

## 49th UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Directions and the amendments to the existing Practice Directions and Glossary 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 \_\_\_\_\_, Parliamentary Under Secretary of State, by the authority of the Lord Chancellor.

The amendments to the Pre-Action Protocol for Judicial Review are approved by the Master of the Rolls as Head of Civil Justice.

The new Practice Directions and amendments to the existing Practice Directions, the Pre-Action Protocol on Judicial Review and the Glossary come into force as follows—	
PD 3—Mesothelioma Claims	6th April 2009
PD7—How to Start Proceedings —The Claim Form	6th April 2009
PD7—Consumer Credit Act 2006—Unfair Relationships	6th April 2009
PD 7—Production Centre	6th April 2009
PD 7—Claims for the Recovery of Taxes	6th April 2009
PD7—Money Claim Online	6th April 2009
PD8—Alternative Procedure for Claims	6th April 2009
PD24—The Summary Disposal of Claims	6th April 2009
PD28—The Fast Track	6th April 2009
PD29—The Multi-Track	6th April 2009
Practice Direction about Costs supplementing Parts 43 to 48	6th April 2009
PD52—Appeals	9th January 2009
PD 54A—Judicial Review	6th April 2009
PD 54B—Judicial Review (Applications for Statutory Review under Section 103A of the Nationality, Immigration and Asylum Act 2002)	6th April 2009
PD54C—Judicial Review (References by the Legal Services Commission)	6th April 2009
PD54D— Judicial Review (Administrative Court (Venue))	6th April 2009
PD 55—Possession Claims	6th April 2009
PD64—Applications to the Court for Directions by Trustees in relation to the administration of the Trust	6th April 2009

PD70—Enforcement of Judgments and Orders	6th April 2009
PD75—Traffic Enforcement	6th April 2009
PD—Devolution Issues	6th April 2009
PD—Pre-Action Conduct	6th April 2009
Pre-Action Protocol for Judicial Review	6th April 2009
The Glossary	6th April 2009

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The Right Honourable Sir Anthony Clarke  
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:

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Parliamentary Under Secretary of State  
Ministry of Justice

### **PRACTICE DIRECTION (MESOTHELIOMA CLAIMS) SUPPLEMENTING PART 3**

In paragraph 9, after “strict adherence to” insert “Practice Direction (Pre-Action Conduct) and”.

### **PRACTICE DIRECTION (HOW TO START PROCEEDINGS - THE CLAIM FORM) SUPPLEMENTING PART 7**

- (1) In paragraph 2.1, for “£15,000” substitute “£25,000”.
- (2) In paragraph 3.3, for “his” substitute “the”.
- (3) In paragraph 3.6(1), for “£15,000” substitute “£25,000”.

- (4) In paragraph 3.7, for “complies” substitute “comply”.
- (5) In the parenthesis below paragraph 3.9, for “The Costs Practice Direction” substitute “Section 19 of the Costs Practice Direction”.
- (6) In paragraph 4.1(4), for “his” substitute “each party’s”.
- (7) In paragraph 5B.2 for “shall” substitute “must”.
- (8) In the parenthesis below paragraph 5B.3, for “Paragraph” substitute “paragraph”.
- (9) In paragraph 5C.1(2), for “but need not himself be” substitute “even if not personally”.
- (10) In paragraph 5C.1(3), for “his” substitute “that individual’s”.
- (11) In paragraph 6.1, for “particulars of claim may be served” substitute “they may be served”.
- (12) Omit the parenthesis below paragraph 7.3.

**PRACTICE DIRECTION (CONSUMER CREDIT ACT 2006 – UNFAIR RELATIONSHIPS) SUPPLEMENTING PART 7**

- (1) In paragraph 3.1—
  - (a) omit sub-paragraph (5A); and
  - (b) in sub-paragraph 6(b) omit “of the Act”.
- (2) In paragraph 10.2—
  - (a) omit “his”;
  - (b) for “of the service” substitute “of service”; and
  - (c) omit “on him”.
- (3) Omit paragraph 10.2A.
- (4) For paragraph 10.3 substitute—

“10.3 A debtor or surety (as the case may be) who serves a notice under paragraph 10.2 will be treated as having filed a defence for the purposes of the Consumer Credit Act procedure.”.

## **PRACTICE DIRECTION (PRODUCTION CENTRE) SUPPLEMENTING PART 7**

For the Practice Direction (Production Centre) supplementing Part 7 substitute the Practice Direction as set out in **Annex A**.

## **PRACTICE DIRECTION (CLAIMS FOR THE RECOVERY OF TAXES) SUPPLEMENTING PART 7**

- (1) In the heading to the Practice Direction, after “Taxes” insert “and Duties”.
- (2) In paragraph 1.1(e), for “.” substitute “,”.
- (3) In paragraph 1.1 after (e) insert—
  - “(f) student loan repayments deducted by and recoverable from an employer under Part IV of the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944),
  - (g) Value added tax and interest and surcharges thereon,
  - (h) Insurance premium tax and interest and penalties thereon,
  - (i) Stamp duty land tax and interest and penalties thereon,
  - (j) the following environmental taxes—
    - (i) landfill tax and interest and penalties thereon,
    - (ii) aggregates levy and interest and penalties thereon, and
    - (iii) climate change levy and interest and penalties thereon,
  - (k) the following duties of customs and excise—
    - (i) amusement machine licence duty and penalties thereon,
    - (ii) air passenger duty and interest and penalties thereon,
    - (iii) beer duty and penalties thereon,
    - (iv) bingo duty and penalties thereon,

- (v) cider and perry duty,
- (vi) excise and spirits duty,
- (vii) excise wine duty,
- (viii) gaming duty and penalties thereon,
- (ix) general betting duty,
- (x) lottery duty and penalties thereon,
- (xi) REDS (registered excise dealers and shippers) duty,
- (xii) road fuel duty and penalties thereon,
- (xiii) tobacco duty, and
- (xiv) wine and made-wine duty.”.

(4) For the parenthesis below paragraph 3.1 substitute—

“(Section 25A(1) and (2) of the Commissioners for Revenue and Customs Act 2005 (“the 2005 Act”) provides that a certificate of an officer of Revenue and Customs that, to the best of that officer’s knowledge and belief, a sum payable to the Commissioners under or by virtue of an enactment or by virtue of a contract settlement (within the meaning of section 25(6) of the 2005 Act) has not been paid, is sufficient evidence that the sum mentioned in the certificate is unpaid.)”.

## **PRACTICE DIRECTION (MONEY CLAIM ONLINE) SUPPLEMENTING PART 7**

For the Practice Direction (Money Claim Online) supplementing Part 7 substitute the Practice Direction as set out in **Annex B**.

## **PRACTICE DIRECTION (ALTERNATIVE PROCEDURE FOR CLAIMS) SUPPLEMENTING PART 8**

(1) In the table following paragraph 9.4, after—

“Proceedings under the	Paragraph	Chancery”,
Financial Services and Markets	21	
Act 2000		

insert—

“Application for an injunction	Paragraph	Queen’s
under section 12 or 26 of the	20	Bench”.
Energy Act 2008		

- (2) For the heading above paragraph 20.1 substitute “Application for injunction to prevent environmental harm or unlicensed activities”.
- (3) In paragraph 20.1—
  - (a) in sub-paragraph (2), after “1990;” omit “or”;
  - (b) in sub-paragraph (3), for “1990.” substitute “1990; or”; and
  - (c) after sub-paragraph (3) insert—
    - “(4) section 12 or 26 of the Energy Act 2008.”.
- (4) In paragraph 22.3, after “application.” insert —  
“Practice Direction 54D (Administrative Court (Venue)) applies to applications under this paragraph.”.

#### **PRACTICE DIRECTION (THE SUMMARY DISPOSAL OF CLAIMS) SUPPLEMENTING PART 24**

In paragraph 2(6), after “comply with” insert “Practice Direction (Pre-Action Conduct) or”.

#### **PRACTICE DIRECTION (THE FAST TRACK) SUPPLEMENTING PART 28**

- (1) In paragraph 3.2, after “the extent to which” insert “Practice Direction (Pre-Action Conduct) or”.
- (2) In paragraph 3.13(2), after “is informed that”—
  - (a) omit “a”; and
  - (b) insert “Practice Direction (Pre-Action Conduct) or any”.

#### **PRACTICE DIRECTION (THE MULTI-TRACK) SUPPLEMENTING PART 29**

In paragraph 4.2, after “the extent to which” insert “Practice Direction (Pre-Action Conduct)”.

#### **PRACTICE DIRECTION ABOUT COSTS SUPPLEMENTING PARTS 43 TO 48**

- (1) In paragraph 4.6(7), after “including documentation”—
  - (a) omit “relating to”; and

- (b) insert “necessary to comply with Practice Direction (Pre-Action Conduct) or a relevant”.

(2) After paragraph 19.2(4) insert the following parenthesis—  
“(Practice Direction (Pre-Action Conduct) provides that a party should inform any other party as soon as possible about a funding arrangement entered into prior to the start of proceedings.)”.

(3) Omit paragraph 19.2(5).

(4) After paragraph 23.18 insert—

### ***“SECTION 23A COSTS CAPPING ORDERS***

#### When to make an application

23A.1 The court will make a costs capping order only in exceptional circumstances.

23A.2 An application for a costs capping order must be made as soon as possible, preferably before or at the first case management hearing or shortly afterwards. The stage which the proceedings have reached at the time of the application will be one of the factors the court will consider when deciding whether to make a costs capping order.

#### Estimate of costs

23A.3 The estimate of costs required by rules 44.19 and 44.20(2) must be in the form illustrated in Precedent H in the Schedule of Costs Precedents annexed to this Practice Direction.

#### Schedule of costs

23A.4 The schedule of costs referred to in rule 44.19(3)—

- (a) must set out—
  - (i) each sub-heading as it appears in the applicant’s estimate of costs (column 1);
  - (ii) alongside each sub-heading, the amount claimed by the applicant in the applicant’s estimate of costs (column 2); and

- (iii) alongside the figures referred to in sub-paragraph (ii) the amount that the respondent proposes should be allowed under each sub-heading (column 3); and
- (b) must be supported by a statement of truth.

#### Assessing the quantum of the costs cap

23A.5 When assessing the quantum of a costs cap, the court will take into account the factors detailed in rule 44.5 and the relevant provisions supporting that rule in this Practice Direction. The court may also take into account when considering a party's estimate of the costs they are likely to incur in the future conduct of the proceedings a reasonable allowance on costs for contingencies.”.

### **PRACTICE DIRECTION (APPEALS) SUPPLEMENTING PART 52**

- (1) For paragraph 17.3 and the heading to that paragraph, substitute—  
**“Filing of appellant’s notice**  
17.3 Subject to paragraph 17.4A, the appellant must file the appellant’s notice at the appeal court within 28 days after the date of the decision of the lower court being appealed.”.
- (2) After paragraph 17.4 insert—  
“17.4A (1) Where the appellant wishes to appeal against a decision of the Administrative Appeals Chamber of the Upper Tribunal, the appellant’s notice must be filed within 42 days of the date on which the Upper Tribunal’s decision on permission to appeal to the Court of Appeal is given.  
  
(2) Where the appellant wishes to appeal against a decision of any other Chamber of the Upper Tribunal, the appellant’s notice must be filed within 28 days of the date on which the Upper Tribunal’s decision on permission to appeal to the Court of Appeal is given.”.
- (3) In paragraph 17.5(1) for “ In addition” substitute “Subject to sub-paragraph (1A), in addition”.



- (4) After paragraph 17.5(1) insert—
  - “(1A) Sub-paragraph (1) does not apply to an appeal against a decision of the Upper Tribunal.”.
- (5) In the table in paragraph 20.3, omit the entries—
  - (a) “Social Security Commissioners 21.5”; and
  - (b) “Pension Appeal Tribunal Act 1943 22.5”.
- (6) In paragraph 21.4, after “on the court” insert “or the Upper Tribunal”.
- (7) Omit paragraph 21.5, the heading to that paragraph and the parenthesis following sub-paragraph 21.5(5).
- (8) Omit paragraph 22.5 and the heading to that paragraph.

#### **AMENDMENTS TO PRACTICE DIRECTION PART 54 (JUDICIAL REVIEW)**

- (1) For the title to the Practice Direction substitute—

“Practice Direction 54A – Judicial Review”.
- (2) After paragraph 2.1 insert the parenthesis—

“(Practice Direction 54D (Administrative Court (Venue)) contains provisions about where a claim for judicial review may be started, administered and heard.)”.
- (3) Omit paragraphs 2.2, 2.3, 2.4, 3.1 and 3.2.
- (4) In paragraph 5.4(1), for “Government of Wales Act 1998” substitute “Government of Wales Act 2006”.
- (5) For paragraph 5.5 substitute—

“5.5 In this practice direction ‘devolution issue’ has the same meaning as in paragraph 1, Schedule 9 to the Government of Wales Act 2006, paragraph 1, Schedule 10 to the Northern Ireland Act 1998; and paragraph 1, Schedule 6 to the Scotland Act 1998.”.
- (6) Omit paragraph 8.3.

**PRACTICE DIRECTION SUPPLEMENTING PART 54 (APPLICATIONS FOR STATUTORY REVIEW UNDER SECTION 103A OF THE NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002)**

For the title to the Practice Direction substitute—

“Practice Direction 54B - Applications for Statutory Review under Section 103A of the Nationality, Immigration and Asylum Act 2002”.

**PRACTICE DIRECTION SUPPLEMENTING PART 54 (REFERENCES BY THE LEGAL SERVICES COMMISSION)**

For the title to the Practice Direction substitute—

“Practice Direction 54C - References by the Legal Services Commission”.

**PRACTICE DIRECTION 54D (ADMINISTRATIVE COURT (VENUE)) SUPPLEMENTING PART 54**

Insert the new Practice Direction 54D (Administrative Court (Venue)) supplementing Part 54 as set out in **Annex C**.

**PRACTICE DIRECTION (POSSESSION CLAIMS) SUPPLEMENTING PART 55**

For paragraph 10.8 substitute—

“10.8 Rules 23.7(service of a copy of an application notice) and 23.10 (right to set aside or vary an order made without service of the application notice) and paragraphs 2.3, 2.4 and 2.5 of the Practice Direction supplementing Part 23 (dealing with applications without a hearing) do not apply to an application under this Section.”.

**PRACTICE DIRECTION (APPLICATIONS TO THE COURT FOR DIRECTIONS BY TRUSTEES IN RELATION TO THE ADMINISTRATION OF A TRUST) SUPPLEMENTING PART 64**

In paragraph 7.5—

- (a) after “state whether (i)” insert “ the Practice Direction (Pre-Action Conduct) or”; and
- (b) for “followed” substitute “complied with”.

## **PRACTICE DIRECTION (ENFORCEMENT OF JUDGMENTS AND ORDERS) SUPPLEMENTING PART 70**

(1) For paragraph 4 and the heading to that paragraph, substitute—

### **“Enforcement of decisions of bodies other than the High Court and county courts and compromises enforceable by enactment**

4.1 The information referred to in rule 70.5(2A) must—

- (a) be included in practice form N322B;
- (b) specify the statutory provision under which enforcement or the recovery of a sum of money is sought;
- (c) state the name and address of the person against whom enforcement or recovery is sought;
- (d) where the decision or compromise requires that person to pay a sum of money, state the amount which remains unpaid; and
- (e) confirm that, where a sum of money is being recovered pursuant to a compromise, the compromise is not a conditional compromise.

4.2 An application under rule 70.5(3) for an order to enforce a decision or compromise must be made by filing an application notice in practice form N322A.

4.3 The application notice must state—

- (a) the name and address of the person against whom the order is sought;
- (b) how much remains unpaid or what obligation remains to be performed; and
- (c) where the application relates to a conditional compromise, details of what under the compromise the applicant is required to do and has done under the compromise in addition to discontinuing or not starting proceedings.

4.4 Where—

- (a) the application relates to a conditional compromise; and
- (b) the application notice is served by the applicant on the respondent, the applicant must file a certificate of service with the court within 7 days of service of the application notice.”.

(2) For the title to paragraph 5, substitute—

**“Registration of decisions in the High Court for enforcement – rule 70.5(8)”.**

**PRACTICE DIRECTION (TRAFFIC ENFORCEMENT) SUPPLEMENTING PART 75**

(1) In paragraph 6.1 omit “at a hearing”.

(2) In paragraph 6.2—

- (1) for “75.5” substitute “75.5A”; and
- (2) omit “paragraphs (2) and (3)”.

**PRACTICE DIRECTION – DEVOLUTION ISSUES**

(1) For paragraph 14.1 and the heading to that paragraph substitute—

***“Judicial review proceedings***

14.1 Practice Direction 54D contains provisions about where judicial review proceedings may be started in the Administrative Court.”.

(2) Omit paragraph (3) of Annex 2 to the Practice Direction.

**PRACTICE DIRECTION (PROTOCOLS)**

For the Practice Direction (Protocols) substitute Practice Direction (Pre-Action Conduct) as set out in **Annex D**.

**AMENDMENTS TO PRE- ACTION PROTOCOL FOR JUDICIAL REVIEW**

- (1) In paragraph 3.3, for “([www.clsdirect.org.uk/legalhelp/leaflet23.jsp](http://www.clsdirect.org.uk/legalhelp/leaflet23.jsp))” substitute “([www.clsdirect.org.uk](http://www.clsdirect.org.uk))”.
- (2) In Annex A, Section 2—
- (a) in the first bullet point, for “Immigration and Nationality Directorate” substitute “UK Border Agency”;
- (b) in the second bullet point, for—  
“Policy and Legal Directorate  
Legal Services Commission  
85 Grays Inn Road  
London WC1X 8TX”  
substitute—  
“Legal Director  
Corporate Legal Team  
Legal Services Commission  
4 Abbey Orchard Street  
London SW1P 2BS.”; and
- (c) in the fourth bullet point, for “dapartment” substitute “department”.

## **GLOSSARY**

For the definition of Pre-Action Protocol substitute—

“Statements of best practice about pre-action conduct which have been approved by the Head of Civil Justice and are listed in Practice Direction (Pre-Action Conduct).”.

## Annex A

### Practice Direction – Production Centre

THIS PRACTICE DIRECTION SUPPLEMENTS CPR RULE 7.10

#### Contents of this Practice Direction

General	Paragraph 1
Claims which may not be issued through the Centre	Paragraph 2
Centre users	Paragraph 3
The Code of Practice	Paragraph 4
Other modifications to the Civil Procedure Rules	Paragraph 5

#### General

1.1 In this Practice Direction—

“the Centre” means the Production Centre;

“Centre user” means a person who is for the time being permitted to start a claim through the Centre, and includes a legal representative acting for such a person;

“officer” means the court officer in charge of the Centre or another officer of the Centre acting on the former’s behalf;

“national creditor code” means the number or reference allotted to a Centre user by the officer;

“Code of Practice” means any code of practice which may at any time be issued by Her Majesty’s Courts Service relating to the discharge by the Centre of its functions and the way in which a Centre user is to conduct business with the Centre; and

“data” means any information which is required to be given to the court or which is to be contained in any document to be sent to the court or to any party.

1.2 For any purpose connected with the exercise of its functions, the Centre will be treated as part of the office of the court whose name appears on the claim form to which the functions relate, or in whose name the claim form is requested to be issued, and the officer will be treated as an officer of that

court.

- 1.3 (1) The functions of the Centre include the provision of a facility which, through the use of information technology, enables a Centre user to have claim forms issued and served, whether or not those claim forms are to be treated as issued in the Northampton County Court or in another county court.
- (2) If a Centre user files claim forms in the name of Northampton County Court, the functions of the Centre also include—
- (a) the handling of defences and admissions;
  - (b) the entry of judgment in default, on admission, on acceptance, or on determination;
  - (c) the registration of judgments;
  - (d) the issue of warrants of execution;
  - (e) where the defendant is an individual, the transfer to the defendant's home court of any case that is to continue following the filing of a defence or where a hearing is required before judgment; or, where the defendant is not an individual, the transfer to the court for the area of the claimant's, or where legally represented, the claimant's legal representative's address; and
  - (f) the transfer to the defendant's home court of any case for the questioning of the defendant pursuant to an order for information under Part 71 or where enforcement of a judgment (other than by warrant of execution, charging order or third party debt order) is to follow.
- 1.4 (1) Where the officer is to take any step, any rule or practice direction which requires a document to be filed before such step is taken will be treated as complied with if the data which that document would contain are delivered to the Centre in computer readable form in accordance with the Code of Practice.
- (2) Data relating to more than one case may be included in a single document or delivery of data.

- (3) Rules 6.4(3) and 6.21(4)(copies of documents to be served by the court) do not apply to any document which is to be produced by electronic means from data supplied by a Centre user.
- (4) The practice direction supplementing Part 22 (statements of truth) is modified as follows—
  - (a) a single statement of truth may accompany each batch of requests to issue claim forms and may be in electronic form;
  - (b) the form of such a statement must be: “I believe that the facts stated in the attached claim forms are true.”; and
  - (c) the signature of the appropriate person (as to which see paragraph 3 of the practice direction supplementing Part 22) may be in electronic form.

### **Claims which may not be issued through the Centre**

- 2.1 The Centre will not issue any claim form which is to be issued in the High Court.
- 2.2 The Centre will only issue a claim form if the claim is for a specified sum of money less than £100,000.
- 2.3 The Centre will not issue any of the following types of claim—
  - (1) a claim against more than two defendants;
  - (2) a claim against two defendants where a different sum is claimed against each of them;
  - (3) a claim against the Crown;
  - (4) a claim for an amount in a foreign currency;
  - (5) a claim where either party is known to be a child or protected party within Part 21;
  - (6) a claim where the claimant is a legally assisted person within the meaning of the Legal Aid Act 1988;
  - (7) a claim where the defendant’s address for service as it appears on the claim form is not in England and Wales;
  - (8) a claim which is to be issued under Part 8.

### **Centre users**

- 3.1 Only a Centre user may start or conduct claims through the Centre.



- 3.2 The officer may permit any person to be a Centre user.
- 3.3 The officer may withdraw the permission for any person to be a Centre user.
- 3.4 A Centre user must comply with the provisions of the Code of Practice in dealing with the Centre.
- 3.5 The officer will allot a national creditor code to each Centre user.

### **The Code of Practice**

- 4.1 The Code of Practice will contain provisions designed to ensure that the Centre can discharge its functions efficiently, and it may in particular provide for—
- (1) the forms of magnetic media that may be used;
  - (2) the circumstances in which data may or must be supplied in magnetic form;
  - (3) the circumstances in which data may or must be supplied in a document and the form that such a document must take;
  - (4) how often data may be supplied;
  - (5) the numbering of cases and data relating to cases;
  - (6) data to be given to the Centre by the Centre user about cases which have been settled or paid or are otherwise not proceeding; and
  - (7) accounting arrangements and the method of payment of fees.
- 4.2 Her Majesty's Courts Service may change the Code of Practice from time to time.

### **Other modifications to the Civil Procedure Rules**

#### ***Powers of the officer to make orders***

- 5.1 The officer may make the following orders—
- (1) an order to set aside a default judgment where, after that judgment has been entered, the claim form is returned by the Post Office as undelivered;
  - (2) an order to set aside a judgment on application by a Centre user;

- (3) an order to transfer a case to another county court for enforcement or for a judgment debtor to attend court for questioning pursuant to an order for information under CPR Part 71.

***Filing separate particulars of claim***

- 5.2(1) Subject to the sub-paragraphs below, the claimant may serve and file particulars of claim separately from the claim form but the claimant must in the claim form—
- (a) state that the particulars of claim will follow; and
  - (b) include a brief summary of the claim.
- (2) Where the claimant serves the particulars of claim separately from the claim form pursuant to sub-paragraph (1), the claimant must—
- (a) serve the particulars of claim in accordance with rule 7.4(1)(b); and
  - (b) file a certificate of service in form N215 at the Centre within 14 days of service of the particulars of claim on the defendant.
- (3) The claimant must file the particulars of claim at the court to which the proceedings are transferred under paragraph 1.3(2)(e) within 7 days of service of the notice of transfer.
- (4) Where the proceedings are not transferred under paragraph 1.3(2)(e) and remain at the Centre, the claimant is not required to file the particulars of claim unless ordered to do so.

***Procedure on the filing of a defence***

- 5.3(1) This paragraph applies where a Centre user has started a claim in the Northampton County Court and the defendant has filed a defence to the claim or to part of the claim.
- (2) On the filing of the defence the officer will serve a notice on the Centre user requiring the Centre user to state within 28 days whether the claim is to proceed.
- (3) If the Centre user does not notify the officer within the time specified in the notice that the claim is to proceed, the claim will be stayed, and the officer will notify the parties accordingly.

- (4) The proceedings will not be transferred as provided by paragraph 1.3(2)(e) until the Centre user notifies the officer that the claim is to continue.

## **Practice Direction – Money Claim Online**

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 7

### **Contents of this Practice Direction**

General	Paragraph 1
Security	Paragraph 2
Fees	Paragraph 3
Types of claim which may be started using Money Claim Online	Paragraph 4
Starting a claim	Paragraph 5
Particulars of claim and certificate of service	Paragraph 6
Online response	Paragraph 7
Counterclaim	Paragraph 8
Statement of truth	Paragraph 9
Signature	Paragraph 10
Request for judgment or issue of warrant	Paragraph 11
Transfer of claim	Paragraph 12
Viewing the case record	Paragraph 13

### **General**

- 1.1 This practice direction provides for a scheme in which, in the circumstances set out in this practice direction, a request for a claim form to be issued and other specified documents may be filed electronically (“Money Claim Online”).
- 1.2 This practice direction enables claimants—
- (1) to start certain types of county court claims by requesting the issue of a claim form electronically via Her Majesty’s Courts Service website; and
  - (2) where a claim has been started electronically—
    - (a) to file electronically a request for—
      - (i) judgment in default;
      - (ii) judgment on acceptance of an admission of the whole of the amount claimed; or
      - (iii) the issue of a warrant of execution; and
    - (b) to view an electronic record of the progress of the claim.

- 1.3 This practice direction also enables defendants—
- (1) to file electronically—
    - (a) an acknowledgment of service;
    - (b) a part admission;
    - (c) a defence; or
    - (d) a counterclaim (if filed together with a defence); and
  - (2) to view an electronic record of the progress of the claim.
- 1.4 Claims started using Money Claim Online will be issued by Northampton County Court and will proceed in that court unless they are transferred to another court. The address for filing any document, application or request (other than one which is filed electronically in accordance with this practice direction) is Northampton County Court, St Katharine's House, 21–27 St Katharine's Street, Northampton, NN1 2LH, DX 702885 Northampton 7, fax no. 0845 6015889.

### **Security**

2. Her Majesty's Courts Service will take such measures as it thinks fit to ensure the security of steps taken or information stored electronically. These may include requiring users of Money Claim Online—
- (1) to enter a customer identification and password;
  - (2) to provide personal information for identification purposes; and
  - (3) to comply with any other security measures,
- before taking any of the steps mentioned in paragraph 1.2 or 1.3.

### **Fees**

- 3.1 Where this practice direction provides for a fee to be paid electronically, it may be paid by—
- (1) credit card;
  - (2) debit card; or
  - (3) any other method which Her Majesty's Courts Service may permit.
- 3.2 A step may only be taken using Money Claim Online on payment of the prescribed fee. The Civil Proceedings Fees Order 2008 provides that a party may, in certain circumstances, be entitled to a remission or part remission of

a fee prescribed by that Order. Her Majesty's Courts Service website contains guidance as to when this entitlement might arise.

- 3.3 A claimant who wishes to apply for a remission or part remission of fees must not use Money Claim Online and must file the claim form at a court office.

### **Types of claims which may be started using Money Claim Online**

4. A claim may be started using Money Claim Online if it meets all the following conditions—
- (1) the only remedy claimed is a specified amount of money—
    - (a) less than £100,000 (excluding any interest or costs claimed); and
    - (b) in sterling;
  - (2) the procedure under Part 7 is used;
  - (3) the claimant is not—
    - (a) a child or protected party; or
    - (b) funded by the Legal Services Commission;
  - (4) the claim is against—
    - (a) a single defendant; or
    - (b) two defendants, if the claim is for a single amount against each of them;
  - (5) the defendant is not—
    - (a) the Crown; or
    - (b) a person known to be a child or protected party; and
  - (6) the defendant's address for service is within England and Wales.

('Protected party' has the same meaning as in rule 21.1(2).)

### **Starting a claim**

- 5.1 A claimant may request the issue of a claim form by—
- (1) completing and sending an online claim form; and
  - (2) electronically paying the appropriate issue fee,  
at [www.hmcourts-service.gov.uk/online services/mcol](http://www.hmcourts-service.gov.uk/online services/mcol).
- 5.2 Detailed particulars of claim must either be—
- (1) included in the online claim form but must be limited in size to not more than 1080 characters (including spaces); or

- (2) served and filed by the claimant separately from the claim form in accordance with paragraph 6 but the claimant must—
    - (a) state that detailed particulars of claim will follow; and
    - (b) include a brief summary of the claim,in the online claim form in the section headed “particulars of claim”.
- 5.3 When an online claim form is received by the Money Claim Online website, an acknowledgment of receipt will automatically be sent to the claimant. The acknowledgment of receipt does not constitute a notice that the claim form has been issued.
- 5.4 When the court issues a claim form following the submission of an online claim form, the claim is ‘brought’ for the purposes of the Limitation Act 1980 and any other enactment on the date on which the online claim form is received by the court's computer system. The court will keep a record, by electronic or other means, of when online claim forms are received.
- 5.5 When the court issues a claim form, it will—
  - (1) serve a printed version of the claim form on the defendant; and
  - (2) send the claimant notice of issue.
- 5.6 The claim form will have printed on it a unique customer identification number or a password by which the defendant may access details of the claim on Her Majesty’s Courts Service website.
- 5.7 The claim form will be deemed to be served on the fifth day after the claim was issued irrespective of whether that day is a business day or not.  
“Business day” has the same meaning as in rule 6.2(b).

#### **Particulars of claim and certificate of service**

- 6.1. Where the particulars of claim are served by the claimant separately from the claim form pursuant to paragraph 5.2(2), the claimant must—
  - (1) serve the particulars of claim in accordance with rule 7.4(1)(b); and
  - (2) file a certificate of service in form N215 at Northampton County Court within 14 days of service of the particulars of claim on the defendant.

- 6.2 The certificate of service may be filed at the court by sending form N215 by e-mail to [mcolaos@hmcourts-service.gsi.gov.uk](mailto:mcolaos@hmcourts-service.gsi.gov.uk). However, the subject line to the e-mail must contain the claim number.
- 6.3 The claimant must file the particulars of claim at the court to which the proceedings are transferred under paragraph 12.1 or 12.2 within 7 days of service of the notice of transfer by the court.
- 6.4 Where the proceedings are not transferred under paragraph 12.1 or 12.2 and remain at Northampton County Court, the claimant is not required to file the particulars of claim at that court unless ordered to do so.

### **Online response**

- 7.1 A defendant wishing to file—
- (1) an acknowledgment of service of the claim form under Part 10;
  - (2) a part admission under rule 14.5;
  - (3) a defence under Part 15; or
  - (4) a counterclaim (to be filed together with a defence),
- may, instead of filing a written form, do so by completing and sending the relevant online form at [www.hmcourts-service.gov.uk/online services/mcol](http://www.hmcourts-service.gov.uk/online services/mcol).
- 7.2 Where a defendant files an online form—
- (1) a hard copy must not be sent in addition;
  - (2) the form is not filed until it is received by the court, whatever time it is shown to have been sent;
  - (3) an online form received after 4 p.m. will be treated as filed on the next day the court office is open; and
  - (4) where a time limit applies, it remains the responsibility of the defendant to ensure that the online form is filed in time.

### **Counterclaim**

- 8 Where a counterclaim is filed using an online form, any fee payable must be paid to the court to which the claim is transferred under paragraph 12.1 or 12.2.

### **Statement of truth**



- 9.1 Part 22 requires any statement of case to be verified by a statement of truth. This applies to all online forms.
- 9.2 The statement of truth in an online statement of case must be in the form—  
‘[I believe][The claimant believes] that the facts stated in this claim form are true.’; or  
‘[I believe][The defendant believes] that the facts stated in this defence are true.’,  
as appropriate.
- 9.3 Attention is drawn to—
- (1) paragraph 3 of the practice direction supplementing 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.

### **Signature**

- 10 Any provision of the CPR which requires a document to be signed by any person is satisfied by that person entering their name on an online form.

### **Request for judgment or issue of warrant**

- 11.1 If, in a claim started using Money Claim Online—
- (1) the claimant wishes to apply for judgment in default in accordance with Part 12; or
  - (2) the defendant has filed or served an admission of the whole of the claim in accordance with rule 14.4,
- the claimant may request judgment to be entered in default or on the admission (as the case may be) by completing and sending an online request form at [www.hmcourts-service.gov.uk/online services/mcol](http://www.hmcourts-service.gov.uk/online services/mcol).
- 11.2 Where—
- (1) judgment has been entered following a request under paragraph 11.1; and
  - (2) the claimant is entitled to the issue of a warrant of execution without requiring the permission of the court,
- the claimant may request the issue of a warrant of execution by—

- (a) completing and sending an online request form; and
- (b) electronically paying the appropriate fee,  
at [www.hmcourts-service.gov.uk/online-services/mcol](http://www.hmcourts-service.gov.uk/online-services/mcol).

(Order 26 of the County Court Rules ('CCR') contains rules about warrants of execution. Among other matters, CCR Order 26 rule 1 contains restrictions on when a warrant of execution may be issued if the court has made an order for payment of a sum of money by instalments, and CCR Order 26 rule 5 sets out certain circumstances in which a warrant of execution may not be issued without the permission of the court.)

- 11.3 A request under paragraph 11.1 or 11.2 will be treated as being filed—
- (1) on the day the court receives the request, if it receives it before 9a.m. on a working day (which is any day on which the court is open); and
  - (2) otherwise, on the next working day after the court receives the request.

### **Transfer of claim**

- 12.1 Where the defendant is an individual and Northampton County Court is not their home court, the court will transfer the claim to the defendant's home court—
- (1) under rule 13.4, if the defendant applies to set aside or vary judgment;
  - (2) under rule 14.12, if there is to be a hearing for a judge to determine the time and rate of payment;
  - (3) under rule 26.2, if a defence is filed to all or part of the claim; or
  - (4) if either party makes an application which cannot be dealt with without a hearing.

- 12.2 Where the defendant is not an individual, if—

- (1) the claimant's address for service on the claim form is not within the district of Northampton County Court; and
- (2) one of the events mentioned in paragraph 12.1 arises,

the court will transfer the claim to the county court for the district in which the claimant's address for service on the claim form is situated.

### **Viewing the case record**

13.1 A facility will be provided for parties or their legal representatives to view an electronic record of the status of claims started using Money Claim Online.

13.2 The record of each claim will be reviewed and, if necessary, updated at least once each day until the claim is transferred from Northampton County Court.

## **PRACTICE DIRECTION 54D - ADMINISTRATIVE COURT (VENUE)**

**This Practice Direction supplements Part 54.**

### **Contents of this Practice Direction**

Scope and purpose	Paragraph 1
Venue – general provisions	Paragraph 2
Excepted classes of claim	Paragraph 3
Urgent applications	Paragraph 4
Assignment to another venue	Paragraph 5

### **Scope and purpose**

- 1.1 This Practice Direction concerns the place in which a claim before the Administrative Court should be started and administered and the venue at which it will be determined.
- 1.2 This Practice Direction is intended to facilitate access to justice by enabling cases to be administered and determined in the most appropriate location. To achieve this purpose it provides flexibility in relation to where claims are to be administered and enables claims to be transferred to different venues.

### **Venue – general provisions**

- 2.1 The claim form in proceedings in the Administrative Court may be issued at the Administrative Court Office of the High Court at—
- (1) the Royal Courts of Justice in London; or
  - (2) at the District Registry of the High Court at Birmingham, Cardiff, Leeds, or Manchester unless the claim is one of the excepted classes of claim set out in paragraph 3 of this Practice Direction which may only be started and determined at the Royal Courts of Justice in London.

- 2.2 Any claim started in Birmingham will normally be determined at a court in the Midland region (geographically covering the area of the Midland Circuit); in Cardiff in Wales; in Leeds in the North-Eastern Region (geographically covering the area of the North Eastern Circuit); in London at the Royal Courts of Justice; and in Manchester, in the North-Western Region (geographically covering the Northern Circuit).

### **Excepted classes of claim**

- 3.1 The excepted classes of claim referred to in paragraph 2.1(2) are—
- (1) proceedings to which Part 76 or Part 79 applies, and for the avoidance of doubt—
    - (a) proceedings relating to control orders (within the meaning of Part 76);
    - (b) financial restrictions proceedings (within the meaning of Part 79);
    - (c) proceedings relating to terrorism or alleged terrorists (where that is a relevant feature of the claim); and
    - (d) proceedings in which a special advocate is or is to be instructed;
  - (2) proceedings to which RSC Order 115 applies;
  - (3) proceedings under the Proceeds of Crime Act 2002;
  - (4) appeals to the Administrative Court under the Extradition Act 2003;
  - (5) proceedings which must be heard by a Divisional Court; and
  - (6) proceedings relating to the discipline of solicitors.
- 3.2. If a claim form is issued at an Administrative Court office other than in London and includes one of the excepted classes of claim, the proceedings will be transferred to London.

### **Urgent applications**

- 4.1 During the hours when the court is open, where an urgent application needs to be made to the Administrative Court outside London, the application must be made to the judge designated to deal with such applications in the relevant District Registry.

- 4.2 Any urgent application to the Administrative Court during the hours when the court is closed, must be made to the duty out of hours High Court judge by telephoning 020 7947 6000.

### **Assignment to another venue**

- 5.1. The proceedings may be transferred from the office at which the claim form was issued to another office. Such transfer is a judicial act.

- 5.2 The general expectation is that proceedings will be administered and determined in the region with which the claimant has the closest connection, subject to the following considerations as applicable—

- (1) any reason expressed by any party for preferring a particular venue;
- (2) the region in which the defendant, or any relevant office or department of the defendant, is based;
- (3) the region in which the claimant's legal representatives are based;
- (4) the ease and cost of travel to a hearing;
- (5) the availability and suitability of alternative means of attending a hearing (for example, by videolink);
- (6) the extent and nature of media interest in the proceedings in any particular locality;
- (7) the time within which it is appropriate for the proceedings to be determined;
- (8) whether it is desirable to administer or determine the claim in another region in the light of the volume of claims issued at, and the capacity, resources and workload of, the court at which it is issued ;
- (9) whether the claim raises issues sufficiently similar to those in another outstanding claim to make it desirable that it should be determined together with, or immediately following, that other claim; and
- (10) whether the claim raises devolution issues and for that reason whether it should more appropriately be determined in London or Cardiff.

- 5.3 (1) When an urgent application is made under paragraph 4.1 or 4.2, this will not by itself decide the venue for the further administration or determination of the claim.

- (2) The court dealing with the urgent application may direct that the case be

assigned to a particular venue.

(3) When an urgent application is made under paragraph 4.2, and the court does not make a direction under sub-paragraph (2), the claim will be assigned in the first place to London but may be reassigned to another venue at a later date.

- 5.4 The court may on an application by a party or of its own initiative direct that the claim be determined in a region other than that of the venue in which the claim is currently assigned. The considerations in paragraph 5.2 apply.
- 5.5. Once assigned to a venue, the proceedings will be both administered from that venue and determined by a judge of the Administrative Court at a suitable court within that region, or, if the venue is in London, at the Royal Courts of Justice. The choice of which court (of those within the region which are identified by the Presiding Judge of the circuit suitable for such hearing) will be decided, subject to availability, by the considerations in paragraph 5.2.
- 5.6. When giving directions under rule 54.10, the court may direct that proceedings be reassigned to another region for hearing (applying the considerations in paragraph 5.2). If no such direction is given, the claim will be heard in the same region as that in which the permission application was determined (whether on paper or at a hearing).

**“PRACTICE DIRECTION - PRE-ACTION CONDUCT**

**CONTENTS OF THIS PRACTICE DIRECTION**

**SECTION I – INTRODUCTION**

Aims	Paragraph 1
Scope	Paragraph 2
Definitions	Paragraph 3

**SECTION II – THE APPROACH OF THE COURTS**

Compliance	Paragraph 4
Commencement of Pre-Action Protocols	Paragraph 5

**SECTION III - THE PRINCIPLES GOVERNING THE CONDUCT OF  
THE PARTIES IN CASES NOT SUBJECT TO A PRE-ACTION  
PROTOCOL**

Overview of principles	Paragraph 6
Exchanging information before starting proceedings	Paragraph 7
Alternative Dispute Resolution	Paragraph 8

**SECTION IV - REQUIREMENTS THAT APPLY IN ALL CASES**

Specific Provisions	Paragraph 9
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Annex A - Guidance on pre-action procedure where no pre-action protocol applies

Annex B – Information to be provided in debt claims where the claimant is a business and the defendant is an individual

Annex C – Guidance on instructing experts

***SECTION I – INTRODUCTION***



## **1. AIMS**

1.1 The aims of this Practice Direction are to—

- (1) enable parties to settle the issue between them without the need to start proceedings (that is, a court claim); and
- (2) support the efficient management by the court and the parties of proceedings that cannot be avoided.

1.2 These aims are to be achieved by encouraging the parties to—

- (1) exchange information about the issue, and
- (2) consider using a form of Alternative Dispute Resolution (“ADR”).

## **2. SCOPE**

2.1 This Practice Direction describes the conduct the court will normally expect of the prospective parties prior to the start of proceedings.

2.2 There are some types of application where the principles in this Practice Direction clearly cannot or should not apply. These include, but are not limited to, for example—

- (1) applications for an order where the parties have agreed between them the terms of the court order to be sought (“consent orders”);
- (2) applications for an order where there is no other party for the applicant to engage with;
- (3) most applications for directions by a trustee or other fiduciary;
- (4) applications where telling the other potential party in advance would defeat the purpose of the application (for example, an application for an order to freeze assets).

- 2.3 Section II deals with the approach of the court in exercising its powers in relation to pre-action conduct. Subject to paragraph 2.2, it applies in relation to all types of proceedings including those governed by the pre-action protocols that have been approved by the Head of Civil Justice and which are listed in paragraph 5.2 of this Practice Direction.
- 2.4 Section III deals with principles governing the conduct of the parties in cases which are not subject to a pre-action protocol.
- 2.5 Section III of this Practice Direction is supplemented by two annexes aimed at different types of claimant.
- (1) **Annex A** sets out detailed guidance on a pre-action procedure that is likely to satisfy the court in most circumstances where no pre-action protocol or other formal pre-action procedure applies. It is intended as a guide for parties, particularly those without legal representation, in straightforward claims that are likely to be disputed. It is not intended to apply to debt claims where it is not disputed that the money is owed and where the claimant follows a statutory or other formal pre-action procedure.
- (2) **Annex B** sets out some specific requirements that apply where the claimant is a business and the defendant is an individual. The requirements may be complied with at any time between the claimant first intimating the possibility of court proceedings and the claimant's letter before claim.
- 2.6 Section IV contains requirements that apply to all cases including those subject to the pre-action protocols (unless a relevant pre-action protocol contains a different provision). It is supplemented by **Annex C**, which sets out guidance on instructing experts.

### 3. DEFINITIONS

- 3.1 In this Practice Direction together with the Annexes—

- (1) “proceedings” means any proceedings started under Part 7 or Part 8 of the Civil Procedure Rules 1998 (“CPR”);
- (2) “claimant” and “defendant” refer to the respective parties to potential proceedings;
- (3) “ADR” means alternative dispute resolution, and is the collective description of methods of resolving disputes otherwise than through the normal trial process; (see paragraph 8.2 for further information); and
- (4) “compliance” means acting in accordance with, as applicable, the principles set out in Section III of this Practice Direction, the requirements in Section IV and a relevant pre-action protocol. The words “comply” and “complied” should be construed accordingly.

## *SECTION II – THE APPROACH OF THE COURTS*

### **4. COMPLIANCE**

- 4.1 The CPR enable the court to take into account the extent of the parties’ compliance with this Practice Direction or a relevant pre-action protocol (see paragraph 5.2) when giving directions for the management of claims (see CPR rules 3.1(4) and (5) and 3.9(1)(e)) and when making orders about who should pay costs (see CPR rule 44.3(5)(a)).
- 4.2 The court will expect the parties to have complied with this Practice Direction or any relevant pre-action protocol. The court may ask the parties to explain what steps were taken to comply prior to the start of the claim. Where there has been a failure of compliance by a party the court may ask that party to provide an explanation.

#### *Assessment of compliance*

- 4.3 When considering compliance the court will—

- (1) be concerned about whether the parties have complied in substance with the relevant principles and requirements and is not likely to be concerned with minor or technical shortcomings;
- (2) consider the proportionality of the steps taken compared to the size and importance of the matter;
- (3) take account of the urgency of the matter. Where a matter is urgent (for example, an application for an injunction) the court will expect the parties to comply only to the extent that it is reasonable to do so. (Paragraph 9.5 and 9.6 of this Practice Direction concern urgency caused by limitation periods.)

#### *Examples of non-compliance*

4.4 The court may decide that there has been a failure of compliance by a party because, for example, that party has—

- (1) not provided sufficient information to enable the other party to understand the issues;
- (2) not acted within a time limit set out in a relevant pre-action protocol, or, where no specific time limit applies, within a reasonable period;
- (3) unreasonably refused to consider ADR (paragraph 8 in Part III of this Practice Direction and the pre-action protocols all contain similar provisions about ADR); or
- (4) without good reason, not disclosed documents requested to be disclosed.

#### *Sanctions for non-compliance*

4.5 The court will look at the overall effect of non-compliance on the other party when deciding whether to impose sanctions.

4.6 If, in the opinion of the court, there has been non-compliance, the sanctions which the court may impose include—

- (1) staying (that is suspending) the proceedings until steps which ought to have been taken have been taken;
- (2) an order that the party at fault pays the costs, or part of the costs, of the other party or parties (this may include an order under rule 27.14(2)(g) in cases allocated to the small claims track);
- (3) an order that the party at fault pays those costs on an indemnity basis (rule 44.4(3) sets out the definition of the assessment of costs on an indemnity basis);
- (4) if the party at fault is the claimant in whose favour an order for the payment of a sum of money is subsequently made, an order that the claimant is deprived of interest on all or part of that sum, and/or that interest is awarded at a lower rate than would otherwise have been awarded;
- (5) if the party at fault is a defendant, and an order for the payment of a sum of money is subsequently made in favour of the claimant, an order that the defendant pay interest on all or part of that sum at a higher rate, not exceeding 10% above base rate, than would otherwise have been awarded.

## **5. COMMENCEMENT OF PRE-ACTION PROTOCOLS**

5.1 When considering compliance, the court will take account of a relevant pre-action protocol if the proceedings were started after the relevant pre-action protocol came into force.

5.2 The following table sets out the pre-action protocols currently in force and the dates that they came into force—

<b>Pre-Action Protocol</b>	<b>Came into force</b>
Personal Injury	26 April 1999
Clinical Disputes	26 April 1999
Construction and Engineering	2 October 2000
Defamation	2 October 2000
Professional Negligence	16 July 2001
Judicial Review	4 March 2002
Disease and Illness	8 December 2003
Housing Disrepair	8 December 2003
Possession Claims based on rent arrears	2 October 2006
Possession Claims based on Mortgage Arrears etc.	19 November 2008

*SECTION III – THE PRINCIPLES GOVERNING THE CONDUCT OF THE PARTIES  
IN CASES NOT SUBJECT TO A PRE-ACTION PROTOCOL*

**6. OVERVIEW OF PRINCIPLES**

6.1 The principles that should govern the conduct of the parties are that, unless the circumstances make it inappropriate, before starting proceedings the parties should—

- (1) exchange sufficient information about the matter to allow them to understand each other's position and make informed decisions about settlement and how to proceed;
- (2) make appropriate attempts to resolve the matter without starting proceedings, and in particular consider the use of an appropriate form of ADR in order to do so.

6.2 The parties should act in a reasonable and proportionate manner in all dealings with one another. In particular, the costs incurred in complying should be proportionate to the complexity of the matter and any money at stake. The parties must not use this Practice Direction as a tactical device to secure an unfair advantage for one party or to generate unnecessary costs.

## **7. EXCHANGING INFORMATION BEFORE STARTING PROCEEDINGS**

### **7.1 Before starting proceedings—**

- (1) the claimant should set out the details of the matter in writing by sending a letter before claim to the defendant. This letter before claim is not the start of proceedings; and
- (2) the defendant should give a full written response within a reasonable period, preceded, if appropriate, by a written acknowledgment of the letter before claim.

### **7.2 A ‘reasonable period of time’ will vary depending on the matter. As a general guide—**

- (1) the defendant should send a letter of acknowledgment within 14 days of receipt of the letter before claim (if a full response has not been sent within that period);
- (2) where the matter is straightforward, for example an undisputed debt, then a full response should normally be provided within 14 days;
- (3) where a matter requires the involvement of an insurer or other third party or where there are issues about evidence, then a full response should normally be provided within 30 days;
- (4) where the matter is particularly complex, for example requiring specialist advice, then a period of longer than 30 days may be appropriate;
- (5) a period of longer than 90 days in which to provide a full response will only be considered reasonable in exceptional circumstances.

### **7.3 Annex A sets out detailed guidance on a pre-action procedure that is likely to satisfy the court in most circumstances where no pre-action protocol applies and where the claimant does not follow any statutory or other formal pre-action procedure.**

- 7.4 Annex B sets out the specific information that should be provided in a debt claim by a claimant who is a business against a defendant who is an individual.

## **8. ALTERNATIVE DISPUTE RESOLUTION**

- 8.1 Starting proceedings should usually be a step of last resort, and proceedings should not normally be started when a settlement is still actively being explored. Although ADR is not compulsory, the parties should consider whether some form of ADR procedure might enable them to settle the matter without starting proceedings. The court may require evidence that the parties considered some form of ADR (see paragraph 4.4(3)).
- 8.2 It is not practicable in this Practice Direction to address in detail how the parties might decide to resolve a matter. However, some of the options for resolving a matter without starting proceedings are—
- (1) discussion and negotiation;
  - (2) mediation (a form of negotiation with the help of an independent person or body);
  - (3) early neutral evaluation (where an independent person or body, for example a lawyer or an expert in the subject, gives an opinion on the merits of a dispute); or
  - (4) arbitration (where an independent person or body makes a binding decision), many types of business are members of arbitration schemes for resolving disputes with consumers.
- 8.3 The Legal Services Commission has published a booklet on ‘Alternatives to Court’, CLS Direct Information Leaflet 23 ([www.clsdirect.org.uk](http://www.clsdirect.org.uk)) which lists a number of organisations that provide alternative dispute resolution services. The National Mediation Helpline on 0845 603 0809 or at [www.nationalmediationhelpline.com](http://www.nationalmediationhelpline.com) can provide information about mediation.



- 8.4 The parties should continue to consider the possibility of reaching a settlement at all times. This still applies after proceedings have been started, up to and during any trial or final hearing.

#### *SECTION IV – REQUIREMENTS THAT APPLY IN ALL CASES*

### **9. SPECIFIC PROVISIONS**

- 9.1 The following requirements (including Annex C) apply in all cases except where a relevant pre-action protocol contains its own provisions about the topic.

#### **Disclosure**

- 9.2 Documents provided by one party to another in the course of complying with this Practice Direction or any relevant pre-action protocol must not be used for any purpose other than resolving the matter, unless the disclosing party agrees in writing.

#### **Information about funding arrangements**

- 9.3 Where a party enters into a funding arrangement within the meaning of rule 43.2(1)(k), that party should inform the other parties about this arrangement as soon as possible.

(CPR rule 44.3B(1)(c) provides that a party may not recover certain additional costs where information about a funding arrangement was not provided.)

#### **Experts**

- 9.4 Where the evidence of an expert is necessary the parties should consider how best to minimise expense. Guidance on instructing experts can be found in Annex C.

#### **Limitation Periods**

- 9.5 There are statutory time limits for starting proceedings (“the limitation period”). If a claimant starts a claim after the limitation period applicable to that type of

claim has expired the defendant will be entitled to use that as a defence to the claim.

- 9.6 In certain instances compliance may not be possible before the expiry of the limitation period. If, for any reason, proceedings are started before the parties have complied, they should seek to agree to apply to the court for an order to stay (i.e. suspend) the proceedings while the parties take steps to comply.

#### **Notifying the court**

- 9.7 Where proceedings are started the claimant should state in the claim form or the particulars of claim whether they have complied with Sections III and IV of this Practice Direction or any relevant protocol.

## **ANNEX A**

### **Guidance on pre-action procedure where no pre-action protocol or other formal pre-action procedure applies**

#### **1. General**

- 1.1 This Annex sets out detailed guidance on a pre-action procedure that is likely to satisfy the court in most circumstances where no pre-action protocol or other formal pre-action procedure applies. It is intended as a guide for parties, particularly those without legal representation, in straightforward claims that are likely to be disputed. It is not intended to apply to debt claims where it is not disputed that the money is owed and where the claimant follows a statutory or other formal pre-action procedure.

#### **2. Claimant's letter before claim**

- 2.1 The claimant's letter should give concise details about the matter. This should enable the defendant to understand and investigate the issues without needing to request further information. The letter should include—

- (1) the claimant's full name and address;
- (2) the basis on which the claim is made (i.e. why the claimant says the defendant is liable);
- (3) a clear summary of the facts on which the claim is based;
- (4) what the claimant wants from the defendant;
- (5) if financial loss is claimed, an explanation of how the amount has been calculated; and
- (6) details of any funding arrangement (within the meaning of rule 43.2(1)(k) of the CPR) that has been entered into by the claimant.

- 2.2 The letter should also—

- (1) list the essential documents on which the claimant intends to rely;

- (2) set out the form of ADR (if any) that the claimant considers the most suitable and invite the defendant to agree to this;
- (3) state the date by which the claimant considers it reasonable for a full response to be provided by the defendant; and
- (4) identify and ask for copies of any relevant documents not in the claimant's possession and which the claimant wishes to see.

2.3 Unless the defendant is known to be legally represented the letter should—

- (1) refer the defendant to this Practice Direction and in particular draw attention to paragraph 4 concerning the court's powers to impose sanctions for failure to comply with the Practice Direction; and
- (2) inform the defendant that ignoring the letter before claim may lead to the claimant starting proceedings and may increase the defendant's liability for costs.

### **3. Defendant's acknowledgment of the letter before claim**

3.1 Where the defendant is unable to provide a full written response within 14 days of receipt of the letter before claim the defendant should, instead, provide a written acknowledgment within 14 days.

3.2 The acknowledgment—

- (1) should state whether an insurer is or may be involved;
- (2) should state the date by which the defendant (or insurer) will provide a full written response; and
- (3) may request further information to enable the defendant to provide a full response.

3.3 If the date stated under paragraph 3.2(2) of this Annex is longer than the period stated in the letter before claim, the defendant should give reasons why a longer period is needed.

- 3.4 If the defendant (or insurer) does not provide either a letter of acknowledgment or full response within 14 days, and proceedings are subsequently started, then the court is likely to consider that the claimant has not complied.
- 3.5 Where the defendant is unable to provide a full response within 14 days of receipt of the letter before claim because the defendant intends to seek advice then the written acknowledgment should state—
- (1) that the defendant is seeking advice;
  - (2) from whom the defendant is seeking advice; and
  - (3) when the defendant expects to have received that advice and be in a position to provide a full response
- 3.6 A claimant should allow a reasonable period of time of up to 14 days for a defendant to obtain advice.

#### **4. Defendant's full response**

- 4.1 The defendant's full written response should—
- (1) accept the claim in whole or in part; or
  - (2) state that the claim is not accepted.
- 4.2 Unless the defendant accepts the whole of the claim, the response should—
- (1) give reasons why the claim is not accepted, identifying which facts and which parts of the claim (if any) are accepted and which are disputed, and the basis of that dispute;
  - (2) state whether the defendant intends to make a counterclaim against the claimant (and, if so, provide information equivalent to a claimant's letter before claim);
  - (3) state whether the defendant alleges that the claimant was wholly or partly to blame for the problem that led to the dispute and, if so, summarise the facts relied on;

- (4) state whether the defendant agrees to the claimant's proposals for ADR and if not, state why not and suggest an alternative form of ADR (or state why none is considered appropriate);
  - (5) list the essential documents on which the defendant intends to rely;
  - (6) enclose copies of documents requested by the claimant, or explain why they will not be provided; and
  - (7) identify and ask for copies of any further relevant documents, not in the defendant's possession and which the defendant wishes to see.
- 4.3 If the defendant (or insurer) does not provide a full response within the period stated in the claimant's letter before claim (or any longer period stated in the defendant's letter of acknowledgment), and a claim is subsequently started, then the court is likely to consider that the claimant has complied.
- 4.4 If the claimant starts proceedings before any longer period stated in the defendant's letter of acknowledgment, the court will consider whether or not the longer period requested by the defendant was reasonable.

## **5. Claimant's reply**

- 5.1 The claimant should provide the documents requested by the defendant within as short a period of time as is practicable or explain in writing why the documents will not be provided.
- 5.2 If the defendant has made a counterclaim the claimant should provide information equivalent to the defendant's full response (see paragraphs 4.1 to 4.3 above).

## **6. Taking Stock**

- 6.1 In following the above procedure, the parties will have a genuine opportunity to resolve the matter without needing to start proceedings. At the very least, it should be possible to establish what issues remain outstanding so as to narrow the scope of the proceedings and therefore limit potential costs.

- 6.2 If having completed the procedure the matter has not been resolved then the parties should undertake a further review of their respective positions to see if proceedings can still be avoided.

## ANNEX B

### Information to be provided in a debt claim where the claimant is a business and the defendant is an individual

1. Where paragraph 7.4 of the Practice Direction applies the claimant should—
  - (1) provide details of how the money can be paid (for example the method of payment and the address to which it can be sent);
  - (2) state that the defendant can contact the claimant to discuss possible repayment options, and provide the relevant contact details; and
  - (3) inform the defendant that free independent advice and assistance can be obtained from organisations including those listed in the table below.

INDEPENDENT ADVICE ORGANISATIONS			
Organisation	Address	Telephone Number	e-mail Address
National Debtline	Tricorn House 51-53 Hagley Road Edgbaston Birmingham B16 8TP	FREEPHONE  0808 808 4000	<a href="http://www.nationaldebtline.co.uk">www.nationaldebtline.co.uk</a>
Consumer Credit Counselling Service (CCCS)		FREEPHONE  0800 138 1111	<a href="http://www.cccs.co.uk">www.cccs.co.uk</a>
Citizens Advice	Check your local Yellow Pages or Thomson local directory for address and telephone numbers		<a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>
Community Legal		0845 345 4345	<a href="http://www.clsdirect.org.uk">www.clsdirect.org.uk</a>



Advice (formerly Community Legal Services Direct)			
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2. The information set out in paragraph 1 of this Annex may be provided at any time between the claimant first intimating the possibility of court proceedings and the claimant's letter before claim.
3. Where the defendant is unable to provide a full response within the time specified in the letter before claim because the defendant intends to seek debt advice then the written acknowledgment should state—
  - (1) that the defendant is seeking debt advice;
  - (2) who the defendant is seeking advice from; and
  - (3) when the defendant expects to have received that advice and be in a position to provide a full response.
4. A claimant should allow a reasonable period of time of up to 14 days for a defendant to obtain debt advice.
5. But the claimant need not allow the defendant time to seek debt advice if the claimant knows that—
  - (1) the defendant has already received relevant debt advice and the defendant's circumstances have not significantly changed; or
  - (2) the defendant has previously asked for time to seek debt advice but has not done so.

## **ANNEX C**

### **Guidance on instructing experts**

1. The CPR contain extensive provisions which strictly control the use of experts both before and after proceedings are started. These provisions are contained in—
  - (1) CPR Part 35;
  - (2) the Practice Direction supplementing Part 35; and
  - (3) the Protocol for the “Instruction of Experts to give Evidence in Civil Claims” which is annexed to that Practice Direction.
2. Parties should be aware that once proceedings have been started—
  - (1) expert evidence may not be used in court without the permission of the court;
  - (2) a party who instructs an expert will not necessarily be able to recover the cost from another party; and
  - (3) it is the duty of an expert to help the court on the matters within the expert’s scope of expertise and this duty overrides any obligation to the person instructing or paying the expert.
3. Many matters can and should be resolved without the need for advice or evidence from an expert. If an expert is needed, the parties should consider how best to minimise the expense for example by agreeing to instruct—
  - (1) a single joint expert (i.e. engaged and paid jointly by the parties whether instructed jointly or separately); or

- (2) an agreed expert (i.e. the parties agree the identity of the expert but only one party instructs the expert and pays the expert's costs).
4. If the parties do not agree that the nomination of a single joint expert is appropriate, then the party seeking the expert evidence (the first party) should give the other party (the second party) a list of one or more experts in the relevant field of expertise whom the first party would like to instruct.
  5. Within 14 days of receipt of the list of experts, the second party may indicate in writing an objection to one or more of the experts listed. If there remains on the list one or more experts who are acceptable, then the first party should instruct an expert from the list.
  6. If the second party objects to all the listed experts, the first party may then instruct an expert of the first party's own choice. Both parties should bear in mind that if proceedings are started the court will consider whether a party has acted reasonably when instructing (or rejecting) an expert."