

## **122nd UPDATE – PRACTICE DIRECTION AMENDMENTS**

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

The amendments to the existing Practice Directions come into force as follows, subject to the transitional provision made in this update—	
Practice Direction 3E – Costs Management	1 October 2020
Practice Direction 4 – Forms	1 October 2020
Practice Direction 7A – How to Start Proceedings	1 October 2020
Practice Direction 7C – Production Centre	1 October 2020
Practice Direction 7E – Money Claim Online	1 October 2020
Practice Direction 15 – Defence and Reply	1 October 2020
Practice Direction 16 – Statement of Case	1 October 2020
Practice Direction 22 – Statements of Truth	1 October 2020
Practice Direction 31A – Disclosure and Inspection	1 October 2020
Practice Direction 31B – Disclosure of Electronic Documents	1 October 2020
Practice Direction 32 – Evidence	1 October 2020
Practice Direction 34A – Depositions and Court Attendance by Witnesses	Immediately after S.I. 2019/521(1)
Practice Direction 35 – Experts and Assessors	1 October 2020
Practice Direction 40B – Judgments and Orders	1 October 2020
Practice Direction 40D – Court’s Powers in Relation to Land	1 October 2020
Practice Direction 51M – Financial Markets Test Case Scheme	1 October 2020
Practice Direction 51R – Online Civil Money Claims Pilot	In relation to the amendment in relation to contempt of court and Part 81, 1 October 2020  In relation to the remaining amendments to Practice Direction 51R, 11.00 a.m. 27 July 2020
Practice Direction 51S – The County Court Online Pilot	In relation to the amendment in relation to

<sup>1</sup> The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), which comes into force on Implementation Period Completion Day, by virtue of paragraph 1(1) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020.

	contempt of court and Part 81, 1 October 2020  In relation to the remaining amendments to Practice Direction 51S, 11.00 a.m. 27 July 2020
Practice Direction 51U – Disclosure Pilot for the Business and Property Courts	1 October 2020
Practice Direction 51V – Video Hearings Pilot Scheme	1 October 2020
Practice Direction 51Y – Video or Audio Hearings During Coronavirus Pandemic	The day after this Update is approved
Practice Direction 52C – Appeals to the Court of Appeal	1 October 2020
Practice Direction 63 – Intellectual Property Claims	1 October 2020
Practice Direction 54D – Administrative Court (Venue)	1 October 2020
Practice Direction 63AA – Financial List	1 October 2020
Practice Direction 81 – Applications and Proceedings in Relation to Contempt of Court	1 October 2020
Practice Direction 83 – Writs and Warrants – General Provisions	23 August 2020
Practice Direction – Pre-Action Conduct and Protocols	1 October 2020
Practice Direction: Committal for Contempt of Court – Open Court made by the Lord Chief Justice on 26 March 2015	1 October 2020

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

The Right Honourable Robert Buckland QC MP  
Lord Chancellor

Date: 16 July 2020

## **TRANSITIONAL PROVISION**

- 1) The amendments made to Practice Direction 63 by this update cease to have effect on 1 January 2023 (when section 3(1) of the Birmingham Commonwealth Games Act 2020 ceases to have effect).

- 2) Other than the amendment that concerns contempt of court and Part 81, the amendments to Practice Direction 51R made by this Update apply in relation to all claims submitted to the court on or after 11.00 a.m. on 27 July 2020.
- 3) Other than the amendment that concerns contempt of court and Part 81, the amendments to Practice Direction 51S made by this Update apply in relation to all claims submitted to the court on or after 11.00 a.m. on 27 July 2020.

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

- 1) For Practice Direction 3E substitute Practice Direction 3E as set out in the Schedule to this Update.

### **PRACTICE DIRECTION 4 – FORMS**

- 1) In Annex A – List of Court Forms arranged by subject-matter –
  - a) for the heading “Committal for Contempt” and all entries listed from “N40 Warrant of Committal (Oral Examination)” to “No.85 Order of committal or other penalty upon finding of contempt of court” substitute –

#### **“CONTEMPT OF COURT PROCEEDINGS**

N600 Contempt Application

N601 Summons under rule 81.6(3)

N602 Warrant to Secure Attendance at Court under rule 81.7(2)

N603 Order under rule 81.9

N604 Warrant of Committal under rule 81.9”; and

- b) in the entry for “No.67 Writ of Sequestration (rule 81.20(1) and rule 81.27)”, for “(rule 81.20(1) and rule 81.27)” substitute “(rule 83.2A)”.

- 2) In Annex B – Alphabetical List –
  - a) in the entry for “Arrest” omit “Committal for Contempt”;
  - b) in the entry for “Bail” omit “Committal for Contempt”;
  - c) in the entry for “Committal”, omit “Committal for Contempt”;
  - d) in the entry for “Contempt of court”, for “Committal for contempt” substitute “Contempt of Court Proceedings”;

- e) omit the entry for “failure to attend”;
- f) in the entry for “Penal notices” omit “Committal for Contempt”;
- g) omit the entry for “Suspension of committal”;
- h) omit the entry for “Warrant of committal”.

#### **PRACTICE DIRECTION 7A – HOW TO START PROCEEDINGS**

- 1) In paragraph 7.2, for the words after “is as” substitute “specified in paragraph 2.1 of Practice Direction 22”.

#### **PRACTICE DIRECTION 7C – PRODUCTION CENTRE**

- 1) In paragraph 1.4(4)—
  - a) in paragraph (a)(ii), for ““I believe that the facts stated in this claim form are true”” substitute “in the form specified in paragraph 2.1 of Practice Direction 22”; and
  - b) in paragraph (b), for the words after “form” substitute “specified in paragraph 2.1 of Practice Direction 22”.

#### **PRACTICE DIRECTION 7E – MONEY CLAIM ONLINE**

- 1) For paragraph 4(3)(b), substitute –
  - “(b) in receipt of legal aid;”.
- 2) In paragraph 9.2, for the words after “form” substitute “specified in paragraph 2.1 of Practice Direction 22”.

#### **PRACTICE DIRECTION 15 – DEFENCE AND REPLY**

- 1) For paragraph 2.2 substitute—
  - “**2.2** Attention is drawn to—
  - (1) paragraph 2 of Practice Direction 22, which stipulates the form of the statement of truth; and

- (2) paragraph 3 of Practice Direction 22, which provides who may sign a statement of truth; and
- (3) CPR 32.14, which sets out the consequences of making, or causing to be made, a false statement in a document verified by a statement of truth, without an honest belief in its truth.”.

- 2) Omit paragraph 2.3.

#### **PRACTICE DIRECTION 16 – STATEMENTS OF CASE**

- 1) In paragraph 3.4, for the words after “is as” substitute “specified in paragraph 2.1 of Practice Direction 22”.
- 2) In paragraph 11.2, for the words after “truth” substitute “must be in the form specified in paragraph 2.1 of Practice Direction 22”.

#### **PRACTICE DIRECTION 22 – STATEMENTS OF TRUTH**

- 1) At the end of paragraph 1.1(6), for the full stop, substitute –  
“,  
  
(7) a contempt application under Part 81.”.
- 2) In paragraph 2.1—
  - a) after “application notice” insert “, a certificate of reasons”;
  - b) for “I understand” substitute “[I understand] [The (claimant or as may be) understands]”.
- 3) In paragraph 2.4, after “truth” insert “verifying a witness statement”.
- 4) In paragraph 5, for “rule 81.18 and paragraphs 5.1 to 5.7 of Practice Direction 81” substitute “Part 81 – Applications and proceedings in relation to contempt of court”.

#### **PRACTICE DIRECTION 31A – DISCLOSURE AND INSPECTION**

- 1) In paragraph 8, for “the procedures set out in rule 81.18 and paragraphs 5.1 to 5.7 of Practice Direction 81 - Applications and proceedings in relation to contempt

of court.” substitute “the procedure set out in Part 81— Applications and proceedings in relation to contempt of court.”.

### **PRACTICE DIRECTION 31B – DISCLOSURE OF ELECTRONIC DOCUMENTS**

- 1) In the Electronic Documents Questionnaire set out in the Schedule, in the Statement of Truth, after the first sentence insert “[I understand] [The [claimant] [defendant] understands] 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 32 – EVIDENCE**

- 1) After paragraph 1.4, for the words in parentheses substitute –

“(By rule 81.4(1), unless and to the extent that the court directs otherwise every contempt application must be supported by written evidence given by affidavit or affirmation.)”

- 2) After paragraph 27.4 insert—

“**27.4A.** If the trial is to take place in the Family Division, then Practice Direction 27A supplementing the Family Procedure Rules 2010 shall apply to provide what must happen in relation to the trial bundle in place of paragraphs 27.5 to 27.15 below.”

### **PRACTICE DIRECTION 34A – DEPOSITIONS AND COURT ATTENDANCE BY WITNESSES**

- 1) For paragraph 6.3 substitute—

“**6.3** An application under rule 34.17- must include or exhibit—  
(1) a statement of the issues relevant to the proceedings;  
(2) a list of questions or the subject matter of questions to be put to the proposed deponent;  
(3) a translation of the documents in (1) and (2) into English, if necessary;  
and

(4) where the application is made by an application notice under Part 23 in accordance with rule 34.17(2)(a), a draft order.”

- 2) After Annex A, insert as Annex B the Model Form published by the Permanent Bureau of the Hague Conference on Private International Law (below).



Annex B - Hague  
Evidence Convention I

### **PRACTICE DIRECTION 35 – EXPERTS AND ASSESSORS**

- 1) In paragraph 3.3, at the end of the statement of truth 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 40B – JUDGMENTS AND ORDERS**

- 1) For paragraph 9 substitute –

#### **“Non-compliance with an injunction or undertaking**

“Part 81 deals with applications and proceedings in relation to contempt of court. Rule 81.4(2)(e) requires that a contempt application must include a statement that an order allegedly breached or disobeyed included a penal notice.”.

### **PRACTICE DIRECTION 40D – COURT’S POWERS IN RELATION TO LAND**

- 1) In paragraph 4.2—
  - a) after “a statement of truth” insert “in the form set out in paragraph 2.1 of Practice Direction 22”; and

- b) in the words in parentheses at the end of the paragraph, insert as a second sentence “Paragraph 2 of Practice Direction 22 specifies the form of a statement of truth.”.

**PRACTICE DIRECTION 51M – FINANCIAL MARKETS TEST SCHEME**

- 1) Practice Direction 51M is revoked.

**PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS PILOT**

- 1) In the table of contents, after the entry for paragraph 14.1, insert –

“

Documents scanned by the bulk scanning provider – treated as true copy of the original by the court	Paragraph 14.2
Changes to practice direction 32 - evidence	Paragraph 14.3

”.

- 2) In paragraph 1.1, after the definition of “alternative response” insert –

“bulk scanning provider” means the bulk scanner supplying scanning services via the OCMC postal address;”.

- 3) In paragraph 2.1(2) –

- a) after “(“CCBC”) insert “, but operating out of the Courts and Tribunals Service Centre at Stoke on Trent”; and
- b) for “Online Civil Money Claims, County Court Business Centre, St Katharine’s House, 21-27 St. Katharine’s Street, Northampton, NN1 2LH, DX 702885 Northampton 7”, substitute “HMCTS CMC, PO Box 12747, Harlow, CM20 9RA”.

- 4) For the words in parentheses after paragraph 13.1(4), substitute “(Part 81 of the Civil Procedure Rules contains rules about proceedings for contempt of court.)”.



- 5) In paragraph 14.1(A1), after “document or email” insert “submitted to the court electronically”.
- 6) After paragraph 14.1(2), for the words in parentheses, substitute –

“(2A) Where a form or document is received on paper at the OCMC postal address before 4.00 p.m., that document is treated as submitted to the court that day.

(2B) Where a form or document is received on paper copy at the OCMC postal address at or after 4.00 p.m. and before or at 11.59 p.m., that document is treated as submitted to the court before 4.00 p.m. on the next day the court office is open.

(2C) If a person sends a paper copy form or document to the court using an address that is not the OCMC postal address, the court may send it to the OCMC postal address (The form or document is still treated as submitted to the court when it was received at the first address.)”.

- 7) After the words in parentheses after paragraph 14.1, insert –

**“Documents scanned by the bulk scanning provider – treated as true copy of the original by the court**

14.2 The court will treat a scan of a document from the bulk scanning provider electronically transmitted to HMCTS’s secure digital platform as a true copy of the original document.

**Changes to Practice Direction 32 - Evidence**

14.3(1) In relation to claims that are started using Online Civil Money Claims, the Civil Procedure Rules Practice Direction 32 (Evidence) is changed as set out in subparagraph (2).

- (2) In Practice Direction 32, for paragraph 27.6, substitute—

“27.6(1) Subject to sub-paragraph (2), the originals of the documents contained in the trial bundle, together with copies of any other court orders should be available at the trial.

(2) Where a claim is started using Online Civil Money Claims in accordance with Practice Direction 51R, the court will treat a scan of a document from the bulk

scanning provider electronically transmitted to Her Majesty's Courts and Tribunal Service's secure digital platform with an identity number as a true copy of the original document. The original need not be made available at the trial. ("Bulk scanning provider" has the meaning given in Practice Direction 51R.)".

8) In paragraph 20.3 in subparagraph (3), for "19", substitute "7".

#### **PRACTICE DIRECTION 51S – THE COUNTY COURT ONLINE PILOT**

- 1) In paragraph 1.5, for "[www.moneyclaim.reform.hmcts.net](http://www.moneyclaim.reform.hmcts.net).", substitute "<https://www.moneyclaim-legal.platform.hmcts.net/>".
- 2) In paragraph 5.8, omit "except if, and in so far as, it has not been remitted".
- 3) In paragraph 13, in the wording of the statement of truth, at the end 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."
- 4) After the signpost following paragraph 15, insert –  
  
"15A A statement of truth must be dated with the date that it is signed."
- 5) For the words in parentheses after paragraph 15, substitute "(Part 81 of the Civil Procedure Rules contains rules about proceedings for contempt of court.)".

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

- 1) In paragraph 1.2, in the second sentence, for "two years" substitute "three years".

#### **PRACTICE DIRECTION 51V – VIDEO HEARINGS PILOT SCHEME**

- 1) In paragraph 1.5, for "30th November 2020" substitute "31st March 2021".

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

- 1) In paragraph 1, for “section 75” substitute “section 89”.

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

- 1) In the table of contents, after the entry for paragraph 26, insert—

“Nautical Assessors Assisting the Court of Appeal from decisions of the Admiralty Court	Para. 26B”
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- 2) After paragraph 26, insert—

**“Nautical Assessors Assisting in the Court of Appeal from Decisions of the Admiralty Court**

**26B.**

(1) Where there is an appeal from the Admiralty Court in a collision claim or other claim involving issues of navigation or seamanship, the Court of Appeal will, unless the court otherwise orders, be assisted by two nautical assessors.

(2) The nautical assessors will consist of one Elder Brother of Trinity House (nominated by Trinity House but appointed by the Master of the Rolls or a court officer) and one member of the Honourable Company of Master Mariners (nominated by the Honourable Company but appointed by the Master of the Rolls or a court officer).

(3) If either party in any appeal seeks a different order from the above they should apply to the Court of Appeal at the time when the notice of appeal or respondent’s notice is served.

(4) In the absence of any such application by the parties, the Master of the Rolls or a court officer may also decide that a different order is appropriate having regard to the particular circumstances of the case.

(5) In this paragraph, “court officer” means a court officer assigned to the Civil Appeals Office authorised to exercise the jurisdiction of the Court of Appeal under rule 52.24.”.

**PRACTICE DIRECTION 54D – ADMINISTRATIVE COURT (VENUE)**

- 1) After paragraph 1.2 insert—

“1.3 This Practice Direction is subject to the requirement in rule 7.1A that any claim against Welsh public bodies which challenge the lawfulness of their decisions must be issued and heard in Wales.”

## **PRACTICE DIRECTION 63 – INTELLECTUAL PROPERTY CLAIMS**

- 1) In paragraph 16.1(6), after “rights” insert “, including the right of the Birmingham Organising Committee by virtue of section 3(4) of the Birmingham Commonwealth Games Act 2020 to take action for breach of section 3(1) of that Act (prohibition of unauthorised association with the Games)”;
- 2) After paragraph 24.1 insert—

“24.2 Where the Birmingham Organising Committee applies for an order under section 6 of the Birmingham Commonwealth Games Act 2020, a copy of the application must be served on all identifiable persons having an interest in the infringing goods or documents.”

## **PRACTICE DIRECTION 63AA – FINANCIAL LIST**

- 1) At the end of the table of contents for the practice direction, insert—

“Financial Markets Test Case Scheme	Para. 6”
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- 2) After paragraph 5.2 insert—

### **“Financial Markets Test Case Scheme**

**6.1** The Financial Markets Test Case Scheme applies to a claim started in the Financial List which is a Financial List claim and which raises issues of general importance in relation to which immediately relevant authoritative English law guidance is needed (“a qualifying claim”).

**6.2** In such cases the Financial Markets Test Case Scheme enables the qualifying claim to be determined without the need for a present cause of action between the parties to the proceedings.

#### *Proceedings in the Financial Markets Test Case Scheme*

**6.3** Where there is a qualifying claim a person who is or was actively in business in the relevant market may, by mutual agreement, issue proceedings against another person who is or was actively in business in the relevant market provided that other

person has opposing interests as to how the law of England and Wales issue(s) raised by the qualifying claim should be resolved.

**6.4** The claim form must indicate clearly that the claim is brought pursuant to the Financial List, Financial Markets Test Case Scheme.

**6.5** Proceedings will be conducted in accordance with the procedure applicable to claims in the Financial List save that—

(a) for proceedings to be allowed to proceed to trial or summary determination the judge hearing the first case management conference or summary application must be satisfied that it is a qualifying claim, that it is a claim which can be satisfactorily determined as a test case and that the arguments of all those with opposing interests in relation to the issues in question will be properly put before the court by those represented. For these purposes, in appropriate cases a relevant trade, professional or regulatory body or association, or a third party affected by the determination of the issues, may, with the permission of the court, be joined as a party or otherwise allowed to be represented;

(b) the parties will seek to agree the facts;

(c) the general rule will be that there shall be no order as to costs;

(d) in a case of particular importance or urgency the trial may, at the court's discretion, be heard by a court consisting of two Financial List judges, or a Financial List judge and a Lord or Lady Justice of Appeal."

## **PRACTICE DIRECTION 81 – APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT**

1) Practice Direction 81 is revoked.

## **PRACTICE DIRECTION 83 – WRITS AND WARRANTS – GENERAL PROVISIONS**

1) After paragraph 5 insert—

**“6.** The notice of eviction required by rule 83.8A must be in Form N54.”

## **PRACTICE DIRECTION – PRE-ACTION CONDUCT AND PROTOCOLS**

1) In paragraph 2, at the end insert “A person who knowingly makes a false statement in a pre-action protocol letter or other document prepared in

anticipation of legal proceedings may be subject to proceedings for contempt of court.”.

**PRACTICE DIRECTION: COMMITTAL FOR CONTEMPT OF COURT – OPEN COURT, MADE BY THE LORD CHIEF JUSTICE ON 26 MARCH 2015**

1) In the preamble –

a) for “This” substitute “Except in relation to proceedings for contempt of court to which Part 81 of the Civil Procedure Rules 1998 apply, this”;

b) omit “the Civil Procedure Rules 1998,”; and

c) for “It applies” substitute “Except to the extent that Part 81 of the Civil Procedure Rules 1998 applies, this Practice Direction applies”.

## SCHEDULE

# PRACTICE DIRECTION 3E – COSTS MANAGEMENT

This Practice Direction supplements Part 3

### CONTENTS OF THIS PRACTICE DIRECTION

Title	Paragraph number
A. Production of costs budgets	Para. 1
B. Documents to be lodged for costs budgeting purposes	Para. 3
C. Budget format	Para. 4
D. Assumptions	Para. 10
E. Budget discussion reports	Para. 11
F. Costs management orders	Para. 12
G. Oppressive behaviour	Para. 13

### **A. Production of Costs Budgets**

- 1.** In cases where the Claimant has a limited or severely impaired life expectation (5 years or less remaining) the court will ordinarily disapply cost management under Section II of Part 3.
- 2.** An order for the provision of costs budgets with a view to a costs management order being made may be particularly appropriate in the following cases—
  - (a) unfair prejudice petitions under section 994 of the Companies Act 2006;
  - (b) disqualification proceedings pursuant to the Company Directors Disqualification Act 1986;
  - (c) applications under the Trusts of Land and Appointment of Trustees Act 1996;
  - (d) claims pursuant to the Inheritance (Provision for Family and Dependants) Act 1975;
  - (e) any Part 8 or other claims or applications involving a substantial dispute of fact and/or likely to require oral evidence and/or extensive disclosure; and
  - (f) personal injury and clinical negligence cases where the value of the claim is £10 million or more.

## **B. Documents to be lodged for costs budgeting purposes**

3. (a) Save in exceptional circumstances or where the court orders otherwise, the parties are not expected to lodge any documents other than Precedent H and the budget discussion report. Both are annexed, to this practice direction. If the Excel format precedent on the MOJ website is used, the calculation on page one will calculate the totals automatically and the phase totals are linked to this page also.

(b) Precedent T, also annexed to this practice direction, is to be used in the event of variation of a budget pursuant to rule 3.15A.

## **C. Budget format**

4. (a) Unless the court otherwise orders, a budget must be in the form of Precedent H annexed to this Practice Direction. It must be in landscape format with an easily legible typeface.

(b) In cases where a party's budgeted costs do not exceed £25,000 or the value of the claim as stated on the claim form is less than £50,000, the parties must only use the first page of Precedent H.

(The wording for a statement of truth verifying a budget is set out in Practice Direction 22.)

5. In deciding the reasonable and proportionate costs of each phase of the budget the court will have regard to the factors set out at Civil Procedure Rules 44.3(5) and 44.4(3) including a consideration of where and the circumstances in which the work was done as opposed to where the case is heard.

6. The table below identifies where within the budget form the various items of work, in so far as they are required by the circumstances of your case, should be included. The time estimated may have to be justified on the budget hearing along with the grade of fee earner doing the work.

7. Allowance must be made in each phase for advising the client, taking instructions and corresponding with the other party/parties and the court in respect of matters falling within that phase.

8. The time spent in preparing the budget and associated material must **not** be claimed in the draft budget under any phase. The maximum figures permitted under rule 3.15(5) should be inserted once the costs budget has been approved by the court.

9. The 'contingent cost' sections of this form should be used for anticipated costs which do not fall within the main categories set out in this form. Examples might be the trial of preliminary issues, applications to amend, applications for disclosure against third parties or (in libel cases) applications re meaning. Costs which are disputed (such as the need for a particular



expert) should be set out in the appropriate phase of the budget and if necessary marked as disputed. Only costs which are more likely than not to be incurred should be included.

(Variation of an approved or agreed budget is dealt with in rule 3.15A.)

## D Assumptions

10. (a) The assumptions that are reflected in the table below are not to be repeated. Include only those assumptions that significantly impact on the level of costs claimed such as the duration of the proceedings, the number of experts and witnesses or the number of interlocutory applications envisaged. Brief details only are required in the box beneath each phase. Additional documents should only be prepared in exceptional circumstance and, where they are disregarded by the court, the cost of preparation may be disallowed.

(b) Written assumptions are not normally required by the Court in cases where the parties are only required to lodge the first page.

**TABLE**

<b>Phase</b>	<b>Includes</b>	<b>Does NOT include</b>
<b>Pre-action</b>	<ul style="list-style-type: none"> <li>• Pre-Action Protocol correspondence</li> <li>• Investigating the merits of the claim and advising client</li> <li>• Settlement discussions, advising on settlement and Part 36 offers</li> <li>• All other steps taken and advice given pre action</li> </ul>	<ul style="list-style-type: none"> <li>• Any work already incurred in relation to any other phase of the budget</li> </ul>
<b>Issue/statements of case</b>	<ul style="list-style-type: none"> <li>• Preparation of Claim Form</li> <li>• Issue and service of proceedings</li> <li>• Preparation of Particulars of Claim, Defence, Reply, including taking instructions, instructing counsel and any necessary investigation</li> <li>• Considering opposing statements of case and advising client</li> <li>• Part 18 requests (request and answer)</li> <li>• Any conferences with counsel primarily relating to statements of case</li> </ul>	

	<ul style="list-style-type: none"> <li>• Updating schedules and counter schedules of loss</li> <li>• Amendments to statements of case</li> </ul>	
<b>CMC</b>	<ul style="list-style-type: none"> <li>• Completion of DQs</li> <li>• Arranging a CMC</li> <li>• Reviewing opponent's budget</li> <li>• Correspondence with opponent to agree directions and budgets, where possible</li> <li>• Preparation for, and attendance at, the CMC</li> <li>• Finalising the order</li> <li>• Any further CMC that is built into the proposed directions order</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation of costs budget for first CMC</li> </ul>
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• Obtaining documents from client and advising on disclosure obligations</li> <li>• Reviewing documents for disclosure, preparing disclosure report or questionnaire response and list</li> <li>• Inspection</li> <li>• Reviewing opponent's list and documents, undertaking any appropriate investigations</li> <li>• Correspondence between parties about the scope of disclosure and queries arising</li> <li>• Consulting counsel, so far as appropriate, in relation to disclosure</li> </ul>	<ul style="list-style-type: none"> <li>• Applications for specific disclosure</li> <li>• Applications and requests for third party disclosure</li> </ul>
<b>Witness Statements</b>	<ul style="list-style-type: none"> <li>• Identifying witnesses</li> <li>• Obtaining statements</li> <li>• Preparing witness summaries</li> <li>• Consulting counsel, so far as appropriate, about witness statements</li> </ul>	<ul style="list-style-type: none"> <li>• Arranging for witnesses to attend trial (include in trial preparation)</li> </ul>

	<ul style="list-style-type: none"> <li>• Reviewing opponent's statements and undertaking any appropriate investigations</li> <li>• Applications for witness summaries</li> </ul>	
<b>Expert Reports</b>	<ul style="list-style-type: none"> <li>• Identifying and engaging suitable expert(s)</li> <li>• Reviewing draft and approving report(s)</li> <li>• Dealing with follow-up questions of experts</li> <li>• Considering opposing experts' reports</li> <li>• Any conferences with counsel primarily relating to expert evidence</li> <li>• Meetings of experts (preparing agenda etc.)</li> </ul>	<ul style="list-style-type: none"> <li>• Obtaining permission to adduce expert evidence (include in CMC or a separate application)</li> <li>• Arranging for experts to attend trial (include in trial preparation)</li> </ul>
<b>PTR</b>	<ul style="list-style-type: none"> <li>• Bundle</li> <li>• Preparing and agreeing chronology, case summary and dramatis personae (if ordered and not already prepared earlier in case)</li> <li>• Completing and filing pre-trial checklists</li> <li>• Correspondence with opponent to agree directions</li> <li>• Preparation for and attendance at the PTR</li> </ul>	<ul style="list-style-type: none"> <li>• Assembling and/or copying the bundle (this is not fee earners' work)</li> </ul>
<b>Trial Preparation</b>	<ul style="list-style-type: none"> <li>• Trial bundles</li> <li>• Witness summonses, and arranging for witnesses to attend trial</li> <li>• Any final factual investigations</li> <li>• Supplemental disclosure and statements (if required)</li> <li>• Counsel's brief fee</li> <li>• Agreeing brief fee</li> <li>• Any pre-trial conferences and advice from counsel</li> <li>• Pre-trial liaison with witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Assembling and/or copying the trial bundle (this is not fee earners' work)</li> <li>• Counsel's refreshers</li> </ul>

<b>Trial</b>	<ul style="list-style-type: none"> <li>• Solicitors' attendance at trial</li> <li>• All conferences and other activity outside court hours during the trial Attendance on witnesses during the trial</li> <li>• Counsel's trial refreshers</li> <li>• Dealing with draft judgment and</li> <li>• related applications</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation for trial</li> <li>• Counsel's brief fee for trial (include in trial preparation)</li> </ul>
<b>ADR/Settlement</b>	<ul style="list-style-type: none"> <li>• Any conferences and advice from counsel in relation to settlement</li> <li>• Work directed to settlement negotiations and meetings between the parties and any other ADR (including mediation), to include Part 36 and other offers and advising the client</li> <li>• Approval of settlement if needed</li> <li>• Drafting settlement agreement or Tomlin order</li> <li>• Advice to the client on settlement (excluding advice included in the pre action phase)</li> </ul>	

### **E. Budget discussion reports**

**11.** The budget discussion report required by rule 3.13(2) must set out—

- (a) those figures which are agreed for each phase;
- (b) those figures which are not agreed for each phase; and
- (c) a brief summary of the grounds of dispute.

The parties are encouraged to use the Precedent R Budget Discussion Report annexed to this practice direction.

### **F. Costs management orders**

**12.** When reviewing budgeted costs, the court will not undertake a detailed assessment in advance, but rather will consider whether the budgeted costs fall within the range of reasonable and proportionate costs.

## **G. Oppressive behaviour**

**13.** Any party may apply to the court if it considers that another party is behaving oppressively in seeking to cause the applicant to spend money disproportionately on costs and the court will grant such relief as may be appropriate.

## **ANNEXES**

**Annex A: Precedent H**

**Annex B: Precedent R**

**Annex C: Precedent T**