

PRACTICE DIRECTION

TECHNOLOGY AND CONSTRUCTION COURT CLAIMS

This Practice Direction supplements Part 60

General

1. This practice direction applies to Technology and Construction Court claims ('TCC claims').

TCC claims

- 2.1 The following are examples of the types of claim which it may be appropriate to bring as TCC claims –
 - (a) building or other construction disputes, including claims for the enforcement of the decisions of adjudicators under the Housing Grants, Construction and Regeneration Act 1996;
 - (b) engineering disputes;
 - (c) claims by and against engineers, architects, surveyors, accountants and other specialised advisers relating to the services they provide;
 - (d) claims by and against local authorities relating to their statutory duties concerning the development of land or the construction of buildings;
 - (e) claims relating to the design, supply and installation of computers, computer software and related network systems;
 - (f) claims relating to the quality of goods sold or hired, and work done, materials supplied or services rendered;
 - (g) claims between landlord and tenant for breach of a repairing covenant;
 - (h) claims between neighbours, owners and occupiers of land in trespass, nuisance etc;
 - (i) claims relating to the environment (for example, pollution cases);
 - (j) claims arising out of fires;
 - (k) claims involving taking of accounts where these are complicated; and
 - (l) challenges to decisions of arbitrators in construction and engineering disputes including applications for permission to appeal and appeals.
- 2.2 A claim given as an example in paragraph 2.1 will not be suitable for this specialist list unless it demonstrates the characteristics in rule 60.1(3). Similarly, the examples are not exhaustive and other types of claim may be appropriate to this specialist list.

How to start a TCC claim

- 3.1 TCC claims must be issued in the High Court or in a county court specified in this practice direction.
- 3.2 The claim form must be marked in the top right hand corner 'Technology and Construction Court' below the words 'The High Court, Queen's Bench Division' or 'The _____ County Court'.
- 3.3 TCC claims brought in the High Court outside London may be issued in any district registry, but it is preferable that wherever possible they should be issued in one of the following district registries, in which a TCC judge will usually be available –

Birmingham, Bristol, Cardiff, Chester, Exeter, Leeds, Liverpool, Manchester, Mold, Newcastle upon Tyne and Nottingham.

- 3.4** The county courts in which a TCC claim may be issued are the following –
Birmingham, Bristol, Cardiff, Central London, Chester, Exeter, Leeds, Liverpool, Manchester, Mold, Newcastle upon Tyne and Nottingham.

Applications before proceedings are issued

- 4.1** A party who intends to issue a TCC claim must make any application before the claim form is issued to a TCC judge.
- 4.2** The written evidence in support of such an application must state that the proposed claim is a TCC claim.

Transfer of proceedings

- 5.1** Where no TCC judge is available to deal with a claim which has been issued in a High Court District Registry or one of the county courts listed in paragraph 3.4 above, the claim may be transferred –
- (1) if it has been issued in a District Registry, to another District Registry or to the High Court in London; or
- (2) if it has been issued in a county court, to another county court where a TCC judge would be available.

- 5.2** Paragraph 5.1 is without prejudice to the court's general powers to transfer proceedings under Part 30.

(Rule 30.5(3) provides that an application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list.)

- 5.3** A party applying to a TCC judge to transfer a claim to the TCC specialist list must give notice of the application to the court in which the claim is proceeding, and a TCC judge will not make an order for transfer until he is satisfied that such notice has been given.

Assignment of claim to a TCC judge

- 6.1** When a TCC claim is issued or an order is made transferring a claim to the TCC specialist list, the court will assign the claim to a named TCC judge ('the assigned TCC judge') who will have the primary responsibility for the case management of that claim.
- 6.2** All documents relating to the claim must be marked in similar manner to the claim form with the words 'Technology and Construction Court' and the name of the assigned TCC judge.

Applications

- 7.1** An application should normally be made to the assigned TCC judge. If the assigned TCC judge is not available, or the court gives permission, the application may be made to another TCC judge.
- 7.2** If an application is urgent and there is no TCC judge available to deal with it, the application may be made to any judge who, if the claim were not a TCC claim, would be authorised to deal with the application.

Case management conference

- 8.1** The court will fix a case management conference within 14 days of the earliest of these events –
- (1) the filing of an acknowledgment of service;
 - (2) the filing of a defence; or
 - (3) the date of an order transferring the claim to a TCC.

- 8.2** When the court notifies the parties of the date and time of the case management conference, it will at the same time send each party a case management information sheet and a case management directions form.

(The case management information sheet and the case management directions form are in the form set out in Appendixes A and B to this practice direction.)

- 8.3** Not less than two days before the case management conference, each party must file and serve on all other parties –

- (1) completed copies of the case management information sheet and case management directions form; and
- (2) an application notice for any order which that party intends to seek at the case management conference, other than directions referred to in the case management directions form.

- 8.4** The parties are encouraged to agree directions to propose to the court by reference to the case management directions form.

- 8.5** If any party fails to file or serve the case management information sheet and the case management directions form by the date specified, the court may –

- (1) impose such sanction as it sees fit; and
- (2) either proceed with or adjourn the case management conference.

- 8.6** The directions given at the case management conference will normally include the fixing of dates for –

- (1) any further case management conferences;
- (2) a pre-trial review;
- (3) the trial of any preliminary issues that it orders to be tried; and
- (4) the trial.

Pre-trial review

- 9.1** When the court fixes the date for a pre-trial review it will send each party a pre-trial review questionnaire.

(The pre-trial review questionnaire is in the form set out in Appendix C to this practice direction).

- 9.2** Each party must file and serve on all other parties completed copies of the questionnaire not less than two days before the date fixed for the pre-trial review.

- 9.3** The parties are encouraged to agree directions to propose to the court.

- 9.4** If any party fails to return or exchange the questionnaire by the date specified the court may –

- (1) impose such sanction as it sees fit; and
- (2) either proceed with or adjourn the pre-trial review.

- 9.5** At the pre-trial review, the court will give such directions for the conduct of the trial as it sees fit.

Listing

- 10.** The provisions about listing questionnaires and listing in Part 29 and its practice direction do not apply to TCC claims.

Trial

- 11.1** Whenever possible the trial of a claim will be heard by the assigned TCC judge.
- 11.2** A TCC claim may be tried at any place where there is a TCC judge available to try the claim.

Appendix A

Case management information sheet

To be completed by, or on behalf of,

who is [1st][2nd][3rd][] [Claimant][Defendant]
[Part 20 claimant] in this claim

In the County Court
High Court of Justice
Queen's Bench Division
Technology and Construction Court

Claim No.

Last date for filing
with court office

Assigned judge

Please read the notes on page five before completing this form.

You should note the date by which it must be returned and the name of the court it should be returned to since this may be different from the court where the proceedings were issued.

If you have settled this claim (or if you settle it on a future date) and do not need to have it heard or tried, you must let the court know immediately.

A Settlement

Do you wish there to be a one month stay to attempt to settle the claim, either by informal discussion or by alternative dispute resolution?

☐ Yes

☐ No

B Location of trial

Is there any reason why your claim needs to be heard at a particular court?

☐ Yes

☐ No

If Yes, say which court and why?

C Pre-action protocols

The Construction and Engineering Disputes protocol applies to this claim.

Have you complied with it?

☐ Yes

☐ No

If No, please explain the reasons why on a separate sheet and attach it to this form.

D Case management information

What amount of the claim is in dispute?

£

Is there a counterclaim to this claim?

☐ Yes

☐ No

If Yes, state value of counterclaim

£

Applications

Have you made any application(s) in this claim?

☐ Yes ☐ No

If Yes, what for?

(e.g. summary judgment,
add another party)

For hearing on

Witnesses

So far as you know at this stage, what witnesses of fact do you intend to call at the trial or final hearing including, if appropriate, yourself?

Witness name	Witness to which facts

Experts

Do you wish to use expert evidence at the trial or final hearing?

☐ Yes ☐ No

Have you already copied any experts' report(s) to the other party(ies)?

☐ None yet obtained ☐ Yes ☐ No

Do you consider the case suitable for a single joint expert in any field?

☐ Yes ☐ No

Please list any single joint experts you propose to use and any other experts you wish to rely on. Identify single joint experts with the initials 'SJ' after their name(s).

Expert's name	Field of expertise (eg. orthopaedic surgeon, surveyor, engineer)

Do you want your expert(s) to give evidence orally at the trial or final hearing?

☐ Yes ☐ No

If Yes, give the reasons why you think oral evidence is necessary:

Disclosure

Are there any special considerations concerning disclosure of any documents that should be brought to the attention of the judge?

☐ Yes ☐ No

If Yes, please give details on a separate sheet and attach it to this form.

Transfer

If you think your case is suitable for a transfer to another court or track, say which:

Court: Chancery Division/Queen's Bench Division/another TCC court/Commercial Court/ County Court

Track: Small claims/Fast track

Please give brief reasons for your choice:

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E Trial or final hearing

How long do you estimate the trial or final hearing will take?

____ days ____ hours ____ minutes

Are there any days when you, an expert or an essential witness will not be able to attend court for the trial or final hearing?

☐ Yes ☐ No

If Yes, please give details

Name	Dates not available

F Proposed directions *(Parties should agree directions wherever possible)*

See CPR Part 60 Practice Direction paras 8.4 and 8.6 and The Technology and Construction Court Guide

Have you attached a list of the directions you think appropriate for the management of the claim?

☐ Yes ☐ No

If Yes, have they been agreed with the other party(ies)?

☐ Yes ☐ No

G Costs

Do **not** complete this section if you have suggested your case is suitable for the small claims track **or** you have suggested one of the other tracks and you do not have a solicitor acting for you.

What is your estimate of your costs incurred to date?

£

What do you estimate your overall costs are likely to be?

£

In substantial cases these questions should be answered in compliance with CPR Part 43

H Other information

Have you attached documents to this form?

☐ Yes ☐ No

Have you sent these documents to the other party(ies)?

☐ Yes ☐ No

If Yes, when did they receive them?

Do you intend to make any applications in the immediate future?

☐ Yes ☐ No

If Yes, what for?

Are video link facilities required?

☐ Yes ☐ No

In the space below, set out any other information you consider will help the judge to manage the claim, including any details about IT being used before or at trial

Signed

Date

[Counsel][Solicitor][for the][1st][2nd][3rd][
[Claimant][Defendant][Part 20 claimant]

Please enter your firm's name, reference number and full postal address including (if appropriate) details of DX, fax or e-mail

		if applicable		
		fax no.		
		DX no.		
Tel. no.	Postcode		e-mail	
Your reference no.				

Notes for completing a case management information sheet

- If you fail to return the form by the date given, the judge may give directions or make any order he thinks fit.
- Use a separate sheet if you need more space for your answers marking clearly which section the information refers to. You should write the claim number and the name of the assigned judge on it, and on any other documents you send with the form. Please ensure they are firmly attached to it.

A Settlement

If you think that you and the other party may be able to negotiate a settlement you should tick the 'Yes' box. The court may order a stay, whether or not all the other parties to the claim agree. You should still complete the rest of the form, even if you are requesting a stay. Where a stay is granted it will be for an initial period of one month. You may settle the claim either by informal discussion with the other party or by alternative dispute resolution (ADR). ADR covers a range of different processes which can help settle disputes. More information is available in the Legal Services Commission leaflet 'Alternatives to Court' free from the LSC leaflet line Phone: 0845 3000 343

B Location of trial

Whenever possible the trial of a claim will be heard by the assigned TCC judge. A TCC claim may be tried at any place where there is a TCC judge available to try the claim.

C Pre-action protocols

Before any claim is started, the court expects you to have exchanged information and documents relevant to the claim to assist in settling it, and to have complied with the construction and engineering disputes protocol

D Case management information

Applications

It is important for the court to know if you have already made any applications in the claim, what they are for and when they will be heard. The outcome of the applications may affect the case management directions the court gives.

Witnesses

Remember to include yourself as a witness of fact, if you will be giving evidence.

Experts

Oral or written expert evidence will only be allowed at the trial or final hearing with the court's permission. The judge will decide what permission it seems appropriate to give when the claim is allocated to track. Permission in small claims track cases will only be given exceptionally.

E Trial or final hearing

You should enter only those dates when you, your expert(s) or essential witness(es) will not be able to attend court because of holiday or other commitments.

F Proposed directions

Attach the list of directions, if any, you believe will be appropriate to be given for the management of the claim. Agreed directions on fast and multi-track cases should be based on the forms of standard directions set out in the practice direction to CPR Part 28 and form PF52.

G Costs

Only complete this section if you are a solicitor and have suggested the claim is suitable for allocation to the fast or multi-track.

H Other Information

Answer the questions in this section. Decide if there is any other information you consider will help the judge to manage the claim. Give details in the space provided referring to any documents you have attached to support what you are saying.

Appendix B

CASE MANAGEMENT DIRECTIONS FORM

Action no HT-.....

Delete or amend the following directions, as appropriate to the circumstances of the case.

1. Trial date For the purposes of payment of the trial fee, but for no other purposes, this date is provisional. This date will cease to be provisional and the trial fee will become payable on ... [usually be 2 months before the trial date].

2. Estimated length of trial

3. Directions, if appropriate, (a) for the trial of any preliminary issues or (b) for the trial to be divided into stages ...

4. This action is to be [consolidated] [managed and tried with] action no ... The lead action shall be ... All directions given in the lead action shall apply to both actions, unless otherwise stated.

5. Further statements of case shall be filed and served as follows:

- Defence and any counterclaim by 4 p.m. on ...
- Reply (if any) and defence to counterclaim (if any) by 4 p.m. on ...

6. Permission to make the following amendments ...

7. Disclosure of documents by 5 p.m. on ... [Standard disclosure dispensed with/ limited/ varied as follows ...].
Specific directions in respect of electronic disclosure ...

8. There shall be a Scott Schedule in respect of defects/ items of damage/ other ...

- The column headings shall be as follows ...
- Claimant/ defendant to serve Scott Schedule by 5 p.m. on ...
- Defendant/ claimant to respond to Scott Schedule by 5 p.m. on ...

9. Signed statements of witnesses of fact to be served by 5 p.m. on ...

[Supplementary statements of witnesses of fact to be served by 5 p.m. on ...]

10. The parties have permission to call the following expert witnesses in respect of the following issues:

- ...
- ...
- ...

11. In respect of any expert evidence permitted under paragraph 10:

- Directions for carrying out inspections/ taking samples/ conducting experiments/ performance of calculations shall be ...
- Experts in like fields to hold discussions in accordance with rule 35.12 by ...
- Experts' statements rule 35.12 (3) to be prepared and filed by 5 p.m. on ...
- Experts' reports to be served by 5 p.m. on ...

12. A single joint expert shall be appointed by the parties to report on the following issue(s) The following directions shall govern the appointment of the single joint expert:

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13. The following documents shall be provided to the court electronically or in computer readable form, as well as in hard copy ...

14. A review case management conference shall be held on ... at ...a.m./ p.m. Time allowed ...

15. The pre-trial review shall be held on ... at ... a.m./p.m. Time allowed ...

16. The above dates and time limits may be extended by agreement between the parties. Nevertheless:

- The dates and time limits specified in paragraphs ... may not be extended by more than ... days without the permission of the court.
- The dates specified in paragraph 1 (trial) and paragraph 15 (pre-trial review) cannot be varied without the permission of the court.

16. Liberty to restore.

17. Costs in the case.

18. Claimant's solicitors to draw up this order by ... [Delete if order is to be drawn up by the court.]

Appendix C

Pre-trial review questionnaire

To be completed by, or on behalf of,

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who is [1st][2nd][3rd][] [Claimant]
[Defendant] [Part 20 claimant] in this claim

In the Court	County
High Court of Justice Queen's Bench Division	
Claim No.	
Last date for filing with court office	
Assigned judge	

- The judge will use the information which you and the other party(ies) provide to conduct a pre-trial review
- If you do not complete and return the questionnaire the judge may
 - make an order which leads to your statement of case (claim or defence) being struck out.
 - conduct the pre-trial review without it. You may be ordered to pay (immediately) the other parties' costs of attending.

A Directions complied with

1. Have you complied with all the previous directions given by the court? ☐ Yes ☐ No

2. If no, please explain which directions are outstanding and why

Directions outstanding	Reasons directions outstanding

3. Are any further directions required to prepare the case for trial? ☐ Yes ☐ No

(If no go to section B)

4. If yes, please explain directions required and give reasons

Directions required	Reasons required

TCC/PTR1 Pre-trial review questionnaire (10.05)

B

☐ Yes☐ No

(If no go to section C)

Name of expert	Whether joint expert <i>(please tick, if appropriate)</i>	Field of expertise

☐ Yes☐ No☐ Yes☐ No☐ Yes☐ No☐ Yes☐ No☐ Yes☐ No

(If no go to section C)

[illegible]

9. If yes, what are the names, addresses and fields of expertise of your experts?

Expert 1	Expert 2	Expert 3	Expert 4
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10. Please give details of any dates within the trial period when your expert(s) will not be available.

Name of expert	Dates not available
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C Other witnesses

(If you are not calling other witnesses go to section D)

- 1. How many other witnesses (including yourself) will be giving evidence on your behalf at the trial? (do not include experts - see section B above)**

(Give number)

- 2. What are the names and addresses of your witnesses?**

Witness 1	Witness 2	Witness 3	Witness 4

- 3. Please give details of any dates within the trial period when you or your witnesses will not be available?**

Name of witness	Dates not available

- 4. Are any of the witness statements agreed?**

☐ Yes

☐ No

(If no go to question C6)

- 5. If yes, give the name of the witness and the date of his or her statement**

Name of witness	Date of statement

- 6. Do you or any of your witnesses need any special facilities?**

☐ Yes

☐ No

(If no go to question C8)

- 7. If yes, what are they?**

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- 8. Will any of your witnesses be provided with an interpreter?**

☐ Yes

☐ No

(If no go to section D)

- 9. If yes, say what type of interpreter e.g. language (stating which), deaf/blind etc.**

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D Legal representation

1. Who will be presenting your case at the hearing or trial? ☐ You ☐ Solicitor ☐ Counsel

2. Please give details of any dates within the trial period when the person presenting your case will not be available.

Name	Dates not available
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E Other matters

1. How long do you estimate the whole trial will take, excluding judgment?

Minutes	Hours	Days
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2. What is the estimated number of pages of evidence to be included in the trial bundle?

(please give number)

3. Please provide a case summary and proposals (agreed if possible) for directions to be given.

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Signed

Claimant/defendant or Counsel/Solicitor for the claimant/defendant

Dated

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