The copy in paper format should be indexed and should correspond exactly to the electronic version of the bundle including sequential pagination.

8. Case Management

- (1) Where—
 - (a) a rule, practice direction, or order of the court requires—
 - (i) the court to give case management or other directions, whether at a hearing or not;
 - (ii) a bundle to be filed with the court in connection with case management or other directions; and
 - (b) a party wishes to file the bundle using Electronic Working, the bundle must contain such documents as are required by any rule, practice direction, order of the court or court guide.
- (2) The bundle must be filed, unless the court orders otherwise, in paper copy as well as electronic format.
- (3) The electronic copy must—
 - (a) be formatted as one PDF document with bookmarks as appropriate for each document and with section headings within the document;
 - (c) comply with the requirements of paragraph 1.9; and
 - (d) be updated as required and filed in compliance with subparagraphs (a) to (b) above.
- (5) The paper copy should be indexed and should correspond exactly with the electronic version of the bundle with sequential pagination.

9. Trial Bundles

- (1) The trial bundle must be filed with the court in paper format.
- (2) An electronic version of the trial bundle must also be filed if the court so orders, in which case it must comply with the requirements of paragraph 8(3) and the paper copy must comply with paragraph 8(4).
- (3) The court will retain any electronic copy of the trial bundle for a period of two months after judgment has been delivered, after which it may be deleted.
- (4) The time in paragraph 9(3) may be extended by order of the court at the request of a party or on the court's own initiative.

10. Inspecting the case record

- 10.1** The parties or their legal representatives shall be entitled to inspect an electronic record of the proceedings and obtain documents in the Electronic Working Case File.

(Rule 5.4B contains provisions about the supply to a party to the proceedings of documents from the court record.)

- 10.2** The Electronic Working Case File will be automatically updated.

- 10.3** Information concerning the availability of this facility will be communicated by Her Majesty's Courts and Tribunals Service on the Website.

11. Public kiosk service

- 11.1** A version of the Electronic Working Case File allowing access only to those documents which are available to non-parties will be made available through a public kiosk service.

(Rule 5.4C contains provisions about access to court documents by non-parties.)

- 11.2** Persons wishing to obtain copies of documents available to non-parties—

- (a) may use the computer facilities provided by the public kiosk to search the court record for cases which have documents available to the public;
- (b) complete the appropriate office copy request form; and
- (c) must pay the appropriate fee.

11.3 Electronic copies of the documents will be sent by e-mail to an address supplied by the person applying for copies.”

SCHEDULE 3

“PRACTICE DIRECTION 51J – THE COUNTY COURT LEGAL ADVISERS PILOT SCHEME

Contents of this practice direction	
Title	Number
Scope and interpretation	Para. 1
Jurisdiction of the County Court that may be exercised by a legal adviser	Para. 2
Reconsideration of a decision made by a legal adviser	Para. 3
Schedule - Jurisdiction of the County Court that may be exercised by a legal adviser	

1. Scope and interpretation

1.1 This Practice Direction is made under rule 51.2. It provides for a pilot scheme (“the County Court Legal Advisers Pilot Scheme”) in respect of, and applies to, claims started at the County Court Business Centre (“CCBC”) and the County Court Money Claims Centre (“CCMCC”) for a period of 12 months from 1 October 2015 to 30 September 2016.

1.2 In this Practice Direction—

- (a) “the County Court Business Centre” means the Production Centre and Money Claim Online;
- (b) “legal adviser” means a court officer assigned to the County Court who is—
 - (i) a barrister; or
 - (ii) a solicitor,

who may exercise the jurisdiction of the County Court with regard to the matters set out in paragraph 2.1 and in the schedule to this Practice Direction, with the consent of the Designated Civil Judges for Northampton and Leicester Trial Centre, in respect of the CCBC, and Manchester Civil Justice Centre & Manchester Outer, in respect of the CCMCC, or their nominee.

2. Jurisdiction of the County Court that may be exercised by a legal adviser

2.1 A legal adviser may exercise the jurisdiction of the County Court with regard to the matters set out in the first column of the schedule to this Practice Direction, subject to the corresponding restrictions in the second column.

3. Reconsideration of a decision made by a legal adviser

- 3.1 Decisions of a legal adviser will be made without a hearing.
- 3.2 A party may request any decision of a legal adviser to be reconsidered by a District Judge.
- 3.3 A request must be filed within 14 days after the party is served with notice of the decision.
- 3.4 The request must include a summary of the issue and an explanation of why the reconsideration is sought.
- 3.5 Reconsideration will take place without a hearing.

SCHEDULE

Jurisdiction of the County Court that may be exercised by a legal adviser

Work type	Restrictions on the exercise of jurisdiction and modifications of the Civil Procedure Rules
1. Order to rectify a procedural error pursuant to rule 3.10	Limited to those instances where the court serves a claim contrary to the claimant's instructions.
2. Application to extend time for service of the claim form pursuant to rule 7.6	Limited to the first application, unless the claim would normally be allocated to the small claims track, and further limited to applications made within the period specified in rule 7.5 for service of the claim form.
3. Applications to amend a claimant's or defendant's address or details after service, pursuant to rule 17.1(2)	Limited to applications prior to the expiration of the relevant limitation period and claims which have been, or would normally be, allocated to the small claims track.
4. Application to amend the particulars of claim or the amount of the claim pursuant to rule 17.1(2)	Limited to— (a) applications received before a defence is filed; or (b) if an application is received after a defence is filed, claims which have been, or would normally be, allocated to the small claims track.
5. Application to add or substitute a party to the proceedings pursuant to rule 19.4	Limited to applications where all existing parties and the proposed new party agree to the addition or substitution and are in agreement that the application may be dealt with without a hearing.
6. Application to set aside default judgment, pursuant to rule 13.2	
7. Application to set aside default judgment, pursuant to rule 13.3	Limited to applications where— (a) all parties consent; and (b) the judgment is not satisfied.

8. Application to vary default judgment entered under Part 12, pursuant to rule 13.3	Limited to applications where— (a) the application relates to the time and rate of payment; and (b) all relevant parties consent.
9. Application to make a counterclaim after a defence has been filed, pursuant to rule 20.4(2)(b)	Limited to applications where all parties consent.
10. Application to extend time for complying with a notice of proposed allocation in accordance with rule 26.3(1)	Limited to one application per party, unless the claim has been provisionally allocated to the small claims track, and subject to the further limitation that time can be extended for a period not exceeding 28 days.
11. Application to stay proceedings pursuant to rule 26.4(2A) or to extend the period of a stay pursuant to rule 26.4(3)	Limited to one application and where all parties consent.
12. Application to remove a stay of proceedings made pursuant to rule 26.4(2A) or (3)	Limited to applications where all parties consent.
13. Applications for interim payments pursuant to rule 25.6	Limited to applications where all parties consent to the payment.”
14. Entering and sealing an agreed judgment pursuant to rule 40.6(2) in any case where the requirements in Form EX224 are not met	
15. Applications for judgments or orders in terms agreed pursuant to rule 40.6(5)	
16. Application for an Order that a solicitor has ceased to act pursuant to rule 42.3	

SCHEDULE 4

“PRACTICE DIRECTION

PRE-ACTION CONDUCT AND PROTOCOLS

Table of contents	
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INTRODUCTION

1. Pre-action protocols explain the conduct and set out the steps the court would normally expect parties to take before commencing proceedings for particular types of civil claims. They are approved by the Master of the Rolls and are annexed to the Civil Procedure Rules (CPR). (The current pre-action protocols are listed in paragraph 18.)
2. This Practice Direction applies to disputes where no pre-action protocol approved by the Master of the Rolls applies.

OBJECTIVES OF PRE-ACTION CONDUCT AND PROTOCOLS

3. Before commencing proceedings, the court will expect the parties to have exchanged sufficient information to—
 - (a) understand each other’s position;
 - (b) make decisions about how to proceed;
 - (c) try to settle the issues without proceedings;

- (d) consider a form of Alternative Dispute Resolution (ADR) to assist with settlement;
- (e) support the efficient management of those proceedings; and
- (f) reduce the costs of resolving the dispute.

PROPORTIONALITY

- 4. A pre-action protocol or this Practice Direction must not be used by a party as a tactical device to secure an unfair advantage over another party. Only reasonable and proportionate steps should be taken by the parties to identify, narrow and resolve the legal, factual or expert issues.
- 5. The costs incurred in complying with a pre-action protocol or this Practice Direction should be proportionate (CPR 44.3(5)). Where parties incur disproportionate costs in complying with any pre-action protocol or this Practice Direction, those costs will not be recoverable as part of the costs of the proceedings.

STEPS BEFORE ISSUING A CLAIM AT COURT

- 6. Where there is a relevant pre-action protocol, the parties should comply with that protocol before commencing proceedings. Where there is no relevant pre-action protocol, the parties should exchange correspondence and information to comply with the objectives in paragraph 3, bearing in mind that compliance should be proportionate. The steps will usually include—
 - (a) the claimant writing to the defendant with concise details of the claim. The letter should include the basis on which the claim is made, a summary of the facts, what the claimant wants from the defendant, and if money, how the amount is calculated;
 - (b) the defendant responding within a reasonable time - 14 days in a straight forward case and no more than 3 months in a very complex one. The reply should include confirmation as to whether the claim is accepted and, if it is not accepted, the reasons why, together with an explanation as to which facts and parts of the claim are disputed and whether the defendant is making a counterclaim as well as providing details of any counterclaim; and
 - (c) the parties disclosing key documents relevant to the issues in dispute.

EXPERTS

7. Parties should be aware that the court must give permission before expert evidence can be relied upon (see CPR 35.4(1)) and that the court may limit the fees recoverable. Many disputes can be resolved without expert advice or evidence. If it is necessary to obtain expert evidence, particularly in low value claims, the parties should consider using a single expert, jointly instructed by the parties, with the costs shared equally.

SETTLEMENT AND ADR

8. Litigation should be a last resort. As part of a relevant pre-action protocol or this Practice Direction, the parties should consider whether negotiation or some other form of ADR might enable them to settle their dispute without commencing proceedings.
9. Parties should continue to consider the possibility of reaching a settlement at all times, including after proceedings have been started. Part 36 offers may be made before proceedings are issued.
10. Parties may negotiate to settle a dispute or may use a form of ADR including—
 - (a) mediation, a third party facilitating a resolution;
 - (b) arbitration, a third party deciding the dispute;
 - (c) early neutral evaluation, a third party giving an informed opinion on the dispute; and
 - (d) Ombudsmen schemes.

(Information on mediation and other forms of ADR is available in the *Jackson ADR Handbook* (available from Oxford University Press) or at—

- <http://www.civilmediation.justice.gov.uk/>
- http://www.adviceguide.org.uk/england/law_e/law_legal_system_e/law_taking_legal_action_e/alternatives_to_court.htm

11. If proceedings are issued, the parties may be required by the court to provide evidence that ADR has been considered. A party's silence in response to an

invitation to participate or a refusal to participate in ADR might be considered unreasonable by the court and could lead to the court ordering that party to pay additional court costs.

STOCKTAKE AND LIST OF ISSUES

12. Where a dispute has not been resolved after the parties have followed a pre-action protocol or this Practice Direction, they should review their respective positions. They should consider the papers and the evidence to see if proceedings can be avoided and at least seek to narrow the issues in dispute before the claimant issues proceedings.

COMPLIANCE WITH THIS PRACTICE DIRECTION AND THE PROTOCOLS

13. If a dispute proceeds to litigation, the court will expect the parties to have complied with a relevant pre-action protocol or this Practice Direction. The court will take into account non-compliance when giving directions for the management of proceedings (see CPR 3.1(4) to (6)) and when making orders for costs (see CPR 44.3(5)(a)). The court will consider whether all parties have complied in substance with the terms of the relevant pre-action protocol or this Practice Direction and is not likely to be concerned with minor or technical infringements, especially when the matter is urgent (for example an application for an injunction).
14. The court may decide that there has been a failure of compliance when a party has—
 - (a) not provided sufficient information to enable the objectives in paragraph 3 to be met;
 - (b) not acted within a time limit set out in a relevant protocol, or within a reasonable period; or
 - (c) unreasonably refused to use a form of ADR, or failed to respond at all to an invitation to do so.
15. Where there has been non-compliance with a pre-action protocol or this Practice Direction, the court may order that:
 - (a) the parties are relieved of the obligation to comply or further comply with the pre-action protocol or this Practice Direction;

- (b) the proceedings are stayed while particular steps are taken to comply with the pre-action protocol or this Practice Direction;
 - (c) sanctions are to be applied.
16. The court will consider the effect of any non-compliance when deciding whether to impose any sanctions which may include—
- (a) an order that the party at fault pays the costs of the proceedings, or part of the costs of the other party or parties;
 - (b) an order that the party at fault pay those costs on an indemnity basis;
 - (c) if the party at fault is a claimant who has been awarded a sum of money, an order depriving that party of interest on that sum for a specified period, and/or awarding interest at a lower rate than would otherwise have been awarded;
 - (d) if the party at fault is a defendant, and the claimant has been awarded a sum of money, an order awarding interest on that sum for a specified period at a higher rate, (not exceeding 10% above base rate), than the rate which would otherwise have been awarded.

LIMITATION

17. This Practice Direction and the pre-action protocols do not alter the statutory time limits for starting court proceedings. If a claim is issued after the relevant limitation period has expired, the defendant will be entitled to use that as a defence to the claim. If proceedings are started to comply with the statutory time limit before the parties have followed the procedures in this Practice Direction or the relevant pre-action protocol, the parties should apply to the court for a stay of the proceedings while they so comply.

PROTOCOLS IN FORCE

18. The table sets out the protocols currently in force and from which date.

Protocol	Came into force
Personal Injury	6 April 2015

Resolution of Clinical Disputes	6 April 2015
Construction and Engineering	02 October 2000
Defamation	02 October 2000
Professional Negligence	16 July 2000
Judicial Review	6 April 2015
Disease and Illness	8 December 2003
Housing Disrepair	6 April 2015
Possession Claims by Social Landlords	6 April 2015
Possession Claims for Mortgage Arrears	6 April 2015
Dilapidation of Commercial Property	1 January 2012
Low Value Personal Injury Road Traffic Accident Claims	30 April 2010 extended from 31 July 2013
Low Value Personal Injury Employers' and Public Liability Claims	31 July 2013"