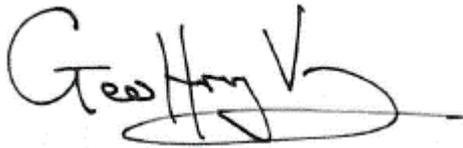


191st UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Direction which supplements 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 Sarah Sackman KC, Minister of State, by the authority of the Lord Chancellor.

The new Practice Direction 51ZH – Access to Public Domain Documents comes into force on 1st January 2026.



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

Signed by authority of the Lord Chancellor:



Sarah Sackman KC

Minister of State

Ministry of Justice

Date: 15/10/2025

PRACTICE DIRECTION 51ZH – ACCESS TO PUBLIC DOMAIN DOCUMENTS

- 1) After Practice Direction 51ZG3 (Pilot scheme for certain High Court qualified one-way costs shifting (QOCS) cases), insert new Practice Direction 51ZH – Access to Public Domain Documents as set out in the Schedule to this Update.

SCHEDULE

“PRACTICE DIRECTION 51ZH – ACCESS TO PUBLIC DOMAIN DOCUMENTS

Contents of this Practice Direction

| Title | Number |
|---|---------------|
| Scope of this practice direction and interpretation | Para. 1-6 |
| Public Domain Documents | Para. 7-9 |
| Requirement to file Public Domain Documents | Para. 10 |
| Failure to file Public Domain Documents – order to file | Para. 11 |
| Access to Public Domain Documents | Para. 12 |
| Orders restricting access to Public Domain Documents | Para. 13-19 |

Scope of this practice direction and interpretation

Scope

pilot

scheme for arrangements for access to documents in the public domain by parties and non-parties (“the Access to Public Domain Documents Pilot”) to –

This practice direction is made under CPR rule 51.2. It provides for a

- (a) operate from 1st January 2026 to 31st December 2027 (“**the Pilot Period**”);
 - (b) operate in the following courts (“**the Pilot Courts**”) –
 - (i) the Commercial Court and London Circuit Commercial Court of the King’s Bench Division;
 - (ii) the Financial List (Commercial Court and Chancery Division);
 - (c) apply to certain documents filed for or used in hearings taking place in public during the Pilot Period in both existing and new proceedings in the Pilot Courts. Those documents, “Public Domain Documents”, are defined in paragraphs 7 – 8 below.
2. The requirement in paragraph 10 to file Public Domain Documents does not apply in proceedings where a party is not legally represented and has not already filed a document in those proceedings using CE-File.
3. Unless the court orders otherwise, this practice direction does not affect any other obligation to file a document at court using CE-File, nor any other right or permission to access a court document filed on CE-File. In particular, nothing in this practice direction affects –
 - (a) the operation of CPR rule 5.4B and 5.4C, Practice Direction 5A paragraph 4.2A or Practice Direction 5C;
 - (b) the validity of any pre-existing order (for example a confidentiality order under CPR rule 39.2), and any obligation, right or permission in this practice direction is subject to any such pre-existing order;
 - (c) any existing provisions in Practice Directions or Court Guides for provision of hard copy skeleton arguments to non-parties.
4. In addition to the power in this practice direction to make an FMO in relation to a document that has become or is expected to become a Public Domain Document, the court may make any other order in relation to that document that

obligation, right or permission in
this practice direction is subject to any such order.

it would
otherwise be
able to make,
and any

This practice direction only applies to documents which become Public Domain

Documents in proceedings which are taking place in a Pilot Court.

Interpretation

6. In addition to the definitions in paragraph 1, in this practice direction –

“CE-File” means the electronic filing and case management system used in certain courts containing those documents which the court is required to hold pursuant to the CPR, whether they are documents created by the court or filed by the parties;

“CE-File website” means the web address at which CE-File can be accessed by parties at <https://efile.cefile-app.com/login>;

“CPR” means the Civil Procedure Rules;

“HMCTS” means His Majesty’s Courts and Tribunals Service;

“Public Access CE-File” means HMCTS Public Search and Office Copies portal accessible by the public found at <https://efile.cefile-app.com/publicsearch/login>;

“the Filing Period” means–

(a) in relation to skeleton arguments and written opening and closing submissions two clear days after the start of the hearing or hearing day at which the skeleton argument or written submission is relied upon;

(b) in relation to documents within paragraph 8 below other than skeleton

arguments and written opening and closing submissions the period beginning on the day when the relevant document is used or referred

to in a hearing and ending at 16.00 on the fourteenth day after that, unless the court orders otherwise (for example in relation to a multi-day hearing or trial) or the parties agree to earlier filing;

(c) if the court orders otherwise or the parties agree to an earlier filing, the period beginning on the date of the relevant order or agreement

and ending at 16.00 on the final date ordered or agreed for the earlier filing;

“the Filing Requirement” means the requirement in paragraph 10 to file, within the Filing Period, a document that has become a Public Domain Document;

“Non-party” means a person who is not a party to the case;

“a Filing Modification Order” “FMO” means an order made under paragraph 13 in relation to a document that has or, under paragraph 7 and 8 would be expected to become, a Public Domain Document.

Public Domain Documents

7. Unless the court orders otherwise under paragraph 13, for the purposes of this Pilot documents referred to in paragraph 8 which have been used or referred to at a hearing in public are Public Domain Documents from the start of the Filing Period.

8. The documents referred to in this paragraph are –

(a) skeleton arguments;

(b) written opening submissions;

(c) written closing submissions;

(d) other written submissions provided to a judge and relied upon in the hearing;

(e) witness statements and affidavits –

(i) including those relied upon as evidence in chief at trial and those relied upon at a public hearing of an application;

(ii) not including documents appended or annexed to the witness statement or affidavit;

(f) expert reports, including –

(i) those adduced as evidence in chief at trial and those relied upon at a public hearing of an application;

(ii) annexes and appendices to expert reports;

9.

(g) any other document or documents critical to the understanding of the hearing ordered by the judge at the hearing to be a Public Domain Document;

(h) any documents agreed by the parties to be Public Domain Documents.

If a Public Domain Document refers to another document, that other document does not become a Public Domain Document unless it is a document referred to in paragraph 8.

Requirement to file Public Domain Documents

10. Irrespective of whether the document has already been filed on CE-File website, the party which has produced any document which becomes a Public Domain Document under paragraphs 7 and 8 must, subject to paragraphs 13 to 19, file that document on CE-File website under the relevant CE-File designations listed in Table A within the Filing Period.

Table A

| <u>Document type</u> | <u>CE-File designations</u> |
|-----------------------------|------------------------------------|
| Skeleton Argument | Public Skeleton Argument |
| Written Submissions | Public Written Submissions |
| Witness Statements | Public Witness Statement |
| Affidavits | Public Witness Statement |
| Expert Report | Public Expert Report |
| Other documents | Public Document Other |

Failure to file Public Domain Documents– order to file

11. If a party does not comply with the Filing Requirement, the court may order that party to file the document that has not been filed.

Access to Public Domain Documents

12. Subject to any order which may be made under paragraph 13, any person, including a Non-party, may obtain copies from Public Access CE-File of any Public Domain Document which has been filed pursuant to the provisions of this Pilot Scheme.

Orders restricting access to Public Domain Documents

13. The court may make an order in relation to a document that has become, or, under paragraphs 7 and 8 would be expected to become, a Public Domain Document (an “FMO”) –

- (a) that a non-party may not obtain a copy of that document under paragraph 12;
- (b) waiving or restricting the Filing Requirement;
- (c) that the Filing Requirement need be complied with only after that document has been edited or redacted in accordance with the directions of the court;
- (d) extending or otherwise amending the Filing Period;
- (e) making such other order in respect of that document as it thinks fit.

14. The court may make an FMO of its own initiative or it may be sought by –

- (a) any party; or
- (b) any Non-party named or referred to in a Public Domain Document, or a document that under paragraphs 7 and 8 would be expected to become a Public Domain Document in relation to the document in which they are named or referred.

15. Where a party seeks an FMO in relation to a document that is expected to become a Public Domain Document under paragraphs 7 and 8, as soon as practicable and before the commencement of the expected Filing Period they must file on CE-File website and, where applicable, with the clerk to the judge who presided over the hearing, a written request and a proposed FMO on notice to the other parties containing reasons (and where necessary, evidence) in support of the proposed FMO.

16. Where a Non-party named in a document that is expected to become a Public Domain Document under paragraphs 7 and 8 seeks an FMO, they must file an application notice under Part 23 on notice to the parties as soon as practicable and before the commencement of the expected Filing Period for that document.
17. Where such a request is made under paragraph 15 or an application is made under paragraph 16 the relevant Filing Period will not commence until the request or application has been determined and the document the subject of the request or application must not be filed until it has been determined and subject to that determination.
18. Where any party or a Non-party named or referred to in a document seeks an FMO in relation to a document that has already become a Public Domain Document they must apply under Part 23 on notice to the other parties and any person named in that document who has previously applied for an FMO.
19. Where the court makes an FMO, a Non-party may apply for a copy of any document or an unedited copy of any document to which the order applies by making an application under Part 23 on notice to all parties and to any person named in that document who obtained the FMO in relation to that document.”.