

53rd UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Directions and the amendments to the existing Practice Directions 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 the Resolution of Clinical Disputes are approved by the Master of the Rolls as Head of Civil Justice.

The new Practice Directions and amendments to the existing Practice Directions and the Pre-Action Protocol come into force as follows—	
PD2B – Allocation of Cases to Levels of Judiciary	The date on which Part 4 of the Policing and Crime Act 2009 comes into force.
PD8A – Alternative Procedure for Claims	1st October 2010
PD30 - Transfer	1st October 2010
PD31A – Disclosure and Inspection	1st October 2010
PD31B – Disclosure of Electronic Documents	1st October 2010
PD 39B – Court Sittings	1st October 2010
The Costs Practice Direction	1st October 2010
PD 51B – Automatic Orders Pilot Scheme	1st September 2010
PD51D - Defamation Proceedings Costs Management Scheme	1st September 2010
PD51E – County Court Provisional Assessment Pilot Scheme	1st October 2010
PD 52 - Appeals	The date on which Part 4 of the Policing and Crime Act 2009 comes into force.
PD62 - Arbitration	1st October 2010
PD63 – Intellectual Property Claims	1st October 2010

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PD65 – Anti-Social Behaviour and Harassment	The date on which Part 4 of the Policing and Crime Act 2009 comes into force
PD70 – Enforcement of Judgments and Orders	1st October 2010
PD 74A – Enforcement of Judgments in Different Jurisdictions	1st October 2010
PD 74B – European Enforcement Orders	1st October 2010
PD75 - Traffic Enforcement	1st October 2010
PD RSC Order 115 – Restraint Orders and Appointment of Receivers in Connection with Criminal Proceedings and Investigations	1st October 2010
PD – Proceedings under Enactments Relating to Equality	1st October 2010
Pre-Action Protocol for the Resolution of Clinical Disputes	1st October 2010

The Right Honourable The Lord Neuberger of Abbotsbury
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 2B – ALLOCATION OF CASES TO LEVELS OF JUDICIARY

NOT FOR SIGNATURE

1. In paragraph 8.1—
 - (a) in sub-paragraph (b), for “; where” substitute “and”;
 - (b) at the end of sub-paragraph (d)(i), omit “or”;
 - (c) in sub-paragraph (d)(ii), after “1997” for “.” substitute “ ; or” ; and
 - (d) after sub-paragraph (d)(ii) insert—
 - “(iii) sections 34, 40 or 41 of the Policing and Crime Act 2009.”.
2. In paragraph 8.3—
 - (a) after “may” for “not” substitute “only”;
 - (b) after “prison” for “except” substitute “or attach a power of arrest to an injunction or remand a person”; and
 - (c) for “152-157 of the Housing Act 1996” substitute “153C,153D and 154-158 of and Schedule 15 to the Housing Act 1996, sections 36,40-45 and 48 of and Schedule 5 to the Policing and Crime Act 2009”.

The amendments to the Practice Direction are required to implement Part 4 of the Policing and Crime Act 2009. The Committee considered and approved proposed amendments at its meeting on 18th June 2010 (CPR(10)20).

PRACTICE DIRECTION 8A – ALTERNATIVE PROCEDURE FOR CLAIMS

In the table in paragraph 9.4, in the entry relating to “Criminal Procedure and Investigations Act 1996 (Application under section 54(3))”—

- (a) in the column headed “Division”, for “Queen’s Bench” substitute “Administrative Court”; and
- (b) in the column headed “Schedule Rule”, omit the reference “RSC O. 116, r.5(1)”.

This amendment is made as a consequence of the incorporation of RSC O. 116 (The Criminal Procedure and Investigations Act 1996) into Part 77 of the CPR and the provision that all applications to quash an acquittal under that Act should be dealt with by the Administrative Court. The amendment was approved out of Committee in January 2010 (CPRO(10)4).

PRACTICE DIRECTION 30 - TRANSFER

After paragraph 8.9 insert—

“Transfer to or from a patents county court (rule 63.18)

9.1 When deciding whether to order a transfer of proceedings to or from a patents county court the court will consider whether—

- (1) a party can only afford to bring or defend the claim in a patents county court; and
- (2) the claim is appropriate to be determined by a patents county court having regard in particular to—
 - (a) the value of the claim (including the value of an injunction);
 - (b) the complexity of the issues; and
 - (c) the estimated length of the trial.

9.2 Where the court orders proceedings to be transferred to or from a patents county court it may—

- (1) specify terms for such a transfer; and
- (2) award reduced or no costs where it allows the claimant to withdraw the claim.”

The amendments to this Practice Direction follow recommendations from the Intellectual Property Court Users Committee (IPCUC) Working Group and Lord Justice Jackson’s Review of Civil Litigation Costs. The amendments introduce a new streamlined process including capped costs for proceedings in a patents county court. The Committee considered the proposed amendments at its meeting on 18th June 2010 (CPR(10)19). The amendments were approved at its meeting on 9th July 2010 (CPR(10)31).

PRACTICE DIRECTION 31 – DISCLOSURE AND INSPECTION

1. In the title to this Practice Direction, for “Practice Direction 31” substitute “Practice Direction 31A”.
2. For paragraphs 2A.2 to 2A.5 substitute—

“2A.2 Practice Direction 31B contains additional provisions in relation to the disclosure of electronic documents in cases that are likely to be allocated to the multi-track.”.

PRACTICE DIRECTION 31B – DISCLOSURE OF ELECTRONIC DOCUMENTS

After Practice Direction 31A insert the Practice Direction at Annex 1.

PRACTICE DIRECTION 39B – COURT SITTINGS

In paragraph 1.1—

- (a) in sub-paragraph (1)(c), after “which”, insert “, subject to sub-paragraph (3),”.
- (b) after sub-paragraph (2), insert—

“(3) The Easter sitting in 2011 shall begin on Wednesday, 4th May.”

The amendment to the Practice Direction makes provision reflecting the fact that the lateness of Easter in 2011 means that commencing sitting on the second Tuesday after Easter Sunday would effectively deprive the Judges of the benefit of the early May Bank Holiday. The amendment provides for the Easter sitting in 2011 instead to begin on the Wednesday, 4th May. The Committee approved the amendment at its meeting on 9th July 2010 (CPRO(10)12).

COSTS PRACTICE DIRECTION

After paragraph 25B.1 insert—

“**Section 25C – Scale costs for proceedings in a patents county court**

25C.1 Tables A and B set out the maximum amount of scale costs which the court will award for each stage of a claim in a patents county court.

25C.2 Table A sets out the scale costs for each stage of a claim up to determination of liability.

25C.3 Table B sets out the scale costs for each stage of an inquiry as to damages or account of profits.

Table A	
Stage of a claim	Maximum amount of costs
Particulars of claim	£6,125
Defence and counterclaim	£6,125
Reply and defence to counterclaim	£6,125
Reply to defence to counterclaim	£3,000
Attendance at a case management conference	£2,500
Making or responding to an application	£2,500
Providing or inspecting disclosure or product/process description	£5,000
Performing or inspecting experiments	£2,500
Preparing witness statements	£5,000
Preparing experts' report	£7,500
Preparing for and attending trial and judgment	£15,000
Preparing for determination on the papers	£5,000

Table B	
Stage of a claim	Maximum amount of costs
Points of claim	£2,500
Points of defence	£2,500
Attendance at a case management conference	£2,500
Making or responding to an application	£2,500
Providing or inspecting disclosure	£2,500
Preparing witness statements	£5,000

Preparing experts' report	£5,000
Preparing for and attending trial and judgment	£7,500
Preparing for determination on the papers	£2,500"

The amendments to this Practice Direction follow recommendations from the Intellectual Property Court Users Committee (IPCUC) Working Group and Lord Justice Jackson's Review of Civil Litigation Costs. The amendments introduce a new streamlined process including capped costs for proceedings in a patents county court. The Committee considered the proposed amendments at its meeting on 18th June 2010 (CPR(10)19). The amendments were approved at its meeting on 9th July 2010 (CPR(10)31).

PRACTICE DIRECTION 51B – AUTOMATIC ORDERS PILOT SCHEME

In paragraph 1.1B(1)—

- (a) for “year”, substitute “period”;
- (b) for “30th September 2010”, substitute “31st March 2011”.

The amendment to the Practice Direction extends the duration of the Automatic Orders Pilot Scheme by six months, so that the second stage of the pilot period comes to an end on 31 March 2011 rather than 30 September 2010. The Committee approved the amendments at its meeting on 9th July 2010.

PRACTICE DIRECTION 51D – DEFAMATION PROCEEDINGS COSTS MANAGEMENT SCHEME

In paragraph 1.1(1), for “30 September 2010”, substitute “31 March 2011”.

The amendment to the Practice Direction extends the duration of the pilot Defamation Proceedings Costs Management Scheme by six months, so that the pilot period comes to an end on 31 March 2011 rather than 30 September 2010. The amendment was considered out of committee and formally approved at the Committee's meeting on 9th July 2010 (CPR0(10)08).

PRACTICE DIRECTION 51E – COUNTY COURT PROVISIONAL ASSESSMENT PILOT SCHEME

After Practice Direction 51D insert the Practice Direction at Annex 2.

This Practice Direction takes forward one of the recommendations in Sir Rupert Jackson's Review of Civil Costs. It provides for a pilot scheme, to run for a year in three nominated county courts, in which the detailed assessment of lower value bills of costs will be carried out on paper by the costs judge or costs officer. If either party is dissatisfied with this provisional assessment, that party may request an oral hearing; but unless that party then achieves a substantially better result (an increase to 120% of the provisional assessment or a reduction to 80% of it, depending on whether the party requesting the oral hearing is a receiving or paying party), that party will bear the costs of and incidental to the oral hearing. The amendments were approved by the Committee at its meeting on 18th June 2010 (CPR(10)26).

PRACTICE DIRECTION 52 – APPEALS

1. In paragraph 5.1—
 - (a) after “cases” insert “except in an appeal against a decision to refuse to grant an interim injunction under section 41 of the Policing and Crime Act 2009”.
2. In paragraph 5.9—
 - (a) in sub-paragraph (1) for “and (3)” substitute “, (2A) and (3)”;
 - (b) in sub-paragraph (2) after “served” insert “, subject to (2A) below,”; and
 - (c) after sub-paragraph (2) insert—

“(2A) The appellant’s skeleton argument need not be served on any respondents in an appeal against a decision to refuse to grant an interim injunction under section 41 of the Policing and Crime Act 2009.”.

The amendments to the Practice Direction are required to implement Part 4 of the Policing and Crime Act 2009. The Committee considered the proposed amendments at its meeting on the 18th June 20101(CPR(10)20 and approved the amendments.

PRACTICE DIRECTION 62 – ARBITRATION

For paragraphs 12.1 to 12.6 substitute—

“Applications for permission to appeal

12.1 Where a party seeks permission to appeal to the court on a question of law arising out of an arbitration award, the arbitration claim form must, in addition to complying with rule 62.4(1)—

- (1) identify the question of law;
- (2) state the grounds (but not the argument) on which the party challenges the award and contends that permission should be given;
- (3) be accompanied by a skeleton argument in support of the application in accordance with paragraph 12.2; and
- (4) append the award.

12.2 Subject to paragraph 12.3, the skeleton argument—

- (1) must be printed in 12 point font, with 1½ line spacing;
- (2) should not exceed 15 pages in length; and
- (3) must contain an estimate of how long the court is likely to need to deal with the application on the papers.

12.3 If the skeleton argument exceeds 15 pages in length the author must write to the court explaining why that is necessary.

12.4 Written evidence may be filed in support of the application only if it is necessary to show (insofar as that is not apparent from the award itself)—

- (1) that the determination of the question raised by the appeal will substantially affect the rights of one or more of the parties;
- (2) that the question is one which the tribunal was asked to determine;
- (3) that the question is one of general public importance;
- (4) that it is just and proper in all the circumstances for the court to determine the question raised by the appeal.

Any such evidence must be filed and served with the arbitration claim form.

12.5 Unless there is a dispute whether the question raised by the appeal is one which the tribunal was asked to determine, no arbitration documents may be put before the court other than—

- (1) the award; and
- (2) any document (such as the contract or the relevant parts thereof) which is referred to in the award and which the court needs to read to determine a question of law arising out of the award.

In this Practice Direction “arbitration documents” means documents adduced in or produced for the purposes of the arbitration.

12.6 A respondent who wishes to oppose an application for permission to appeal must file a respondent’s notice which—

- (1) sets out the grounds (but not the argument) on which the respondent opposes the application; and
- (2) states whether the respondent wishes to contend that the award should be upheld for reasons not expressed (or not fully expressed) in the award and, if so, states those reasons (but not the argument).

- 12.7** The respondent's notice must be filed and served within 21 days after the date on which the respondent was required to acknowledge service and must be accompanied by a skeleton argument in support which complies with paragraph 12.2 above.
- 12.8** Written evidence in opposition to the application should be filed only if it complies with the requirements of paragraph 12.4 above. Any such evidence must be filed and served with the respondent's notice.
- 12.9** The applicant may file and serve evidence or argument in reply only if it is necessary to do so. Any such evidence or argument must be as brief as possible and must be filed and served within 7 days after service of the respondent's notice.
- 12.10** If either party wishes to invite the court to consider arbitration documents other than those specified in paragraph 12.5 above the counsel or solicitor responsible for settling the application documents must write to the court explaining why that is necessary.
- 12.11** If a party or its representative fails to comply with the requirements of paragraphs 12.1 to 12.9 the court may penalise that party or representative in costs.
- 12.12** The court will normally determine applications for permission to appeal without an oral hearing but may direct otherwise, particularly with a view to saving time (including court time) or costs.
- 12.13** Where the court considers that an oral hearing is required, it may give such further directions as are necessary.
- 12.14** Where the court refuses an application for permission to appeal without an oral hearing, it will provide brief reasons.
- 12.15** The bundle for the hearing of any appeal should contain only the claim form, the respondent's notice, the arbitration documents referred to in paragraph 12.5, the order granting permission to appeal and the skeleton arguments.”.

The amendment to the Practice Direction makes provision to control the amount of material submitted in connection with the permission to appeal process in arbitration appeals, with a view to ensuring as far as possible that applications are presented in a manner which allows for speedy determination. The Committee considered the amendments at its meeting on 18 June 2010 (CPR10(23)), and subsequently considered a revised version out of committee and formally approved the amendments at its meeting on 9th July 2010.

PRACTICE DIRECTION 63 – INTELLECTUAL PROPERTY CLAIMS

1. In the table of contents, after “Costs Para. 26.1” insert—

SECTION V – PROVISIONS ABOUT PROCEEDINGS IN A PATENTS COUNTY COURT	
Scope of Section V	Para. 27.1
Claims for infringement or challenge to validity	Para. 28.1
Case Management (rule 63.23)	Para. 29.1
Applications (rule 63.25)	Para. 30.1
Determination of the claim	Para. 31.1

2. In paragraph 1.1—
 - (a) for “four” substitute “five”; and
 - (b) after “• Section IV – Provisions about final orders” insert—
 - “• Section V – Provisions about proceedings in a patents county court”.
3. In paragraph 17.1, for “A claim” substitute “Except for claims started in a patents county court, a claim”.
4. After paragraph 26.2 insert—

“SECTION V – PROVISIONS ABOUT PROCEEDINGS IN A PATENTS COUNTY COURT

Scope of Section V

27.1 Except as provided for in paragraph 27.2 this Practice Direction, as modified by this Section, applies to claims in a patents county court.

27.2 Paragraphs 5.10 to 9.1 and paragraph 9.2(3) do not apply to a claim in a patents county court.

Claims for infringement or challenge to validity

28.1 Paragraph 4.2(2) is modified so that the grounds for invalidity must be included in the statement of case and not in a separate document.

Case management (rule 63.23)

29.1 At the case management conference referred to in rule 63.23 the court may order any of the following—

- (1) specific disclosure;
- (2) a product or process description (or a supplementary product or process description where one has already been provided);
- (3) experiments;
- (4) witness statements;
- (5) experts' reports;
- (6) cross examination at trial;
- (7) written submissions or skeleton arguments.

29.2 The court will make an order under paragraph 29.1 only —

- (1) in relation to specific and identified issues; and
- (2) if the court is satisfied that the benefit of the further material in terms of its value in resolving those issues appears likely to justify the cost of producing and dealing with it.

Applications (rule 63.25)

30.1 Where the court considers that a hearing is necessary under rule 63.25(3) the court will conduct a hearing by telephone or video conference in accordance with paragraphs 6.2 to 7 of Practice Direction 23A unless it considers that a

hearing in person would be more cost effective for the parties or is otherwise necessary in the interests of justice.

Determination of the claim

- 31.1** Where possible, the court will determine the claim solely on the basis of the parties' statements of case and oral submissions.
- 31.2** The court will set the timetable for the trial and will, so far as appropriate, allocate equal time to the parties. Cross-examination will be strictly controlled by the court. The court will endeavour to ensure that the trial lasts no more than 2 days."

The amendments to this Practice Direction follow recommendations from the Intellectual Property Court Users Committee (IPCUC) Working Group and Lord Justice Jackson's Review of Civil Litigation Costs. The amendments introduce a new streamlined process including capped costs for proceedings in a patents county court. The Committee considered the proposed amendments at its meeting on 18th June 2010 (CPR(10)19). The amendments were approved at its meeting on 9th July 2010 (CPR(10)31).

PRACTICE DIRECTION 65 – ANTI-SOCIAL BEHAVIOUR AND HARASSMENT

1. At the beginning of Practice Direction 65 insert the following table of contents—

Contents of this Practice Direction	
Title	
SECTION I – HOUSING ACT 1996 AND POLICING AND CRIME ACT 2009 INJUNCTIONS	
Issuing the claim	Para. 1.1
Hearings	Para. 1.2
Warrant of arrest on an application under section 155(3) of the 1996 Act or section 44(2) of the 2009 Act	Para. 2.1
Application for bail	Para. 3.1
Remand for medical examination and report	Para. 4.1

SECTION II – APPLICATIONS FOR POWER OF ARREST TO BE ATTACHED TO AN INJUNCTION	
Application for bail under the 2006 Act	Para. 4A.1
Remand for medical examination and report	Para. 4A.2
SECTION III – DEMOTION OR SUSPENSION CLAIMS	
Demotion claims made in the alternative to possession claims	Para. 5.1
Suspension claims made in the alternative to possession claims	Para. 5A.1
Other demotion or suspension claims	Para. 6.1
Particulars of claim	Para. 7.1
Hearing date	Para. 8.1
The hearing	Para. 9.1
SECTION III – PROCEEDINGS RELATING TO DEMOTED TENANCIES	
Proceedings for the possession of a demoted tenancy	Para. 10.1
Proceedings in relation to a written statement of demoted tenancy terms	Para. 11.1
Recovery of costs	Para. 12.1
SECTION IV – ANTI-SOCIAL BEHAVIOUR ORDERS UNDER THE CRIME AND DISORDER ACT 1998	
Service of an order under sections 1B(4) or 1D of the 1998 Act	Para. 13.1
Application to join a person to the principal proceedings	Para. 13.2
Pilot scheme : application to join a child to the principal proceedings	Para. 13.3
SECTION V – PROCEEDINGS UNDER THE PROTECTION FROM HARASSMENT ACT 1997	
Warrant of arrest on application under section 3(3) of the 1997 Act	Para. 14.1
SECTION VI – DRINKING BANNING ORDERS UNDER THE VIOLENT CRIME REDUCTION ACT 2006	
Service of an order under section 4(7) or 9 of the 2006 Act	Para. 15.1
Application to join a person to the principal proceedings	Para. 15.2

SECTION VII – PARENTING ORDERS UNDER THE ANTI-SOCIAL BEHAVIOUR ACT 2003	
Applications for parenting orders	Para. 16.1

2. In the heading to Section I—

(a) After “1996” insert “and Policing and Crime Act 2009”.

3. In paragraph 1.1

(a) after “under” omit “section”;

(b) after “Act” insert “or Part 4 of the 2009 Act”;

(c) after “Section I” insert “or Section VIII”; and

(d) after paragraph 1.1 insert—

“Hearings

1.2

Unless the court otherwise orders, an application on notice for an injunction under rule 65.43 or any other hearing requiring the respondent’s attendance must be heard at one of the following county courts—

- (a) Birmingham
- (b) Bradford
- (c) Bristol
- (d) Cardiff
- (e) Croydon
- (f) Leicester
- (g) Liverpool
- (h) Manchester
- (i) Newcastle
- (j) Nottingham
- (k) Peterborough
- (l) Portsmouth
- (m) Preston

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- (n) Sheffield
- (o) West London.

(Attention is drawn to the statutory guidance on listing for hearings. These hearings will take place in courts which have been identified as having suitable facilities if special measures are needed for potential witnesses or security.)”.

4. In the heading to paragraph 2.1, after “Act” insert “or section 44(2) of the 2009 Act”.

5. In paragraph 2.1—

- (a) after “1996 Act” insert “and section 44(3) of the 2009 Act”;
- (b) after “section 155(3) of” for “that” substitute “the 1996”;
- (c) before “shall” insert “or section 44(2) of the 2009 Act”; and
- (d) in sub-paragraph (2) before “the judge” insert “ in any proceedings under the 1996 Act”.

6. In paragraph 3.1—

- (a) in sub-paragraph (1) after “Act” insert “or Part 4 of the 2009 Act”; and
- (b) in sub-paragraph (2) for “that Act” substitute “the 1996 Act or Part 4 of the 2009 Act”.

7. In paragraph 3.2—

- (a) in sub-paragraph (3) for “he” substitute “that person”; and
- (b) in sub-paragraph (4) for “he” and substitute “that person”.

8. In paragraph 4.1—

- (a) after “1996 Act” insert “and section 45(5) of the 2009 Act”.

The amendments to the Practice Direction are required to implement Part 4 of the Policing and Crime Act 2009. The Committee considered the proposed amendments and approved them at its meeting on 18 June 2010 (CPR(10)20).

PRACTICE DIRECTION 70 – ENFORCEMENT OF JUDGMENTS AND ORDERS

1. In paragraph 4.1(a), for “practice form N471”, substitute “the practice form required by paragraph 4.1A(2)”.
2. For paragraph 4.1A, substitute—

“4.1A

- (1) This paragraph applies where—
 - (a) either—
 - (i) the decision to be enforced is a decision of an employment tribunal in England and Wales; or
 - (ii) the application is for the recovery of a compromise sum under section 19A(3) of the Employment Tribunals Act 1996; and
 - (b) the party seeking to enforce the decision wishes to enforce by way of a writ of *fieri facias*.
- (2) The practice form which is to be used is—
 - (a) where paragraph (1)(a)(i) applies, practice form N471;
 - (b) where paragraph (1)(a)(ii) applies, practice form N471A.”.

The amendments to the Practice Direction extend the process for the enforcement of awards from Employment and Employment Appeal Tribunals in the civil courts (known as Employment Tribunal Fast Track) to include compromise sums brokered by ACAS. The Committee approved the amendments at its meeting on 14th May 2010 (CPR(10)14).

PRACTICE DIRECTION 74A – ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

1. In paragraph 4.2(1), after “Master” insert “, Registrar”.
2. In paragraph 4.3(1), after “Master” insert “, Registrar”

These amendments to the Practice Direction allows for an application for a certificate or a certified copy of a High Court or county court judgment for enforcement in Scotland or Northern Ireland or abroad to be made, in the Queen's Bench or Chancery Division, to a Registrar as well as to a Master or district judge. This will enable Bankruptcy Registrars in the Chancery Division to perform this function. The Committee approved the amendments at its meeting on 9th July 2010. (CPRO(10)09).

PRACTICE DIRECTION 74B – EUROPEAN ENFORCEMENT ORDERS

In paragraph 2.1(1), after “Master” insert “, Registrar”.

The amendment to the Practice Direction allows for an application for a certified copy of a High Court or county court judgment for enforcement in another Regulation State by way of European Enforcement Order to be made, in the Queen's Bench or Chancery Division, to a Registrar as well as to a Master or district judge. This will enable Bankruptcy Registrars in the Chancery Division to perform this function. The Committee approved the amendment at its meeting on 9th July 2010 (CPRO(10)09).

PRACTICE DIRECTION 75 – TRAFFIC ENFORCEMENT

For paragraph 7.2 substitute—

“7.2 The respondent's address for service is the address for service shown on the application notice or, if more than one, the latest application notice.”

This amendment removes reference to “appellant's notice” in relation to address for service. This is because the process set out in this Practice Direction concerns the review of a court officer's decision by a district judge. However, the review is not an appeal and therefore the provisions of PD52 do not apply. The amendment was approved by the Committee at its meeting on 18th June 2010. (CPRO(10)07).

PRACTICE DIRECTION RSC ORDER 115 – RESTRAINT ORDERS AND APPOINTMENT OF RECEIVERS IN CONNECTION WITH CRIMINAL PROCEEDINGS AND INVESTIGATIONS

1. In the table of contents—

- (a) after “SECTION II – APPOINTMENT OF RECEIVER” insert—

“SECTION III – DOMESTIC FREEZING ORDER CERTIFICATE

Form of domestic freezing order certificate Para. 9.”; and

- (b) for “Appendix” substitute—

“Appendix 1 – Example of a restraint order prohibiting disposal of assets

Appendix 2 – Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (which contains an example of a domestic freezing order certificate)”.

2. In paragraph 2, for “annexed” substitute “set out in Appendix 1”.

3. After paragraph 8.4 insert—

“SECTION III – DOMESTIC FREEZING ORDER CERTIFICATE

Form of domestic freezing order certificate

9. An example of a domestic freezing order certificate is set out in the Annex to Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence. This Framework Decision is set out in Appendix 2 to this Practice Direction.”

4. For “Appendix 1 – Restraint order prohibiting disposal of assets” substitute—

“Appendix 1 – Example of a restraint order prohibiting disposal of assets”

Appendix 2 - Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (which contains an example of a domestic freezing order certificate)”.

The amendments to the Practice Direction support the amendments to Section III of RSC Order 115 in relation to domestic freezing order certificates and overseas freezing orders. The amendments to Section III are a result of amendments to Schedule 4 of the Terrorism Act 2000 by Schedule 4 of the Crime (International Co-operation) Act 2003. The Committee

considered the proposed amendments at its meetings on 16th April (CPR(10)9) and 14th May (CPR(10)15) and approved them at its meeting on 18th June 2010 (CPR(10)18).

PRACTICE DIRECTION – PROCEEDINGS UNDER ENACTMENTS RELATING TO EQUALITY

Insert the Practice Direction at Annex 3.

This new freestanding Practice Direction makes provision for certain county court proceedings under the Equality Act 2010, replacing the existing Practice Direction on proceedings under enactments relating to discrimination which made provision for corresponding proceedings under the various enactments repealed by and consolidated into the Equality Act 2010. The Committee approved the new Practice Direction at its meeting on 9th July 2010 (CPR(10)32).

PRE-ACTION PROTOCOL FOR THE RESOLUTION OF CLINICAL DISPUTES

1. At the end of paragraph 3.15 insert “Any letter of claim sent to an NHS Trust or Independent Sector Treatment Centre should be copied to the National Health Service Litigation Authority.”.
2. In paragraph 3.25 for “three months” substitute “four months”.

The amendments to the Pre-Action Protocol take forward one of the recommendations in Sir Rupert Jackson’s Review of Civil Costs aimed at encouraging parties to settle a clinical dispute before the issue of proceedings. They increase the time in which a defendant must respond to a letter of claim from three months to four months and require that any letter of claim sent to an NHS Trust or Independent Sector Treatment Centre should also be sent to the National Health Service Litigation Authority. The amendments were approved by the Committee at its meeting on 9th July 2010 (CPR(10)(30)).

ANNEX 1

PRACTICE DIRECTION 31B: DISCLOSURE OF ELECTRONIC DOCUMENTS

This Practice Direction supplements CPR Part 31

Purpose, scope and interpretation

1. Rule 31.4 contains a broad definition of “document”. This extends to Electronic Documents.
2. The purpose of this Practice Direction is to encourage and assist the parties to reach agreement in relation to the disclosure of Electronic Documents in a proportionate and cost-effective manner.
3. Unless the court orders otherwise, this Practice Direction only applies to proceedings that are (or are likely to be) allocated to the multi-track.
4. Unless the court orders otherwise, this Practice Direction only applies to proceedings started on or after 1st October 2010. Paragraph 2A.2 to 2A.5 of Practice Direction 31A in force immediately before that date continues to apply to proceedings started before that date.
5. In this Practice Direction—
 - (1) “Data Sampling” means the process of checking data by identifying and checking representative individual documents;
 - (2) “Disclosure Data” means data relating to disclosed documents, including for example the type of document, the date of the document, the names of the author or sender and the recipient, and the party disclosing the document;
 - (3) “Electronic Document” means any document held in electronic form. It includes, for example, e-mail and other electronic communications such as text messages and voicemail, word-processed documents and databases, and documents stored on portable devices such as memory sticks and mobile phones. In addition to documents that are readily accessible from computer systems and other electronic devices and media, it includes documents that

are stored on servers and back-up systems and documents that have been deleted. It also includes Metadata and other embedded data which is not typically visible on screen or a print out;

- (4) “Electronic Image” means an electronic representation of a paper document;
- (5) “Electronic Documents Questionnaire” means the questionnaire in the Schedule to this Practice Direction;
- (6) “Keyword Search” means a software-aided search for words across the text of an Electronic Document;
- (7) “Metadata” is data about data. In the case of an Electronic Document, Metadata is typically embedded information about the document which is not readily accessible once the Native Electronic Document has been converted into an Electronic Image or paper document. It may include (for example) the date and time of creation or modification of a word-processing file, or the author and the date and time of sending an e-mail. Metadata may be created automatically by a computer system or manually by a user;
- (8) “Native Electronic Document” or “Native Format” means an Electronic Document stored in the original form in which it was created by a computer software program; and
- (9) “Optical Character Recognition (OCR)” means the computer-facilitated recognition of printed or written text characters in an Electronic Image in which the text-based contents cannot be searched electronically.

General principles

- 6. When considering disclosure of Electronic Documents, the parties and their legal representatives should bear in mind the following general principles—
 - (1) Electronic Documents should be managed efficiently in order to minimise the cost incurred;
 - (2) technology should be used in order to ensure that document management activities are undertaken efficiently and effectively;

- (3) disclosure should be given in a manner which gives effect to the overriding objective;
- (4) Electronic Documents should generally be made available for inspection in a form which allows the party receiving the documents the same ability to access, search, review and display the documents as the party giving disclosure; and
- (5) disclosure of Electronic Documents which are of no relevance to the proceedings may place an excessive burden in time and cost on the party to whom disclosure is given.

Preservation of documents

- 7. As soon as litigation is contemplated, the parties' legal representatives must notify their clients of the need to preserve disclosable documents. The documents to be preserved include Electronic Documents which would otherwise be deleted in accordance with a document retention policy or otherwise deleted in the ordinary course of business.

Discussions between the parties before the first Case Management Conference in relation to the use of technology and disclosure

- 8. The parties and their legal representatives must, before the first case management conference, discuss the use of technology in the management of Electronic Documents and the conduct of proceedings, in particular for the purpose of—
 - (1) creating lists of documents to be disclosed;
 - (2) giving disclosure by providing documents and information regarding documents in electronic format; and
 - (3) presenting documents and other material to the court at the trial.
- 9. The parties and their legal representatives must also, before the first case management conference, discuss the disclosure of Electronic Documents. In some cases (for example heavy and complex cases) it may be appropriate to begin

NOT FOR SIGNATURE

discussions before proceedings are commenced. The discussions should include (where appropriate) the following matters—

- (1) the categories of Electronic Documents within the parties' control, the computer systems, electronic devices and media on which any relevant documents may be held, storage systems and document retention policies;
- (2) the scope of the reasonable search for Electronic Documents required by rule 31.7;
- (3) the tools and techniques (if any) which should be considered to reduce the burden and cost of disclosure of Electronic Documents, including—
 - (a) limiting disclosure of documents or certain categories of documents to particular date ranges, to particular custodians of documents, or to particular types of documents;
 - (b) the use of agreed Keyword Searches;
 - (c) the use of agreed software tools;
 - (d) the methods to be used to identify duplicate documents;
 - (e) the use of Data Sampling;
 - (f) the methods to be used to identify privileged documents and other non-disclosable documents, to redact documents (where redaction is appropriate), and for dealing with privileged or other documents which have been inadvertently disclosed; and
 - (g) the use of a staged approach to the disclosure of Electronic Documents;
- (4) the preservation of Electronic Documents, with a view to preventing loss of such documents before the trial;
- (5) the exchange of data relating to Electronic Documents in an agreed electronic format using agreed fields;
- (6) the formats in which Electronic Documents are to be provided on inspection and the methods to be used;
- (7) the basis of charging for or sharing the cost of the provision of Electronic Documents, and whether any arrangements for charging or sharing of costs

are final or are subject to re-allocation in accordance with any order for costs subsequently made; and

- (8) whether it would be appropriate to use the services of a neutral electronic repository for storage of Electronic Documents.

The Electronic Documents Questionnaire

10. In some cases the parties may find it helpful to exchange the Electronic Documents Questionnaire in order to provide information to each other in relation to the scope, extent and most suitable format for disclosure of Electronic Documents in the proceedings.
11. The answers to the Electronic Documents Questionnaire must be verified by a statement of truth.
12. Answers to the Electronic Documents Questionnaire will only be available for inspection by non-parties if permission is given under rule 5.4C(2).
13. Rule 31.22 makes provision regulating the use of answers to the Electronic Documents Questionnaire.

Preparation for the first Case Management Conference

14. The documents submitted to the court in advance of the first case management conference should include a summary of the matters on which the parties agree in relation to the disclosure of Electronic Documents and a summary of the matters on which they disagree.
15. If the parties indicate that they have been unable to reach agreement in relation to the disclosure of Electronic Documents and that no agreement is likely, the court will give written directions in relation to disclosure or order a separate hearing in relation to disclosure. When doing so, the court will consider making an order that the parties must complete and exchange all or any part of the Electronic Documents Questionnaire within 14 days or such other period as the court may direct.
16. The person signing the Electronic Documents Questionnaire should attend the first case management conference, and any subsequent hearing at which disclosure is likely to be considered.

Where the parties are unable to reach an appropriate agreement in relation to the disclosure of Electronic Documents

17. If at any time it becomes apparent that the parties are unable to reach agreement in relation to the disclosure of Electronic Documents, the parties should seek directions from the court at the earliest practical date.
18. If the court considers that the parties' agreement in relation to the disclosure of Electronic Documents is inappropriate or insufficient, the court will give directions in relation to disclosure. When doing so, the court will consider making an order that the parties must complete and exchange all or any part of the Electronic Documents Questionnaire within 14 days or such other period as the court may direct.
19. If a party gives disclosure of Electronic Documents without first discussing with other parties how to plan and manage such disclosure, the court may require that party to carry out further searches for documents or to repeat other steps which that party has already carried out.

The reasonable search

20. The extent of the reasonable search required by rule 31.7 for the purposes of standard disclosure is affected by the existence of Electronic Documents. The extent of the search which must be made will depend on the circumstances of the case including, in particular, the factors referred to in rule 31.7(2). The parties should bear in mind that the overriding objective includes dealing with the case in ways which are proportionate.
21. The factors that may be relevant in deciding the reasonableness of a search for Electronic Documents include (but are not limited to) the following—
 - (1) the number of documents involved;
 - (2) the nature and complexity of the proceedings;
 - (3) the ease and expense of retrieval of any particular document. This includes:
 - (a) the accessibility of Electronic Documents including e-mail communications on computer systems, servers, back-up systems and other electronic devices or media that may contain such documents

taking into account alterations or developments in hardware or software systems used by the disclosing party and/or available to enable access to such documents;

- (b) the location of relevant Electronic Documents, data, computer systems, servers, back-up systems and other electronic devices or media that may contain such documents;
 - (c) the likelihood of locating relevant data;
 - (d) the cost of recovering any Electronic Documents;
 - (e) the cost of disclosing and providing inspection of any relevant Electronic Documents; and
 - (f) the likelihood that Electronic Documents will be materially altered in the course of recovery, disclosure or inspection;
- (4) the availability of documents or contents of documents from other sources; and
- (5) the significance of any document which is likely to be located during the search.
22. Depending on the circumstances, it may be reasonable to search all of the parties' electronic storage systems, or to search only some part of those systems. For example, it may be reasonable to decide not to search for documents coming into existence before a particular date, or to limit the search to documents in a particular place or places, or to documents falling into particular categories.
23. In some cases a staged approach may be appropriate, with disclosure initially being given of limited categories of documents. Those categories may subsequently be extended or limited depending on the results initially obtained.
24. The primary source of disclosure of Electronic Documents is normally reasonably accessible data. A party requesting under rule 31.12 specific disclosure of Electronic Documents which are not reasonably accessible must demonstrate that the relevance and materiality justify the cost and burden of retrieving and producing it.

Keyword and other automated searches

25. It may be reasonable to search for Electronic Documents by means of Keyword Searches or other automated methods of searching if a full review of each and every document would be unreasonable.
26. However, it will often be insufficient to use simple Keyword Searches or other automated methods of searching alone. The injudicious use of Keyword Searches and other automated search techniques—
 - (1) may result in failure to find important documents which ought to be disclosed, and/or
 - (2) may find excessive quantities of irrelevant documents, which if disclosed would place an excessive burden in time and cost on the party to whom disclosure is given.
27. The parties should consider supplementing Keyword Searches and other automated searches with additional techniques such as individually reviewing certain documents or categories of documents (for example important documents generated by key personnel) and taking such other steps as may be required in order to justify the selection to the court.

Disclosure of Metadata

28. Where copies of disclosed documents are provided in Native Format in accordance with paragraph 33 below, some Metadata will be disclosed with each document. A party requesting disclosure of additional Metadata or forensic image copies of disclosed documents (for example in relation to a dispute concerning authenticity) must demonstrate that the relevance and materiality of the requested Metadata justify the cost and burden of producing that Metadata.
29. Parties using document management or litigation support systems should be alert to the possibility that Metadata or other useful information relating to documents may not be stored with the documents.

Lists of Documents

30. If a party is giving disclosure of Electronic Documents, paragraph 3 of Practice Direction 31A is to be read subject to the following—

- (1) Form N265 may be amended to accommodate the sub-paragraphs which follow;
- (2) a list of documents may by agreement between the parties be an electronic file in .csv (comma-separated values) or other agreed format;
- (3) documents may be listed otherwise than in date order where a different order would be more convenient;
- (4) save where otherwise agreed or ordered, documents should be listed individually if a party already possesses data relating to the document (for example, type of document and date of creation) which make this possible (so that as far as possible each document may be given a unique reference number);
- (5) a party should be consistent in the way in which documents are listed;
- (6) consistent column headings should be repeated on each page of the list on which documents are listed, where the software used for preparing the list enables this to be carried out automatically; and
- (7) the disclosure list number used in any supplemental list of documents should be unique and should run sequentially from the last number used in the previous list.

Provision of Disclosure Data in electronic form

31. Where a party provides another party with Disclosure Data in electronic form, the following provisions will apply unless the parties agree or the court directs otherwise—

- (1) Disclosure Data should be set out in a single, continuous table or spreadsheet, each separate column containing exclusively one of the following types of Disclosure Data—
 - (a) disclosure list number (sequential)
 - (b) date
 - (c) document type
 - (d) author/sender

- (e) recipient
 - (f) disclosure list number of any parent or covering document;
- (2) other than for disclosure list numbers, blank entries are permissible and preferred if there is no relevant Disclosure Data (that is, the field should be left blank rather than state "Undated");
- (3) dates should be set out in the alphanumeric form "01 Jan 2010"; and
- (4) Disclosure Data should be set out in a consistent manner.

Provision of electronic copies of disclosed documents

32. The parties should co-operate at an early stage about the format in which Electronic Documents are to be provided on inspection. In the case of difficulty or disagreement, the matter should be referred to the court for directions at the earliest practical date, if possible at the first case management conference.
33. Save where otherwise agreed or ordered, electronic copies of disclosed documents should be provided in their Native Format, in a manner which preserves Metadata relating to the date of creation of each document.
34. A party should provide any available searchable OCR versions of Electronic Documents with the original. A party may however choose not to provide OCR versions of documents which have been redacted. If OCR versions are provided, they are provided on an "as is" basis, with no assurance to the other party that the OCR versions are complete or accurate.
35. (1) Subject to sub-paragraph (2) below, if a party is providing in electronic form copies of disclosed documents and wishes to redact or otherwise make alterations to a document or documents, then—
- (a) the party redacting or altering the document must inform the other party in accordance with rule 31.19 that redacted or altered versions are being supplied; and

- (b) the party redacting or altering the document must ensure that the original unredacted and unaltered version is preserved, so that it remains available to be inspected if required.
- (2) Sub-paragraph (1) above does not apply where the only alteration made to the document is an alteration to the Metadata as a result of the ordinary process of copying and/or accessing the document. Sub-paragraph (1) does apply to the alteration or suppression of Metadata in other situations.

Specialised technology

- 36. If Electronic Documents are best accessed using technology which is not readily available to the party entitled to disclosure, and that party reasonably requires additional inspection facilities, the party making disclosure shall co-operate in making available to the other party such reasonable additional inspection facilities as may be appropriate in order to afford inspection in accordance with rule 31.3.

SCHEDULE
ELECTRONIC DOCUMENTS QUESTIONNAIRE

Part 1 – Your disclosure

Extent of a reasonable search

Date range and custodians

1. What date range do you consider that your searches for Electronic Documents should cover ("the date range")?

2. Identify the custodians or creators of your Electronic Documents whose repositories of documents you consider should be searched.¹

Communications

3. Which forms of electronic communication were in use during the date range (so far as is relevant to these proceedings)?

A Communication	B In use during the date range? (yes/no)	C Are you searching for relevant documents in this category? (yes/no)	D Where and on what type of software/equipment/media is this communication stored?²	E (a) Are back-ups or archives of this communication available, and (b) if so, are you searching the back-ups or archives?
i) E-mail ³				
ii) Other (provide details for each type ⁴)				

¹ Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

² State the geographical location (if known). Consider (at least) servers, desktop PCs, laptops, notebooks, handheld devices, PDA devices, off-site storage, removable storage media (for example, CD-ROMs, DVDs, USB drives, memory sticks) and databases.

³ Consider all types of e-mail system (for example, Outlook, Lotus Notes, web-based accounts), whether stored on personal computers, portable devices or in web-based accounts (for example, Yahoo, Hotmail, Gmail).

⁴ For example, instant messaging, voicemail, VOIP (Voice Over Internet Protocol), recorded telephone lines, text messaging, audio files, video files.

Electronic Documents

4. Apart from attachments to e-mails, which forms of Electronic Documents were created or stored by you during the date range?

A Document Type	B In use during the date range? (yes/no)	C Are you searching for relevant documents in this category? (yes/no)	D Where and on what type of software/equipment/media are these documents?¹	E (a) Are back-ups or archives of these documents available, and (b) if so, are you searching the back-ups or archives?
i) Word (or equivalent – state which)				
ii) Excel (or equivalent - state which)				
iii) Electronic Images ²				
iv) Other ³ (state which)				

Databases of Electronic Documents

5. In the following table identify database systems, including document management systems, used by you during the date range and which may contain disclosable Electronic Documents.

¹ State the geographical location (if known). Consider (at least) servers, desktops and laptops.

² For example, .pdf, .tif, .jpg.

³ For example, Powerpoint or equivalent, specialist documents (such as CAD Drawings).

A Name	B Brief description	C Nature of data held	D Are you disclosing documents held in this database? (yes/no)	E Proposals for provision of relevant documents to or access by other parties to this litigation
1.				
2. (etc)				

Method of search**Key words**

6. Do you consider that Keyword Searches should be used as part of the process of determining which Electronic Documents you should disclose?

If yes, provide details of—

- (1) the keywords used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges)¹; and
- (2) the extent to which the Keyword Searches have been or will be supplemented by a review of individual documents.

Other types of automated searches

7. Do you consider that automated searches or automated techniques other than Keyword Searches (for example, concept searches or clustering) should be used as part of the process of determining which Electronic Documents you should disclose?

If yes, provide details of—

- (1) the process(es) used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges);

¹ Where Keyword Searches are used in order to identify irrelevant documents which are to be excluded from disclosure (for example a confidential name of a client or customer), a general description of the type of search may be given.

- (2) the extent to which the processes have been or will be supplemented by a review of individual documents; and
 - (3) how the methodology of automated searches will be made available for consideration by other parties.
8. If the answer to Question 6 or 7 is yes, state whether attachments to (a) e-mails (b) compressed files (c) embedded files and (d) imaged text will respond to your Keyword Searches or other automated search.
9. Are you using or intending to use computer software for other purposes in relation to disclosure? If so, provide details of the software, processes and methods to be used.

Potential problems with the extent of search and accessibility of Electronic Documents

10. Do any of the sources and/or documents identified in this Electronic Documents Questionnaire raise questions about the reasonableness of the search which ought to be taken into account? ¹ If so, give details.
11. Are any documents which may be disclosable encrypted, password-protected or for other reasons difficult to access, or do you have any reason to believe that they may be? ² If so, state which of the categories identified at Questions 3, 4 and 5 above are affected, and your proposals for making them accessible.
12. Are you aware of any other points in relation to disclosure of your Electronic Documents which require discussion between the parties? If so, give details.

Preservation of Electronic Documents

13. Do you have a document retention policy?
14. Have you given an instruction to preserve Electronic Documents, and if so, when?

¹ See Practice Direction 31B, which refers to the following matters which may be relevant: (a) the number of documents involved; (b) the nature and complexity of the proceedings; (c) the ease and expense of retrieval of any particular document; (d) the availability of documents or contents of documents from other sources; and (e) the significance of any document which is likely to be located during the search.

² For example, back-ups, archives, off-site or outsourced document storage, documents created by former employees, documents stored in other jurisdictions, documents in foreign languages.

Inspection

15. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, (a) in what format and (b) on what media do you intend to provide to other parties copies of disclosed documents which are or will be available in electronic form?
16. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, do you intend to provide other parties with Disclosure Data electronically, and if so, (a) in what format and (b) on what media?
17. Insofar as you have available or will have available searchable OCR versions of Electronic Documents, do you intend to provide the searchable OCR version to other parties?¹ If not, why not?

Part 2 – The disclosure of other parties

The extent and content of their search

18. Do you at this stage have any proposals about the date ranges which should be searched by other parties to the proceedings? If so, provide details.
19. Do you at this stage have any proposals about the custodians or creators whose repositories of documents should be searched for disclosable documents by other parties to the proceedings? If so, provide details.²
20. Do you consider that the other party(ies) should disclose all available Metadata³ attaching to any documents? If yes, provide details of the documents or categories of documents.

Proposals for the method to be adopted for their searches

¹ There is no requirement that you should obtain OCR versions of documents, and this question is directed only to OCR versions which you have available or expect to have available to you. If you do provide OCR versions to another party, they will be provided by you on an "as is" basis, with no assurance to the other party that the OCR versions are complete or accurate. You may wish to exclude provision of OCR versions of documents which have been redacted.

² Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

³ "Metadata" is information about the document or file which is recorded in the computer, such as the date and time of creation or modification of a word-processing file, or the author and the date and time of sending of an e-mail. The question is directed to the more extensive Metadata which may be relevant where for example authenticity is disputed.

21. Do you at this stage have any proposals about the Keyword Searches, or other automated searches, which should be applied by other parties to their document sets? If so, provide details.

Inspection

22. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, (a) in what format and (b) on what media do you wish to receive copies of disclosed documents which are or will be available in electronic form?
23. Subject to re-consideration after receiving the responses of other parties to this Electronic Documents Questionnaire, do you wish to receive Disclosure Data electronically, and if so, (a) in what format and (b) on what media?

STATEMENT OF TRUTH

*[I believe][The [claimant][defendant] believes] that the facts stated in the answers to this Electronic Documents Questionnaire are true.

*I am duly authorised by the [claimant][defendant] to sign this statement.

Full name

Name of legal representative's firm

Signed

Position or office held (if signing on behalf of firm or company)

Date

** delete as appropriate*

WARNING: Unless the court makes some other order, the answers given in this document may only be used for the purposes of the proceedings in which the document is produced unless it has been read to or by the court or referred to at a

hearing which has been held in public or the Court gives permission or the party who has completed this questionnaire agrees.

Guidance Notes:

1. Technical expressions are defined in Practice Direction 31B.
2. The questions in the Electronic Documents Questionnaire are not intended to give rise to any implication about how disclosure should or should not be carried out. They are intended only to provide information to other parties and to the court.
3. Further facts and matters may come to parties' attention over the course of the proceedings which affect the answers to the Electronic Documents Questionnaire. Where detailed information is not yet available at the time the Electronic Documents Questionnaire is first answered, parties should give such information as they can, and supplement or amend their answers when further information is available. Answers should be updated by notifying other parties and the court without undue delay, and in any event before each case management conference at which disclosure is likely to be considered.
4. Some of the questions in the Electronic Documents Questionnaire require only a brief answer which may need to be elaborated after Electronic Documents Questionnaires have been exchanged. The purpose of such questions is to assist the parties in identifying the points which may require elaboration in order for meaningful discussions to take place between them.
5. Questions which refer to sources of Electronic Documents that are not considered to be relevant may be answered with a statement to that effect.
6. Questions about "your" documents and about software, hardware or systems used by "you" are directed, in the case of solicitors, to the solicitor's lay client's documents or to documents prepared on the lay client's behalf.

ANNEX 2

Practice Direction 51E – County Court Provisional Assessment Pilot Scheme

1. This Practice Direction is made under rule 51.2. It provides for a pilot scheme (the County Court Provisional Assessment Pilot Scheme) to—
 - (1) operate from the 1 October 2010 to 30 September 2011;
 - (2) operate in the Leeds, York and Scarborough County Courts;
 - (3) apply to detailed assessment proceedings—
 - (a) which are commenced on or after 1 October 2010; and
 - (b) in which the base costs claimed are £25,000 or less.
2. Under this pilot scheme CPR Part 47 will apply with modifications. The following provisions of Part 47 and the Costs Practice Direction will continue to apply—
 - (1) rules 47.1, 47.2, 47.4 to 47.13, 47.14 (except paragraphs (6) and (7)), 47.15, 47.16, 47.18 and 47.19; and
 - (2) sections 28, 29, 31 to 39, 40 (with the exception of paragraphs 40.5 to 40.7, 40.9, 40.11 and 40.16), 41, 42, 45 and 46 of the Costs Practice Direction.
3. In cases falling within the scope of this pilot scheme, when the receiving party files the request for a detailed assessment hearing, that party must not only file the request in Form N258 together with the documents set out at paragraph 40.2 of the Costs Practice Direction but must also file with them an additional copy of the bill and a statement of the costs claimed in respect of the detailed assessment drawn on the assumption that (unless any of the following paragraphs apply) no party will subsequently request an oral hearing following a provisional assessment.
4. On receipt of the request for detailed assessment and the supporting papers, the court will within 6 weeks undertake a provisional assessment based on the information contained in the bill and supporting papers and the contentions set out in the points of dispute and any reply. No party will be permitted to attend the provisional assessment.

5. If, having commenced a provisional assessment, the court takes the view that the matter is unsuitable for a provisional assessment, the court will direct that the matter must be listed for hearing and thereafter the pilot scheme will cease to apply to it.
6. If the court completes a provisional assessment, it will send a copy of the bill as provisionally assessed to each party with a notice stating that either party may request the court to list the matter for full argument on any aspect of the provisional assessment within 21 days of receipt of the notice.
7. Unless paragraph 9 applies, either party may, within 21 days of receipt of the notice and provisionally assessed bill, request the court by letter to list the matter for an oral hearing. On receipt of a request for an oral hearing the court will fix a date for the hearing and give at least 14 days notice of the time and place of the detailed assessment hearing to all parties who are entitled to be heard.
8. Unless the court otherwise orders the costs of and incidental to an oral hearing convened under paragraph 7 above, shall be awarded as follows.
 - (1) Costs may be awarded to a paying party if the amount allowed is reduced to a sum which is 80% or less than the sum which had been provisionally assessed (excluding costs of the provisional assessment), or if the oral hearing was requested by a receiving party only and the amount allowed is not increased to a sum which is 120% or more than the sum which had been provisionally assessed (excluding costs of the provisional assessment).
 - (2) Costs may be awarded to a receiving party, if the amount allowed is increased to a sum which is 120% or more than the sum which had been provisionally assessed (excluding costs of the provisional assessment), or if the oral hearing was requested by a paying party only and the amount allowed is not reduced to a sum which is 80% or less than the sum which had been provisionally assessed (excluding costs of the provisional assessment).
 - (3) Where requests for an oral hearing are made by a receiving party and also by a paying party no order for the costs of and incidental to the oral hearing will be made if the amount allowed is greater than 80% but less than 120% of the sum which had been provisionally assessed (excluding costs of the provisional assessment).

9. If a party wishes to be heard only as to the amount provisionally assessed in respect of the receiving party's costs of the provisional assessment, the court will invite each side to make written submissions and the amount of the costs of the provisional assessment will be finally determined without a hearing.

ANNEX 3

Practice Direction – Proceedings under enactments relating to equality

Scope and Interpretation

- 1.1** This Practice Direction applies to certain county court proceedings under the enactments defined in paragraph 1.2.
- 1.2** In this Practice Direction –
- (1) ‘the 2006 Act’ means the Equality Act 2006¹;
 - (2) ‘the 2010 Act’ means the Equality Act 2010²;
 - (3) ‘the Commission’ means the Commission for Equality and Human Rights;
- 1.3** For proceedings which relate to conduct before 1 October 2010, the Practice Direction on Proceedings Under Enactments Relating to Discrimination applies.

Commission to be given notice of claims

- 2.** When a claim under section 114 of the 2010 Act is commenced, the claimant must give notice of the commencement of the proceedings to the Commission and file a copy of that notice.

Assessors

- 3.** Rule 35.15 has effect in relation to an assessor who is to be appointed in proceedings under section 114 (7) of the 2010 Act.

Exclusion of persons from certain proceedings

- 4.1** In a claim brought under section 114 of the 2010 Act the court may, where it considers it expedient in the interests of national security –
- (a) exclude from all or part of the proceedings –
 - (i) the claimant;
 - (ii) a representative of the claimant;
 - (iii) an assessor;
 - (b) permit a claimant or representative who has been excluded to make a statement to the court before the commencement of the proceedings, or the part of the proceedings, to which the exclusion relates;
 - (c) take steps to keep secret all or part of the reasons for its decision in the claim.

¹ 2006 c. 3.

² 2010 c.15.

- 4.2** In this paragraph, a ‘special advocate’ means a person appointed under section 117(5) of the 2010 Act.
- 4.3** In proceedings to which this paragraph refers, where the claimant or a representative of the claimant has been excluded from all or part of the proceedings—
- (a) the court will inform the Attorney General of the proceedings; and
 - (b) the Attorney General may appoint a special advocate to represent the interests of a claimant in, or in any part of, proceedings to which an exclusion under paragraph 4.1 relates.
- 4.4** In exercise of its powers under paragraph 4.1(c), the court may order the special advocate not to communicate (directly or indirectly) with any person (including the excluded claimant)—
- (a) on any matter discussed or referred to; or
 - (b) with regard to any material disclosed,
- during or with reference to any part of the proceedings to which an exclusion under paragraph 4.1 relates.
- 4.5** Where the court makes an order referred to in paragraph 4.4 (or any similar order), the special advocate may apply for permission to seek instructions from, or otherwise to communicate with an excluded person and the court may make directions for that purpose.

Expenses of Commission

- 5.1** This paragraph applies where the Commission has, in respect of a claim, provided a claimant with assistance under section 28 of the 2006 Act.
- 5.2** If the Commission claims a charge for expenses incurred by it in providing such assistance, it must give notice of the claim to –
- (a) the court; and
 - (b) the claimant,
- within 14 days of determination of the proceedings.

5.3 If notice is given to the court under paragraph 5.2—

- (a) money paid into court for the benefit of the claimant that relates to costs and expenses must not be paid out unless this is permitted by an order of the court; and
- (b) the court may order the expenses incurred by the Commission to be assessed and paid as if they were costs payable by claimant to own solicitor.

5.4 The court may either—

- (a) make a summary assessment of the expenses; or
- (b) order detailed assessment of the expenses by a costs officer.