

Appendix 4 to Practice Direction 51U

Disclosure Certificate

Notes: This Disclosure Certificate is for use in all claims where Practice Direction 51U (Disclosure Pilot for 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, in accordance with PD 51U.5.8] , 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 PD 51U.5.1 and 5.2.)

[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 PD 51U.5.8.]

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 PD 51U.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 [Party's] duties under Practice Direction 51U, including having:

- A) 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 PD 51U.2.9) are or have been in [my] or [the 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 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 PD51U 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 that I am aware of and, to the best of my knowledge and belief, have complied with the Disclosure Order.

I understand that I must inform the court and the other parties if any further document required to be disclosed (whether under PD 51U.3.3 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

(Party) (Party's representative)

Date

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. 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, including those who have since left the company or organisation, that they have provided for disclosure all adverse documents of which they are aware. 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.