

# PRACTICE DIRECTION – FURTHER INFORMATION

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 18

Attention is also drawn to Part 22 (Statements of Truth).

### PRELIMINARY REQUEST FOR FURTHER INFORMATION OR CLARIFICATION

- 1.1 Before making an application to the court for an order under Part 18, the party seeking clarification or information (the first party) should first serve on the party from whom it is sought (the second party) a written request for that clarification or information (a Request) stating a date by which the response to the Request should be served. The date must allow the second party a reasonable time to respond.
- 1.2 A Request should be concise and strictly confined to matters which are reasonably necessary and proportionate to enable the first party to prepare his own case or to understand the case he has to meet.
- 1.3 Requests must be made as far as possible in a single comprehensive document and not piecemeal.
- 1.4 A Request may be made by letter if the text of the Request is brief and the reply is likely to be brief; otherwise the Request should be made in a separate document.
- 1.5 If a Request is made in a letter, the letter should, in order to distinguish it from any other that might routinely be written in the course of a case,
  - (1) state that it contains a Request made under Part 18, and
  - (2) deal with no matters other than the Request.
- 1.6
  - (1) A Request (whether made by letter or in a separate document) must –
    - (a) be headed with the name of the court and the title and number of the claim,
    - (b) in its heading state that it is a Request made under Part 18, identify the first party and the second party and state the date on which it is made,
    - (c) set out in a separate numbered paragraph each request for information or clarification,
    - (d) where a Request relates to a document, identify that document and (if relevant) the paragraph or words to which it relates,
    - (e) state the date by which the first party expects a response to the Request.
  - (2)
    - (a) A Request which is not in the form of a letter may, if convenient, be prepared in such a way that the response may be given on the same document.

- (b) To do this the numbered paragraphs of the Request should appear on the left hand half of each sheet so that the paragraphs of the response may then appear on the right.
  - (c) Where a Request is prepared in this form an extra copy should be served for the use of the second party.
- 1.7 Subject to the provisions of paragraphs 3.1 to 3.3 of the Practice Direction to Part 6, a request should be served by e-mail if reasonably practicable.

## RESPONDING TO A REQUEST

- 2.1 A response to a Request must be in writing, dated and signed by the second party or his legal representative.
- 2.2
  - (1) Where the Request is made in a letter the second party may give his response in a letter or in a formal reply.
  - (2) Such a letter should identify itself as a response to the Request and deal with no other matters than the response.
- 2.3
  - (1) Unless the Request is in the format described in paragraph 1.6(2) and the second party uses the document supplied for the purpose, a response must:
    - (a) be headed with the name of the court and the title and number of the claim,
    - (b) in its heading identify itself as a response to that Request,
    - (c) repeat the text of each separate paragraph of the Request and set out under each paragraph the response to it,
    - (d) refer to and have attached to it a copy of any document not already in the possession of the first party which forms part of the response.
  - (2) A second or supplementary response to a Request must identify itself as such in its heading.
- 2.4 The second party must when he serves his response on the first party serve on every other party and file with the court a copy of the Request and of his response.

## STATEMENTS OF TRUTH

- 3 Attention is drawn to Part 22 and to the definition of a statement of case in Part 2 of the rules; a response should be verified by a statement of truth.

## GENERAL MATTERS

- 4.1
  - (1) If the second party objects to complying with the Request or part of it or is unable to do so at all or within the time stated in the Request he must inform the first party promptly and in any event within that time.

- (2) He may do so in a letter or in a separate document (a formal response), but in either case he must give reasons and, where relevant, give a date by which he expects to be able to comply.
- 4.2 (1) There is no need for a second party to apply to the court if he objects to a Request or is unable to comply with it at all or within the stated time. He need only comply with paragraph 4.1(1) above.
- (2) Where a second party considers that a Request can only be complied with at disproportionate expense and objects to comply for that reason he should say so in his reply and explain briefly why he has taken that view.

## **APPLICATIONS FOR ORDERS UNDER PART 18**

- 5.1 Attention is drawn to Part 23 (Applications) and to the Practice Direction which supplements that Part.
- 5.2 An application notice for an order under Part 18 should set out or have attached to it the text of the order sought and in particular should specify the matter or matters in respect of which the clarification or information is sought.
- 5.3 (1) If a Request under paragraph 1 for the information or clarification has not been made, the application notice should, in addition, explain why not.
- (2) If a Request for clarification or information has been made, the application notice or the evidence in support should describe the response, if any.
- 5.4 Both the first party and the second party should consider whether evidence in support of or in opposition to the application is required.
- 5.5 (1) Where the second party has made no response to a Request served on him, the first party need not serve the application notice on the second party, and the court may deal with the application without a hearing.
- (2) Sub-paragraph (1) above only applies if at least 14 days have passed since the Request was served and the time stated in it for a response has expired.
- 5.6 Unless paragraph 5.5 applies the application notice must be served on the second party and on all other parties to the claim.
- 5.7 An order made under Part 18 must be served on all parties to the claim.
- 5.8 Costs:
  - (1) Attention is drawn to the Costs Practice Direction and in particular the court's power to make a summary assessment of costs.
  - (2) Attention is also drawn to rule 44.13(1) which provides that the general rule is that if an order does not mention costs no party is entitled to costs relating to that order.

