

PRACTICE DIRECTION – PILOT SCHEME FOR COMMUNICATION AND FILING OF DOCUMENTS AND APPLICATIONS BY E-MAIL

THIS PRACTICE DIRECTION SUPPLEMENTS RULE 5.5

Scope of this Practice Direction

- 1.1 This practice direction provides for a pilot scheme for the use of e-mail to operate from 2nd December 2002 to 31st January 2004.
- 1.2 Section I of this practice direction contains provisions permitting parties to claims in specified county courts to –
 - (1) communicate with the court by e-mail, and
 - (2) file specified documents by e-mail.
- 1.3 Section II of the practice direction contains provisions permitting legal representatives to make applications by e-mail.
- 1.4 The Schedule to this practice direction sets out the courts to which Sections I and II apply and the dates from which those Sections apply to those particular courts.
- 1.5 This practice direction does not apply to family proceedings, adoption proceedings or insolvency proceedings.

SECTION I – COMMUNICATION AND FILING OF DOCUMENTS

Communications and documents which may be sent by e-mail

- 2.1 A party must not use e-mail to take any step in a claim which requires a fee to be paid for that step, except for filing an application notice in accordance with Section II of this practice direction. If (except in that case) a party sends by e-mail a document for which a fee is payable upon filing, the document will be treated as not having been filed.
- 2.2 Parties to claims in a court to which this practice direction applies may send to the court by e-mail –
 - (1) general correspondence and enquiries;
 - (2) notice by solicitor of acting;
 - (3) notice of change of address;
 - (4) any of the following documents –
 - (a) acknowledgment of service;

- (b) admission, other than one under rule 14.4;
 - (c) defence, provided that no counterclaim is made;
 - (d) reply to defence;
 - (e) allocation questionnaire, provided that no fee is payable by the party filing the questionnaire;
 - (f) pre-trial check list (listing questionnaire), provided that no fee is payable by the party filing the check list;
 - (g) certificate of service;
 - (h) request for judgment in default under rule 12.4(1), or for judgment upon admission under rule 14.4(3), 14.5(6), 14.6(4) or 14.7(5);
 - (i) claimant's response to notice of admission under rule 14.5(3) or rule 14.7(3);
 - (j) claimant's response to notice under rule 15.10, where defence is that money claimed has been paid;
 - (k) notice of discontinuance, provided that the claimant does not require permission to discontinue, and is not required to attach to the notice the consent of another party;
 - (l) notice of change of solicitor.
- 2.3 Where a party files a document by e-mail he must still comply with any rule or practice direction requiring the document to be served on any other person.
- 2.4 Nothing in this practice direction requires any person to accept service of a document by e-mail.

Form and contents of e-mail

- 3.1 The subject line of the e-mail must contain –
- (1) the claim number;
 - (2) the title of the claim (abbreviated if necessary);
 - (3) the subject matter (e.g. defence); and
 - (4) if the message relates to a hearing, the date and time of the hearing.
- 3.2 The message must contain the name, telephone number and e-mail address of the sender and should be in rich text format or plain text rather than HTML. The court will normally send any reply to messages by e-mail.
- 3.3 Correspondence and documents may be sent either as text or attachments, except that documents required to be in a practice form must be sent in that form as attachments. Court forms may be downloaded from the Court Service website www.courtservice.gov.uk or from local court websites.
- 3.4 Attachments must be in one of the following formats –

- (a) Rich Text Format as (.rtf) files
 - (b) Plain/Formatted Text as (.txt) files
 - (c) Hypertext documents as (.htm) files
 - (d) Microsoft Word viewer/reader (.doc) in Word97 format
 - (e) Adobe Acrobat as (.pdf) minimum viewer version 4
 - (f) Lotus Notes Web Access (.nsf).
- 3.5 Attachments must not be more than 10 pages long in aggregate and the total e-mail must not exceed 2Mb.
- 3.6 Parties are advised not to send by e-mail any correspondence or documents of a confidential or sensitive nature, as security cannot be guaranteed.
- 3.7 If a document sent by e-mail requires urgent attention, the sender should contact the court by telephone.

Filing of documents by e-mail

- 4.1 Where a party files a document by e-mail, he must not send a hard copy in addition.
- 4.2 A document is not filed until the e-mail is received by the court, whatever time it is shown to have been sent.
- 4.3 The time of receipt of an e-mail will be recorded.
- 4.4 If an e-mail is received after 4 p.m. it will be treated as filed on the next day the court office is open.
- 4.5 Where a time limit applies, it remains the responsibility of the party to ensure that the document is filed in time.
- 4.6 The court will send an automatic acknowledgment when an e-mail is received. The acknowledgment is merely to confirm receipt and does not indicate that a filed document has been accepted. If no acknowledgment of an e-mail is received, the sender should assume that the court has not received it and should send the e-mail again, or file the document by another means.

Statement of truth in document filed by e-mail

- 5.1 CPR Part 22 requires certain documents to be verified by a statement of truth. These include a statement of case, and an acknowledgment of service in a claim begun by way of the Part 8 procedure.
- 5.2 Rule 22.1(6) (which requires a statement of truth to be signed by the person making it) is satisfied by that person typing his name underneath the statement of truth in a document filed by e-mail. However, the statement of truth must still be signed in manuscript in any hard copies of the document which are served on other parties.

5.3 Attention is drawn to –

- (1) paragraph 3 of the practice direction supplementing CPR Part 22, which provides who may sign a statement of truth; and
- (2) rule 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.

SECTION II - E-MAIL APPLICATIONS

Interpretation

- 6.1 In this Section of this practice direction, where the context permits, ‘application’ includes an appeal.

Applications which may be made by e-mail

- 7.1 The following types of applications may be made by e-mail, provided that all of the conditions listed in paragraph 7.2 below are satisfied –
- (1) applications in the course of proceedings;
 - (2) applications for final orders by consent; and
 - (3) in county court cases –
 - (a) appeal notices in respect of appeals from a district judge to a circuit judge; and
 - (b) applications for directions and extensions of time in connection with such appeals.
- 7.2 The conditions which must be satisfied are that –
- (1) the application is filed by a legal representative on behalf of the applicant;
 - (2) if the application is made on notice –
 - (a) all respondents to the application are acting by legal representatives; and
 - (b) the respondents’ legal representatives have agreed to accept service by e-mail and provided an e-mail address in accordance with paragraph 3.3 of the practice direction supplementing Part 6; and
 - (3) the applicant wishes the court to deal with the application (or, in the case of an appeal, the question of permission to appeal) without a hearing.

Form and contents of e-mail containing an application

- 8.1 The subject line of the e-mail must contain –

- (1) the claim number;
- (2) the title of the claim (abbreviated if necessary);
- (3) the subject matter (e.g. 'application to ...', 'consent order'), and whether it is the 1st, 2nd, etc application made by e-mail in the proceedings.

8.2 The message must –

- (1) contain the name, telephone number and e-mail address of the sender;
- (2) give a brief description of the application in not more than 25 words;
- (3) state whether the application is being made on notice or without notice;
- (4) if the application is on notice –
 - (a) confirm that the applicant's legal representative has served the application notice and any documents filed with it, and state when this was done; and
 - (b) give the name, telephone number and e-mail address of the respondent's legal representative;
- (5) confirm that –
 - (a) the applicant's legal representative holds any necessary original documents (e.g. witness statements, statements of truth, draft of orders to be made by consent); and
 - (b) where necessary, that those documents have been signed, and by whom;
- (6) briefly describe each attachment to the e-mail; and
- (7) identify any documents not attached to the e-mail but already filed, to which the judge will need to refer when dealing with the application.

8.3 The attachments to the e-mail –

- (1) must always include the application notice and a draft of the order sought; and
- (2) should, if possible, include copies of any documents already filed, to which the judge will need to refer when dealing with the application.

8.4 In relation to appellant's notices, attention is drawn to paragraph 5.6 of the practice direction supplementing Part 52.

8.5 Paragraphs 3.2 to 3.7 above apply.

Filing of applications

9.1 Paragraphs 4.1 to 4.6 above apply.

9.2 Any application made will attract the current fee, which must be paid in accordance with such terms as the court specifies. If a legal representative fails to comply with such terms, the court may prohibit them from making any further applications by e-mail.

Statements of truth in application notices and attached documents

- 10.1 Paragraphs 5.1 to 5.3 above apply.

How the court will deal with applications

- 11.1 Any application filed by e-mail will be deemed to be an application which the court is asked to consider without a hearing, pursuant to paragraph 2.3 of the practice direction supplementing Part 23.

(i) Applications without notice, and applications for consent orders

- 11.2 An application without notice, or an application for a consent order, will be dealt with by a judge or a court officer under rule 40.6(2) as appropriate.

(ii) Applications on notice

- 11.3 An application on notice will be referred to a judge who will decide whether it is suitable to be dealt with without a hearing.
- 11.4 If the judge decides that the application is suitable to be dealt with without a hearing, he will give directions by e-mail to both parties' legal representatives for the filing of evidence or taking of steps necessary for the determination of the application.
- 11.5 If the judge decides that a hearing is necessary, he will inform both parties' legal representative by e-mail and direct the application to be taken out of the e-mail procedure.

SCHEDULE

Courts to which Section I applies

Walsall County Court

Preston County Court and District Registry¹

Date from which Section I applies

2 December 2002

1 April 2003

Courts to which Section II applies

Preston County Court and District Registry²

Date from which Section II applies

1 April 2003

¹ Until 1 April 2003 the Preston e-mail pilot (PREMA) will continue to operate in accordance with the existing protocol.

² Until 1 April 2003 the Preston e-mail pilot (PREMA) will continue to operate in accordance with the existing protocol.