

164th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to Practice Direction 51R – Online Civil Money Claims Pilot and Practice Direction 51ZB – The Damages Claims Pilot, which supplement 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 Lord Bellamy KC, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The amendments to the Practice Directions come into force at 11 a.m. on 29th February 2024.

The Right Honourable Sir Geoffrey Vos
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:

Lord Bellamy KC

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 27 February 2024

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS PILOT

1) In the table of contents –

a) After the entry for paragraph 6A.4, insert –

“

Defendant’s response – defend the whole of the claim but willing to mediate	Paragraph 6A.5
Defendant’s response – defend the whole of the claim and not willing to mediate	Paragraph 6A.6

”.

’

b) for the entry for Section 6AA substitute –

“

SECTION 6B – Represented claimant, unrepresented defendant - defendant’s response in Welsh	Paragraph 6B.1
SECTION 6C – Defended claims – management of the claim once directions questionnaires have been considered and directions made	
Following directions, defended claims to be sent out unless all parties represented and claim proceeding in an early adopter court	Paragraph 6C.1
Filing and exchanging of budgets	Paragraph 6C.2

Trial readiness certificate	Paragraph 6C.3
Trial bundles	Paragraph 6C.4

”; and

- c) For the entry for paragraph 16B.1, substitute –

“

Represented parties - applications for court orders after the stage where hearing information is provided and directions made	Paragraph 16B.1
Represented parties – other applications	Paragraph 16B.2

”.

- 2) In paragraph 1.1, after the definition of “directions” insert –

““early adopter court” means a County Court hearing centre that has been selected to trial more advanced features within Online Civil Money Claims and is listed on the HCMTS Reform Civil Fact Sheet which can be found at www.gov.uk/government/publications/hmcts-reform-civil-fact-sheets”.

- 3) In paragraph 2.1(5), omit –

“This practice direction contains provisions that apply generally to claims in the pilot, and also specific provisions that apply to claims selected to test new features.”.

- 4) For paragraph 6A.4(4), substitute –

“If, before the expiry of the time limit in subparagraph (3), the claimant uses the OCMC website to tell the court that they do not wish to continue with the claim, the claim will be automatically “stayed” (as defined).”.

- 5) After paragraph 6A.4, insert –

“Defendant’s response – defend the whole of the claim but willing to mediate

6A.5(1) This paragraph applies if –

(a) the defendant is defending the whole of the claim but is willing to mediate; and

(b) the claimant wants to continue with the claim and complies with paragraph 6A.4(3) within the specified time.

(2) At the same time that the claimant complies with paragraph 6A.4(3), they must indicate whether they are willing to mediate.

(3) If the claimant has not opted out of mediation –

(a) the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation, and the 28-day period is calculated from and including the date that the response from the claimant is received by the court; and

(b) the court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.

(4) The claimant must tell the court if a settlement is reached. The claimant must also tell the court if the parties have agreed that the claim can be discontinued or dismissed.

(5) If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(6) If the forms are not considered by a judge or legal adviser under subparagraph (5), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(7) If a settlement is reached within the 28 days, but the parties have not agreed that the claim can be dismissed or discontinued, the court must stay the proceedings.

(8) If the claimant wishes to continue with the claim but refuses to mediate –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(9) If the forms are not considered by a judge or legal adviser under subparagraph (8), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(10) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

(a) Civil Procedure Rules 26.4, 26.5, 26.6 do not apply; and

(b) if an “order for allocation” has been made while the claim is in Online Civil Money Claims, Civil Procedure Rule 26.7 does not apply. (An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)

(On a claim being sent out, any party's directions questionnaire is treated as their completed directions questionnaire form N180 – see paragraph 19.1(5)).

Defendant's response – defend the whole of the claim and not willing to mediate

6A.6(1) This paragraph applies if –

(a) the defendant is defending the whole of the claim but is not willing to mediate; and

(b) the claimant wants to continue the claim and complies with paragraph 6A.4(3) within the specified time.

(2) Once the court has received the claimant's directions questionnaire –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(3) If the forms are not considered by a judge or legal adviser under subparagraph (2), the court must send the claim out of Online Civil Money Claims to the "preferred court" (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(4) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

(a) Civil Procedure Rules 26.4, 26.5, 26.6 do not apply; and

(b) if an "order for allocation" has been made while the claim is in

Online Civil Money Claims, Civil Procedure Rule 26.7 does not apply. (An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)

(On a claim being sent out, any party’s directions questionnaire is treated as their completed directions questionnaire form N180 – see paragraph 19.1(5)).”.

- 6) In the heading to Section 6AA, for “**SECTION 6AA**” substitute “**SECTION 6B**”.
- 7) Renumber paragraph 6AA.1(1) as 6B.1(1).
- 8) After (newly numbered) Section 6B, insert –

“SECTION 6C – DEFENDED CLAIMS – MANAGEMENT OF THE CLAIM ONCE DIRECTIONS QUESTIONNAIRES HAVE BEEN CONSIDERED AND DIRECTIONS MADE

Following directions, defended claims to be sent out unless all parties represented and claim proceeding in an early adopter court

6C.1(1) Once a judge or legal adviser has considered the forms under paragraphs 6A.5(5) or 6A.6(2) and made directions, the claim is to be sent out of Online Civil Money Claims unless subparagraph (2) applies.

(2) This subparagraph applies if –

- (a) all the parties are represented by a legal representative;
- (b) the claim is proceeding in an “early adopter court” (as defined); and
- (c) the parties are notified that the claim has been sent to that early adopter court.

(If subparagraph (2) applies, the claim remains in Online Civil Money Claims so that this practice direction continues to apply.).

Filing and exchanging of budgets

6C.2 In those claims to which the provisions of Section II of Civil

Procedure Rules Part 3 and Practice Direction 3E apply, CPR 3.13(1)(a) is disapplied and all parties except litigants in person must file and exchange budgets in accordance with Civil Procedure Rule 3.13(1)(b), namely not later than 21 days before the first case management conference.

Trial readiness certificate

6C.3(1) This paragraph applies where a claim is allocated to the fast track.

(2) Civil Procedure Rule 28.4 and 28.5 do not apply, except to the extent provided for by subparagraph (6).

(3) Within 2 weeks of notice from the court via the OCMC website to do so, the parties must use the relevant screens on the OCMC website to complete and submit a “trial readiness certificate”, to indicate whether they are ready for trial and to update any hearing requirements already given to the court.

(4) As soon as practicable after the date that all trial readiness certificates are submitted, the court shall—

(a) fix the date for the trial, unless it has already done so;

(b) give any directions for the trial, including a trial timetable, which it considers appropriate; and

(c) specify any further steps that need to be taken before trial,

and the court shall give the parties at least 3 weeks’ notice of the date of the trial unless, in exceptional circumstances, the court directs that shorter notice be given.

(5) Notwithstanding that the parties must complete a trial readiness certificate, a judge may nevertheless direct that a pre-trial checklist (listing questionnaire) be sent to the parties for completion as well.

(6) If a pre-trial checklist is sent to the parties for completion under subparagraph (5)–

(a) Civil Procedure Rule 28.4 applies with the following modification: rule 28.4(1) applies as if it permits (but does not require) the court to send the parties a pre-trial checklist (listing questionnaire) for completion and return in accordance with that rule;

(b) Civil Procedure Rules PD 28 paragraph 6.1(2) similarly applies as if it permits (but does not require) the court to send out Forms N170 and N171 to the parties; and

(c) Civil Procedure Rule 28.5 applies.

Trial bundles

6C.4(1) Civil Procedure Rules PD28 paragraph 7.2(2)(c) shall have effect as if after “trial bundle” there were inserted “(but only if the parties consider this necessary, in the light of the automatic creation of a trial bundle in Online Civil Money Claims)”.

(2) Civil Procedure Rules PD28 paragraph 9.4 shall have effect as if after “base its order on those forms” there were inserted “, save that, in the light of the automatic creation of a trial bundle in Online Civil Money Claims, a direction for the lodging of a trial bundle should only be made if the court considers such a direction to be necessary.”.

9) After the words in inverted commas following paragraph 13.1(2), insert –

“(Where a person is unable to read or sign a statement of truth because of a reason other than language alone, see Civil Procedure Rule 22.1(9), which sets out that in those circumstances, the making of the statement of truth must be certified by someone who can administer oaths and take affidavits.)”.

10) For Section 16B, substitute –

“SECTION 16B – REPRESENTED PARTIES – APPLICATIONS

Represented parties - applications for court orders after the stage where hearing information is provided and directions made

16B.1(1) This paragraph applies where a party wishes to make an application after –

- (a) the claimant has provided hearing information and directions have been made; and
- (b) paragraph 6C.1(2) applies (all parties are represented and the claim is sent to an early adopter court for case management purposes, but remains in the pilot).

(2) Subject to subparagraph (10), a party wishing to make an application must use the OCMC website to make that application (“online application”).

(3) The applicant makes an online application using the OCMC website by—

- (a) completing the relevant screens on the website; and
- (b) submitting the online application to the court using the website.

(4) An online application is to be treated as the application notice for the purposes of the Civil Procedure Rules and in particular Part 23.

(5) Unless the online application is made without notice under Civil Procedure Rule 23.4, the respondent is to be notified, through the OCMC website, of the application as soon as it is made.

(6) If the applicant requests that the online application is made without notice to the respondent, the application is to be referred to a judge to consider the request.

(7) After an online application has been made and unless the application is to be dealt with without notice, the respondent must provide initial information to assist with managing the future conduct of the application (“respondent information”) by –

- (a) completing the relevant screens on the OCMC website;
- (b) submitting the completed screens to the court using the website;

(c) if relevant and requested to do so by the court, confirming whether the respondent consents to the application.

(8) If the respondent confirms that they had consented to the application and that their consent was given before the application was made, the application is to be treated as an application for a consent order and the requirements in rule 40.6(7)(c) and PD 40B paragraph 3.4(3) are disapplied.

(9) The respondent must provide their respondent information –

(a) before 4pm on the 5th day after the date of notification of the online application; or

(b) within such other time limit notified to the respondent at the same time that the respondent is notified of the online application as directed by the Designated Civil Judge Online.

(10) The following applications must be made as on-paper applications: any application relating to—

(a) an appeal;

(b) enforcement; or

(c) insolvency.

Represented parties – other applications

16B.2 (1) Where some or all of the parties are represented by a legal representative, if a party wishes to make an application that is not an online application or otherwise covered by a provision of this practice direction, the application must be made using the procedure set out in the rest of the Civil Procedure Rules.

(2) Any application made under subparagraph (1) is to be made to the CNBC or, where the parties have received an order from a judge at a County Court hearing centre, or have been informed that the claim is to be managed at a County Court hearing centre, that hearing centre.

(3) If an application is made, the claim is to be referred to a judge for directions,

which may include that the claim is to be sent out of Online Civil Money Claims.”.

PRACTICE DIRECTION 51ZB – DAMAGES CLAIMS PILOT

11) In the table of contents after the entry for paragraph 7.4, insert –

“

Following directions, defended claims to be sent out unless claim proceeding in an early adopter court	Paragraph 7.4A
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”.

12) In the table of contents, after the entry for Section 7, insert –

“

SECTION 7A – Applications for court orders	
Applications for court orders after the stage where hearing information is provided and directions made – online applications	Paragraph 7A.1
Other applications	Paragraph 7A.2

”.

13) In paragraph 1.1, after the definition of “DCP legal representative” insert –

““early adopter court” means a County Court hearing centre that has been selected to trial more advanced features within the DCP and is listed on the HCMTS Reform Civil Fact Sheet which can be found at www.gov.uk/government/publications/hmcts-reform-civil-fact-sheets.”.

14) After paragraph 7.4, insert –

“Following directions, defended claims to be sent out unless claim proceeding in an early adopter court

7.4A (1) Once the claimant has provided hearing information and directions have been made, the claim is to be transferred out of the DCP unless subparagraph (2) applies.

(2) This subparagraph applies if –

- (a) the claim is proceeding in an early adopter court; and
- (b) the parties are notified that the claim has been transferred to that early adopter court.

(If subparagraph (2) applies, the claim remains in the DCP so that this practice direction continues to apply.)”.

15) For paragraph 7.6, substitute –

“Trial readiness certificate

7.6(1) This paragraph applies where a claim is allocated to the fast track.

(2) CPR Rule 28.4 and 28.5 do not apply, except to the extent provided for by subparagraph (6).

(3) Within 2 weeks of notice from the court via the DCP to do so, the parties must use the relevant screens on the DCP to complete and submit a “trial readiness certificate”, to indicate whether they are ready for trial and to update any hearing requirements already given to the court.

(4) As soon as practicable after the date that all trial readiness certificates are submitted, the court shall—

- (a) fix the date for the trial, unless it has already done so;
- (b) give any directions for the trial, including a trial timetable, which it considers appropriate; and
- (c) specify any further steps that need to be taken before trial,

and the court shall give the parties at least 3 weeks' notice of the date of the trial unless, in exceptional circumstances, the court directs that shorter notice be given.

(5) Notwithstanding that the parties must complete a trial readiness certificate, a judge may nevertheless direct that a pre-trial checklist (listing questionnaire) be sent to the parties for completion as well.

(6) If a pre-trial checklist is sent to the parties for completion under subparagraph (5)–

(a) CPR rule 28.4 applies with the following modification: rule 28.4(1) applies as if it permits (but does not require) the court to send the parties a pre-trial checklist (listing questionnaire) for completion and return in accordance with that rule;

(b) CPR PD 28 paragraph 6.1(2) similarly applies as if it permits (but does not require) the court to send out Forms N170 and N171 to the parties; and

(c) CPR rule 28.5 applies.”.

16) After paragraph 7.7, insert –

“SECTION 7A – APPLICATIONS FOR COURT ORDERS

Applications for court orders after the stage where hearing information is provided and directions made – online applications

7A.1 (1) This paragraph applies where a party wishes to make an application after –

(a) the claimant has provided hearing information and directions have been made; and

(b) paragraph 7.4A(2) applies (claim transferred to an early adopter court for case management purposes, but remains in the DCP).

(2) Subject to subparagraph (10), a party wishing to make an application must use

the DCP to make that application (“online application”).

(3) The applicant makes an online application using the DCP by—

(a) completing the relevant screens on the DCP; and

(b) submitting the online application to the court using the DCP.

(4) An online application is to be treated as the application notice for the purposes of the CPR and in particular Part 23.

(5) Unless the online application is made without notice under CPR rule 23.4, the respondent is to be notified, through the DCP, of the application as soon as it is made.

(6) If the applicant requests that the online application is made without notice to the respondent, the application is to be referred to a judge to consider the request.

(7) After an online application has been made and unless the application is to be dealt with without notice, the respondent must provide initial information to assist with managing the future conduct of the application (“respondent information”) by –

(a) completing the relevant screens on the DCP;

(b) submitting the completed screens to the court using the DCP; and

(c) if relevant and requested to do so by the court, confirming whether the respondent consents to the application.

(8) If the respondent confirms that they had consented to the application and that their consent was given before the application was made, the application is to be treated as an application for a consent order and the requirements in rule 40.6(7)(c) and PD 40B paragraph 3.4(3) are disapplied.

(9) The respondent must provide their respondent information –

(a) before 4pm on the 5th day after the date of notification of the online application; or

(b) within such other time limit notified to the respondent at the same time that the respondent is notified of the online application as directed by the Designated Civil Judge Online.

(10) The following applications must be made as on-paper applications: any application relating to—

- (a) an appeal;
- (b) enforcement; or
- (c) insolvency.

Other applications

7A.2(1) If a party wishes to make an application that is not an online application or otherwise covered by a provision of this practice direction, the application must be made using the procedure set out in the rest of the Civil Procedure Rules.

(2) Any application made under subparagraph (1) is to be made to the CNBC or, where the parties have received an order from a judge at a County Court hearing centre, or have been informed that the claim is to be managed at a County Court hearing centre, that hearing centre.

(3) If an application is made, the claim is to be referred to a judge for directions, which may include that the claim is to be transferred out of the DCP.”.