

PRACTICE DIRECTION 47 - PROCEDURE FOR DETAILED ASSESSMENT OF COSTS AND DEFAULT PROVISIONS

(92nd Update highlighted)

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Time when assessment may be carried out: rule 47.1

1.1 For the purposes of rule 47.1, proceedings are concluded when the court has finally determined the matters in issue in the claim, whether or not there is an appeal, or made an award of provisional damages under Part 41.

1.2 The court may order or the parties may agree in writing that, although the proceedings are continuing, they will nevertheless be treated as concluded.

1.3 A party who is served with a notice of commencement (see paragraph 5.2 below) may apply to a costs judge or a District Judge to determine whether the party who served it is entitled to commence detailed assessment proceedings. On hearing such an application the orders which the court may make include: an order allowing the detailed assessment proceedings to continue, or an order setting aside the notice of commencement.

1.4 A costs judge or a District Judge may make an order allowing detailed assessment proceedings to be commenced where there is no realistic prospect of the claim continuing.

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No stay of detailed assessment where there is an appeal: rule 47.2

2 An application to stay the detailed assessment of costs pending an appeal may be made to the court whose order is being appealed or to the court which will hear the appeal.

Powers of an authorised court officer: rule 47.3

3.1 The court officers authorised by the Lord Chancellor to assess costs in the Costs Office and the Principal Registry of the Family Division are authorised to deal with claims where the base costs excluding VAT do not exceed £35,000 in the case of senior executive officers, or their equivalent, and £110,000 in the case of principal officers.

3.2 Where the receiving party, paying party and any other party to the detailed assessment proceedings who has served points of dispute are agreed that the assessment should not be made by an authorised court officer, the receiving party should so inform the court when requesting a hearing date. The court will then list the hearing before a costs judge or a District Judge.

3.3 In any other case a party who objects to the assessment being made by an authorised court officer must make an application to the costs judge or District Judge under Part 23 setting out the reasons for the objection.

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Venue for detailed assessment proceedings: rule 47.4

4.1 For the purposes of rule 47.4(1) the 'appropriate office' means—

(a) the district registry or County Court hearing centre in which the case was being dealt with when the judgment or order was made or the event occurred which gave rise to the right to assessment, or to which it has subsequently been transferred;

- (b) where a tribunal, person or other body makes an order for the detailed assessment of costs, a County Court hearing centre (subject to paragraph 4.2); or
(c) in all other cases, including Court of Appeal cases, the Costs Office.

4.2

(1) This paragraph applies where the appropriate office is any of the following County Court hearing centres: Barnet, Brentford, Bromley, Central London, Clerkenwell and Shoreditch, Croydon, Edmonton, Ilford, Kingston, Lambeth, Mayors and City of London, Romford, Uxbridge, Wandsworth and Willesden.

(2) Where this paragraph applies—

(a) the receiving party must file any request for a detailed assessment hearing in the Costs Office and, for all purposes relating to that detailed assessment (other than the issue of default costs certificates and applications to set aside default costs certificates), the Costs Office will be treated as the appropriate office in that case;

(b) default costs certificates should be issued and applications to set aside default costs certificates should be issued and heard in the relevant County Court hearing centre; and

(c) unless an order is made under rule 47.4(2) directing that the Costs Office as part of the High Court shall be the appropriate office, an appeal from any decision made by a costs judge shall lie to the Designated Civil Judge for the London Group of County Court hearing centres or such judge as the Designated Civil Judge shall nominate. The appeal notice and any other relevant papers should be lodged at the Central London Civil Justice Centre.

4.3

(1) A direction under rule 47.4(2) or (3) specifying a particular court, registry or office as the appropriate office may be given on application or on the court's own initiative.

(2) Unless the Costs Office is the appropriate office for the purposes of rule 47.4(1) an order directing that an assessment is to take place at the Costs Office will be made only if it is appropriate to do so having regard to the size of the bill of costs, the difficulty of the issues involved, the likely length of the hearing, the cost to the parties and any other relevant matter.

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Commencement of detailed assessment proceedings: rule 47.6

5.1 In the circumstances provided for in this paragraph, bills of costs for detailed assessment must be in electronic spreadsheet format and compliant with paragraphs 5.A1 to 5.A4 (“electronic bills”) while in all other circumstances bills of costs may be electronic bills or may be on paper (“paper bills”) and compliant with paragraphs 5.7 to 5.21. Precedents A, B, C and D in the Schedule of Costs Precedents annexed to this Practice Direction are model forms of paper bills of costs for detailed assessment. The circumstances in which bills of costs must be electronic bills are that— (a) the case is a Part 7 multi-track claim, except— (i) for cases in which the proceedings are subject to fixed costs or scale costs; (ii) cases in which the receiving party is unrepresented; or (iii) where the court has otherwise ordered; and (b) the bills of costs relate to costs recoverable between the parties for work undertaken after 6 April 2018 (“the Transition Date”).

5.A1 A model electronic bill in pdf format is annexed to this Practice Direction as Precedent S and a link to an electronic spreadsheet version of the same model bill is provided in paragraph 5.A2 of this Practice Direction.

5.A2 Electronic bills may be in either the spreadsheet format which can be found online at <http://www.justice.gov.uk/courts/procedure-rules/civil> or any other spreadsheet format which— (a) reports and aggregates costs based on the phases, tasks, activities and expenses defined in Schedule 2 to this Practice Direction; (b) reports summary totals in a form comparable to Precedent S; (c) allows the user to identify, in chronological order, the detail of all the work undertaken in each phase; (d) automatically recalculates intermediate and overall summary totals if input data is changed; (e) contains all calculations and reference formulae in a transparent manner so as to make its full functionality available to the court and all other parties.

5.A3 The provisions of paragraphs 5.7 to 5.21 of this Practice Direction shall apply to electronic bills insofar as they are not inconsistent with the form and content of Precedent S. Where those paragraphs require or recommend division of the bill into parts, electronic bills (unless the format of the bill already provides the requisite information, for example in identifying the costs within each

phase) should incorporate a summary in a form comparable to the “Funding and Parts Table” in Precedent S to provide the information that would otherwise be provided by its division into parts.

5.A4 Where a bill of costs otherwise falls within paragraph 5.1(a) but work was done both before and after the Transition Date, a party may serve and file either a paper 5 bill or an electronic bill in respect of work done before that date and must serve and file an electronic bill in respect of work done after that date.

5.1A Whenever electronic bills are served or filed at the court, they must also be served or filed in hard copy, in a manageable paper format as shown in the pdf version of Precedent S. A copy of the full electronic spreadsheet version must at the same time be provided to the paying party and filed at the court by e-mail or other electronic means.

5.2 On commencing detailed assessment proceedings, the receiving party must serve on the paying party and all the other relevant persons the following documents —

- (a) a notice of commencement in Form N252;
- (b) a copy (or, where paragraph 5.A4 applies, copies) of the bill of costs;
- (c) copies of the fee notes of counsel and of any expert in respect of fees claimed in the bill;
- (d) written evidence as to any other disbursement which is claimed and which exceeds £500;
- (e) a statement giving the name and address for service of any person upon whom the receiving party intends to serve the notice of commencement;
- (f) if a costs management order has been made (and if the same information is not already fully provided in an electronic bill), a breakdown of the costs claimed for each phase of the proceedings. Precedent Q in the Schedule of Costs Precedents annexed to this Practice Direction is a model form of breakdown of the costs claimed for each phase of the proceedings.

5.3 The notice of commencement must be completed to show as separate items—

- (a) the total amount of the costs claimed in the bill;
- (b) the extra sum which will be payable by way of fixed costs and court fees if a default costs certificate is obtained.

5.4 Where the notice of commencement is to be served outside England and Wales the date to be inserted in the notice of commencement for the paying party to send points of dispute is a date (not less than 21 days from the date of service of the notice) which must be calculated by reference to Section IV of Part 6 as if the notice were a claim form and as if the date to be inserted was the date for the filing of a defence.

5.5

(1) For the purposes of rule 47.6(2) a 'relevant person' means—

- (a) any person who has taken part in the proceedings which gave rise to the assessment and who is directly liable under an order for costs made against that person;
- (b) any person who has given to the receiving party notice in writing that that person has a financial interest in the outcome of the assessment and wishes to be a party accordingly;
- (c) any other person whom the court orders to be treated as such.

(2) Where a party is unsure whether a person is or is not a relevant person, that party may apply to the appropriate office for directions.

(3) The court will generally not make an order that the person in respect of whom the application is made will be treated as a relevant person, unless within a specified time that person applies to the court to be joined as a party to the assessment proceedings in accordance with Part 19 (Parties and Group Litigation).

5.6 Where—

- (a) a paper bill is capable of being copied electronically; and
- (b) before the detailed assessment hearing,

a paying party requests an electronic copy of the bill, the receiving party must supply the paying party with a copy in its native format (for example, in Excel or an equivalent) free of charge not more than 7 days after receipt of the request.

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Form and contents of bills of costs - general

5.7 A bill of costs may consist of such of the following sections as may be appropriate—

- (1) title page;
- (2) background information;
- (3) items of costs claimed under the headings specified in paragraph 5.12;
- (4) summary showing the total costs claimed on each page of the bill;
- (5) schedules of time spent on non-routine attendances; and
- (6) the certificates referred to in paragraph 5.21.

If the only dispute between the parties concerns disbursements, the bill of costs shall be limited to items (1) and (2) above, a list of the disbursements in issue and brief written submissions in respect of those disbursements.

5.8 Where it is necessary or convenient to do so, a bill of costs may be divided into two or more parts, each part containing sections (2), (3) and (4) above. Circumstances in which it will be necessary or convenient to divide a bill into parts include the following—

(1) Where the receiving party acted in person during the course of the proceedings (whether or not that party also had a legal representative at that time) the bill must be divided into different parts so as to distinguish between;

(a) the costs claimed for work done by the legal representative; and

(b) the costs claimed for work done by the receiving party in person.

(2) Where the receiving party had pro bono representation for part of the proceedings and an order under section 194(3) of the Legal Services Act 2007 has been made, the bill must be divided into different parts so as to distinguish between—

(a) the sum equivalent to the costs claimed for work done by the legal representative acting free of charge; and

(b) the costs claimed for work not done by the legal representative acting free of charge.

(3) Where the receiving party was represented by different legal representatives during the course of the proceedings, the bill must be divided into different parts so as to distinguish between the costs payable in respect of each legal representative.

(4) Where the receiving party obtained legal aid or LSC funding or is a person for whom civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) were provided under arrangements made for the purposes of that Part of that Act in respect of all or part of the proceedings, the bill must be divided into separate parts so as to distinguish between—

(a) costs claimed before legal aid or LSC funding was granted or before civil legal services were provided;

(b) costs claimed after legal aid or LSC funding was granted or after civil legal services were provided; and

(c) any costs claimed after legal aid or LSC funding ceased or after civil legal services ceased to be provided.

(5) Where the bill covers costs payable under an order or orders under which there are different paying parties the bill must be divided into parts so as to deal separately with the costs payable by each paying party.

(6) Where the bill covers costs payable under an order or orders, in respect of which the receiving party wishes to claim interest from different dates, the bill must be divided to enable such interest to be calculated.

(7) Where the case commenced on or after 1 April 2013, the bill covers costs for work done both before and after that date and the costs are to be assessed on the standard basis, the bill must be divided into parts so as to distinguish between costs shown as incurred for work done before 1 April 2013 and costs shown as incurred for work done on or after 1 April 2013.

(8) Where a costs management order has been made, the costs are to be assessed on the standard basis and the receiving party's budget has been agreed by the paying party or approved by the court, the bill must be divided into separate parts so as to distinguish between the costs claimed for each phase of the last approved or agreed budget, and within each such part the bill must distinguish between the costs shown as incurred in the last agreed or approved budget and the costs shown as estimated.

(9) Where a costs management order has been made and the receiving party's budget has been agreed by the paying party or approved by the court, (a) the costs of initially completing Precedent H and (b) the other costs of the budgeting and costs management process must be set out in separate parts.

5.9 Where a party claims costs against another party and also claims costs against the LSC or Lord Chancellor only for work done in the same period, the costs claimed against the LSC or Lord Chancellor only can be claimed either in a separate part of the bill or in additional columns in the same part of the bill. Precedents B and C in the Schedule of Costs Precedents annexed to this Practice Direction show how bills should be drafted when costs are claimed against the LSC only.

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Form and content of bills of costs: title page

5.10 The title page of the bill of costs must set out -

(1) the full title of the proceedings;

(2) the name of the party whose bill it is and a description of the document showing the right to assessment (as to which see paragraph 13.3 of this Practice Direction);

(3) if VAT is included as part of the claim for costs, the VAT number of the legal representative or other person in respect of whom VAT is claimed;

(4) details of all legal aid certificates, LSC certificates, certificates recording the determinations of the Director of Legal Aid Casework and relevant amendment certificates in respect of which claims for costs are included in the bill.

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Form and content of bills of costs: background information

5.11 The background information included in the bill of costs should set out -

- (1) a brief description of the proceedings up to the date of the notice of commencement;
- (2) a statement of the status of the legal representatives' employee in respect of whom costs are claimed and (if those costs are calculated on the basis of hourly rates) the hourly rates claimed for each such person.
- (3) a brief explanation of any agreement or arrangement between the receiving party and his legal representatives, which affects the costs claimed in the bill.

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Form and content of bills of costs: heads of costs

5.12 The bill of costs may consist of items under such of the following heads as may be appropriate—

- (1) attendances at court and upon counsel up to the date of the notice of commencement;
- (2) attendances on and communications with the receiving party;
- (3) attendances on and communications with witnesses including any expert witness;
- (4) attendances to inspect any property or place for the purposes of the proceedings;
- (5) attendances on and communications with other persons, including offices of public records;
- (6) communications with the court and with counsel;
- (7) work done on documents;
- (8) work done in connection with negotiations with a view to settlement if not already covered in the heads listed above;
- (9) attendances on and communications with London and other agents and work done by them;
- (10) other work done which was of or incidental to the proceedings and which is not already covered in the heads listed above.

5.13 In respect of each of the heads of costs—

- (1) 'communications' means letters out e-mails out and telephone calls;
- (2) communications, which are not routine communications, must be set out in chronological order;
- (3) routine communications must be set out as a single item at the end of each head;

5.14 Routine communications are letters out, e-mails out and telephone calls which because of their simplicity should not be regarded as letters or e-mails of substance or telephone calls which properly amount to an attendance.

5.15 Each item claimed in the bill of costs must be consecutively numbered.

5.16 In each part of the bill of costs which claims items under head (1) in paragraph 5.12 (attendances at court and upon counsel) a note should be made of—

- (1) all relevant events, including events which do not constitute chargeable items;
- (2) any orders for costs which the court made (whether or not a claim is made in respect of those costs in this bill of costs).

5.17 The numbered items of costs may be set out on paper divided into columns. Precedents A, B and C in the Schedule of Costs Precedents annexed to this Practice Direction illustrate various model forms of bills of costs.

5.18 In respect of heads (2) to (10) in paragraph 5.12 above, if the number of attendances and communications other than routine communications is twenty or more, the claim for the costs of those items in that section of the bill of costs should be for the total only and should refer to a schedule in which the full record of dates and details is set out. If the bill of costs contains more than one schedule each schedule should be numbered consecutively.

5.19 The bill of costs must not contain any claims in respect of costs or court fees which relate solely to the detailed assessment proceedings other than costs claimed for preparing and checking the bill.

5.20 The summary must show the total profit costs and disbursements claimed separately from the total VAT claimed. Where the bill of costs is divided into parts the summary must also give totals for each part. If each page of the bill gives a page total the summary must also set out the page totals for each page.

5.21 The bill of costs must contain such of the certificates, the texts of which are set out in Precedent F of the Schedule of Costs Precedents annexed to this Practice Direction, as are appropriate.

5.22 The following provisions relate to work done by legal representatives —

- (1) Routine letters out, routine e-mails out and routine telephone calls will in general be allowed on a unit basis of 6 minutes each, the charge being calculated by reference to the appropriate hourly rate. The unit charge for letters out and e-mails out will include perusing and considering the routine letters in or e-mails in.
- (2) The court may, in its discretion, allow an actual time charge for preparation of electronic communications sent by legal representatives, which properly amount to attendances provided that the time taken has been recorded.

(3) Local travelling expenses incurred by legal representatives will not be allowed. The definition of 'local' is a matter for the discretion of the court. As a matter of guidance, 'local' will, in general, be taken to mean within a radius of 10 miles from the court dealing with the case at the relevant time. Where travelling and waiting time is claimed, this should be allowed at the rate agreed with the client unless this is more than the hourly rate on the assessment.

(4) The cost of postage, couriers, out-going telephone calls, fax and telex messages will in general not be allowed but the court may exceptionally in its discretion allow such expenses in unusual circumstances or where the cost is unusually heavy.

(5) The cost of making copies of documents will not in general be allowed but the court may exceptionally in its discretion make an allowance for copying in unusual circumstances or where the documents copied are unusually numerous in relation to the nature of the case. Where this discretion is invoked the number of copies made, their purpose and the costs claimed for them must be set out in the bill.

(6) Agency charges as between principal legal representatives and their agents will be dealt with on the principle that such charges, where appropriate, form part of the principal legal representative's charges. Where these charges relate to head (1) in paragraph 5.12 (attendances at court and on counsel) they must be included in their chronological order in that head. In other cases they must be included in head (9) (attendances on London and other agents).

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Period for commencing detailed assessment proceedings: rule 47.7

6.1 The time for commencing the detailed assessment proceedings may be extended or shortened either by agreement (rule 2.11) or by the court (rule 3.1(2)(a)). Any application is to the appropriate office.

6.2 The detailed assessment proceedings are commenced by service of the documents referred to. Permission to commence assessment proceedings out of time is not required.

Sanction for delay in commencing detailed assessment proceedings: rule 47.8

7 An application for an order under rule 47.8 must be made in writing and be issued in the appropriate office. The application notice must be served at least 7 days before the hearing.

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Points of dispute and consequences of not serving: rule 47.9

8.1 Time for service of points of dispute may be extended or shortened either by agreement (rule 2.11) or by the court (rule 3.1(2)(a)). Any application is to the appropriate office.

8.2 Points of dispute must be short and to the point. They must follow Precedent G in the Schedule of Costs Precedents annexed to this Practice Direction, so far as practicable. They must:

(a) identify any general points or matters of principle which require decision before the individual items in the bill are addressed; and

(b) identify specific points, stating concisely the nature and grounds of dispute.

Once a point has been made it should not be repeated but the item numbers where the point arises should be inserted in the left hand box as shown in Precedent G.

8.3 The paying party must state in an open letter accompanying the points of dispute what sum, if any, that party offers to pay in settlement of the total costs claimed. The paying party may also make an offer under Part 36.

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Procedure where costs are agreed and on discontinuance: rule 47.10

9.1 Where the parties have agreed terms as to the issue of a costs certificate (either interim or final) they should apply under rule 40.6 (Consent judgments and orders) for an order that a certificate be issued in the terms set out in the application. Such an application may be dealt with by a court officer, who may issue the certificate.

9.2 Where in the course of proceedings the receiving party claims that the paying party has agreed to pay costs but that the paying party will neither pay those costs nor join in a consent application under paragraph 9.1, the receiving party may apply under Part 23 for a certificate either interim or final to be issued.

9.3 Nothing in rule 47.10 prevents parties who seek a judgment or order by consent from including in the draft a term that a party shall pay to another party a specified sum in respect of costs.

9.4

(1) The receiving party may discontinue the detailed assessment proceedings in accordance with Part 38 (Discontinuance).

(2) Where the receiving party discontinues the detailed assessment proceedings before a detailed assessment hearing has been requested, the paying party may apply to the appropriate office for an order about the costs of the detailed assessment proceedings.

(3) Where a detailed assessment hearing has been requested the receiving party may not discontinue unless the court gives permission.

(4) A bill of costs may be withdrawn by consent whether or not a detailed assessment hearing has been requested.

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Default costs certificate: rule 47.11

10.1

(1) A request for the issue of a default costs certificate must be made in Form [N254](#) and must be signed by the receiving party or his legal representative.

(2) The request must be accompanied by a copy of the document giving the right to detailed assessment and must be filed at the appropriate office. (Paragraph 13.3 below identifies the appropriate documents).

10.2 A default costs certificate will be in Form [N255](#).

10.3 Attention is drawn to Rules 40.3 (Drawing up and Filing of Judgments and Orders) and 40.4 (Service of Judgments and Orders) which apply to the preparation and service of a default costs certificate. The receiving party will be treated as having permission to draw up a default costs certificate by virtue of this Practice Direction.

10.4 The issue of a default costs certificate does not prohibit, govern or affect any detailed assessment of the same costs which are payable out of the Community Legal Service Fund or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

10.5 An application for an order staying enforcement of a default costs certificate may be made either—

(a) to a costs judge or District Judge of the court office which issued the certificate; or

(b) to the court (if different) which has general jurisdiction to enforce the certificate.

10.6 Proceedings for enforcement of default costs certificates may not be issued in the Costs Office.

Default costs certificate: fixed costs on the issue of a default costs certificate

10.7 Unless paragraph 1.2 of Practice Direction 45 (Fixed Costs in Small Claims) applies or unless the court orders otherwise, the fixed costs to be included in a default costs certificate are £80 plus a sum equal to any appropriate court fee payable on the issue of the certificate.

10.8 The fixed costs included in a certificate must not exceed the maximum sum specified for costs and court fee in the notice of commencement.

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Setting aside default costs certificate: rule 47.12

11.1 A court officer may set aside a default costs certificate at the request of the receiving party under rule 47.12. A costs judge or a District Judge will make any other order or give any directions under this rule.

11.2

(1) An application for an order under rule 47.12(2) to set aside or vary a default costs certificate must be supported by evidence.

(2) In deciding whether to set aside or vary a certificate under rule 47.12(2) the matters to which the court must have regard include whether the party seeking the order made the application promptly.

(3) As a general rule a default costs certificate will be set aside under rule 47.12 only if the applicant shows a good reason for the court to do so and if the applicant files with the application a copy of the bill, a copy of the default costs certificate and a draft of the points of dispute the applicant proposes to serve if the application is granted.

11.3 Attention is drawn to rule 3.1(3) (which enables the court when making an order to make it subject to conditions) and to rule 44.2(8) (which enables the court to order a party whom it has ordered to pay costs to pay an amount on account before the costs are assessed). A costs judge or a District Judge may exercise the power of the court to make an order under rule 44.2(8) although he did not make the order about costs which led to the issue of the default costs certificate.

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Optional reply: rule 47.13

12.1 A reply served by the receiving party under Rule 47.13 must be limited to points of principle and concessions only. It must not contain general denials, specific denials or standard form responses.

12.2 Whenever practicable, the reply must be set out in the form of Precedent G.

Detailed assessment hearing: rule 47.14

13.1 The time for requesting a detailed assessment hearing is within 3 months of the expiry of the period for commencing detailed assessment proceedings.

13.2 The request for a detailed assessment hearing must be in Form [N258](#). The request must be accompanied by—

(a) a copy of the notice of commencement of detailed assessment proceedings;

(b) a copy of the bill of costs,

(c) the document giving the right to detailed assessment (see paragraph 13.3 below);

(d) a copy of the points of dispute, annotated as necessary in order to show which items have been agreed and their value and to show which items remain in dispute and their value;

- (e) as many copies of the points of dispute so annotated as there are persons who have served points of dispute;
- (f) a copy of any replies served;
- (g) copies of all orders made by the court relating to the costs which are to be assessed;
- (h) copies of the fee notes and other written evidence as served on the paying party in accordance with paragraph 5.2 above;
- (i) where there is a dispute as to the receiving party's liability to pay costs to the legal representatives who acted for the receiving party, any agreement, letter or other written information provided by the legal representative to the client explaining how the legal representative's charges are to be calculated;
- (j) a statement signed by the receiving party or the legal representative giving the name, email address, address for service, reference and telephone number and fax number, if any, of—
 - (i) the receiving party;
 - (ii) the paying party;
 - (iii) any other person who has served points of dispute or who has given notice to the receiving party under paragraph 5.5(1)(b) above;
 and giving an estimate of the length of time the detailed assessment hearing will take;
- (k) where the application for a detailed assessment hearing is made by a party other than the receiving party, such of the documents set out in this paragraph as are in the possession of that party;
- (l) where the court is to assess the costs of an assisted person or LSC funded client or person to whom civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) are provided under arrangement made for the purposes of that Part of that Act—
 - (i) the legal aid certificate, LSC certificate, the certificate recording the determination of the Director of Legal Aid Casework and relevant amendment certificates, any authorities and any certificates of discharge or revocation or withdrawal;
 - (ii) a certificate, in Precedent F(3) of the Schedule of Costs Precedents;
 - (iii) if that person has a financial interest in the detailed assessment hearing and wishes to attend, the postal address of that person to which the court will send notice of any hearing;
 - (iv) if the rates payable out of the LSC fund or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 are prescribed rates, a schedule to the bill of costs setting out all the items in the bill which are claimed against other parties calculated at the legal aid prescribed rates with or without any claim for enhancement: (further information as to this schedule is set out in paragraph 17 of this Practice Direction);
 - (v) a copy of any default costs certificate in respect of costs claimed in the bill of costs;
 - (m) if a costs management order has been made, a breakdown of the costs claimed for each phase of the proceedings.

13.3 'The document giving the right to detailed assessment' means such one or more of the following documents as are appropriate to the detailed assessment proceedings—

- (a) a copy of the judgment or order of the court or tribunal giving the right to detailed assessment;
- (b) a copy of the notice sent by the court under Practice Direction 3B paragraph 1, being notification that a claim has been struck out under rule 3.7 or rule 3.7A1 for non-payment of a fee;
- (c) a copy of the notice of acceptance where an offer to settle is accepted under Part 36 (Offers to settle);
- (d) a copy of the notice of discontinuance in a case which is discontinued under Part 38 (Discontinuance);
- (e) a copy of the award made on an arbitration under any Act or pursuant to an agreement, where no court has made an order for the enforcement of the award;
- (f) a copy of the order, award or determination of a statutorily constituted tribunal or body.

13.4 On receipt of the request for a detailed assessment hearing the court will fix a date for the hearing, or, if the costs officer so decides, will give directions or fix a date for a preliminary appointment.

13.5 Unless the court otherwise orders, if the only dispute between the parties concerns disbursements, the hearing shall take place in the absence of the parties on the basis of the documents and the court will issue its decision in writing.

13.6 The court will give at least 14 days' notice of the time and place of the detailed assessment hearing to every person named in the statement referred to in paragraph 13.2(j) above.

13.7 If either party wishes to make an application in the detailed assessment proceedings the provisions of Part 23 apply.

13.8

(1) This paragraph deals with the procedure to be adopted where a date has been given by the court for a detailed assessment hearing and—

- (a) the detailed assessment proceedings are settled; or
- (b) a party to the detailed assessment proceedings wishes to apply to vary the date which the court has fixed; or
- (c) the parties to the detailed assessment proceedings agree about changes they wish to make to any direction given for the management of the detailed assessment proceedings.

- (2) If detailed assessment proceedings are settled, the receiving party must give notice of that fact to the court immediately, preferably by fax.
- (3) A party who wishes to apply to vary a direction must do so in accordance with Part 23.
- (4) If the parties agree about changes they wish to make to any direction given for the management of the detailed assessment proceedings—
- (a) they must apply to the court for an order by consent; and
 - (b) they must file a draft of the directions sought and an agreed statement of the reasons why the variation is sought; and
 - (c) the court may make an order in the agreed terms or in other terms without a hearing, but it may direct that a hearing is to be listed.

13.10

- (1) If a party wishes to vary that party's bill of costs, points of dispute or a reply, an amended or supplementary document must be filed with the court and copies of it must be served on all other relevant parties.
- (2) Permission is not required to vary a bill of costs, points of dispute or a reply but the court may disallow the variation or permit it only upon conditions, including conditions as to the payment of any costs caused or wasted by the variation.

13.11 Unless the court directs otherwise the receiving party must file with the court the papers in support of the bill not less than 7 days before the date for the detailed assessment hearing and not more than 14 days before that date.

13.12 The papers to be filed in support of the bill and the order in which they are to be arranged are as follows—

- (i) instructions and briefs to counsel arranged in chronological order together with all advices, opinions and drafts received and response to such instructions;
- (ii) reports and opinions of medical and other experts;
- (iii) any other relevant papers;
- (iv) a full set of any relevant statements of case
- (v) correspondence, file notes and attendance notes;

13.13 The court may direct the receiving party to produce any document which in the opinion of the court is necessary to enable it to reach its decision. These documents will in the first instance be produced to the court, but the court may ask the receiving party to elect whether to disclose the particular document to the paying party in order to rely on the contents of the document, or whether to decline disclosure and instead rely on other evidence.

13.14 Once the detailed assessment hearing has ended it is the responsibility of the receiving party to remove the papers filed in support of the bill.

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Provisional assessment: rule 47.15

14.1 The amount of costs referred to in rule 47.15(1) is £75,000.

14.2 The following provisions of Part 47 and this Practice Direction will apply to cases falling within rule 47.15—

- (1) rules 47.1, 47.2, 47.4 to 47.13, 47.14 (except paragraphs (6) and (7)), 47.16, 47.17, 47.20 and 47.21; and
- (2) paragraphs 1, 2, 4 to 12, 13 (with the exception of paragraphs 13.4 to 13.7, 13.9, 13.11 and 13.14), 15, and 16, of this Practice Direction.

14.3 In cases falling within rule 47.15, when the receiving party files a request for a detailed assessment hearing, that party must file—

- (a) the request in Form [N258](#);
- (b) the documents set out at paragraphs 8.3 and 13.2 of this Practice Direction;
- (c) **an additional copy of any paper bill and a statement of the costs**, including a statement of the costs claimed in respect of the detailed assessment drawn on the assumption that there will not be an oral hearing following the provisional assessment;
- (d) the offers made (those marked 'without prejudice save as to costs' or made under Part 36 must be contained in a sealed envelope, marked 'Part 36 or similar offers', but not indicating which party or parties have made them);
- (e) completed Precedent G (points of dispute and any reply).

14.4

- (1) On receipt of the request for detailed assessment and the supporting papers, the court will use its best endeavours to undertake a provisional assessment within 6 weeks. No party will be permitted to attend the provisional assessment.
- (2) Once the provisional assessment has been carried out the court will return Precedent G (the points of dispute and any reply) with the court's decisions noted upon it. Within 14 days of receipt of Precedent G the parties must agree the total sum due to the receiving party on the basis of the court's decisions. If the

parties are unable to agree the arithmetic, they must refer the dispute back to the court for a decision on the basis of written submissions.

14.5 When considering whether to depart from the order indicated by rule 47.15(10) the court will take into account the conduct of the parties and any offers made.

14.6 If a party wishes to be heard only as to the order made in respect of the costs of the initial provisional assessment, the court will invite each side to make written submissions and the matter will be finally determined without a hearing. The court will decide what if any order for costs to make in respect of this procedure.

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Power to issue an interim certificate: rule 47.16

15 A party wishing to apply for an interim certificate may do so by making an application in accordance with Part 23.

Final costs certificate: rule 47.17

16.1 At the detailed assessment hearing the court will indicate any disallowance or reduction in the sums claimed in the bill of costs by making an appropriate note on the bill.

16.2 The receiving party must, in order to complete the bill after the detailed assessment hearing make clear the correct figures agreed or allowed in respect of each item and must re-calculate the summary of the bill appropriately.

16.3 The completed bill of costs must be filed with the court no later than 14 days after the detailed assessment hearing.

16.4 At the same time as filing the completed bill of costs, the party whose bill it is must also produce receipted fee notes and receipted accounts in respect of all disbursements except those covered by a certificate in Precedent F(5) in the Schedule of Costs Precedents annexed to this Practice Direction.

16.5 No final costs certificate will be issued until all relevant court fees payable on the assessment of costs have been paid.

16.6 If the receiving party fails to file a completed bill in accordance with rule 47.17 the paying party may make an application under Part 23 seeking an appropriate order under rule 3.1.

16.7 A final costs certificate will show—

(a) the amount of any costs which have been agreed between the parties or which have been allowed on detailed assessment;

(b) where applicable the amount agreed or allowed in respect of VAT on such costs.

This provision is subject to any contrary statutory provision relating to costs payable out of the Community Legal Service Fund or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

16.8 A final costs certificate will include disbursements in respect of the fees of counsel only if receipted fee notes or accounts in respect of those disbursements have been produced to the court and only to the extent indicated by those receipts.

16.9 Where the certificate relates to costs payable between parties a separate certificate will be issued for each party entitled to costs.

16.10 Form N257 is a model form of interim costs certificate and Form N256 is a model form of final costs certificate.

16.11 An application for an order staying enforcement of an interim costs certificate or final costs certificate may be made either—

(a) to a costs judge or District Judge of the court office which issued the certificate; or

(b) to the court (if different) which has general jurisdiction to enforce the certificate.

16.12 An interim or final costs certificate may be enforced as if it were a judgment for the payment of an amount of money. However, proceedings for the enforcement of interim costs certificates or final costs certificates may not be issued in the Costs Office.

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Detailed assessment procedure where costs are payable out of the Community Legal Service fund or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012: rule 47.18

17.1 The time for requesting a detailed assessment under rule 47.18 is within 3 months after the date when the right to detailed assessment arose.

17.2

(1) The request for a detailed assessment of costs must be in Form N258A. The request must be accompanied by—

(a) a copy of the bill of costs;

(b) the document giving the right to detailed assessment (see paragraph 13.3 above);

(c) copies of all orders made by the court relating to the costs which are to be assessed;

(d) copies of any fee notes of counsel and any expert in respect of fees claimed in the bill;
(e) written evidence as to any other disbursement which is claimed and which exceeds £500;
(f) the legal aid certificates, LSC certificates, certificates recording the determinations of the Director of Legal Aid Casework, any relevant amendment certificates, any authorities and any certificates of discharge, revocation or withdrawal; and
(g) a statement signed by the legal representative giving the representative's name, address for service, reference, telephone number, e-mail address and, if the assisted person has a financial interest in the detailed assessment and wishes to attend, giving the postal address of that person, to which the court will send notice of any hearing.

(2) The relevant papers in support of the bill as described in paragraph 13.12 must only be lodged if requested by the costs officer.

17.3 Where the court has provisionally assessed a bill of costs it will send to the legal representative a notice, in Form N253 annexed to this practice direction, of the amount of costs which the court proposes to allow together with the bill itself. The legal representative should, if the provisional assessment is to be accepted, then complete the bill.

17.4 If the solicitor whose bill it is, or any other party wishes to make an application in the detailed assessment proceedings, the provisions of Part 23 applies.

17.5 It is the responsibility of the legal representative to complete the bill by entering in the bill the correct figures allowed in respect of each item, recalculating the summary of the bill appropriately and completing the Community Legal Service assessment certificate (Form EX80A).

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Costs payable by the legal services commission or Lord Chancellor at prescribed rates

17.6 Where the costs of an assisted person or LSC funded client or person to whom civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) are provided under arrangements made for the purposes of that Part of that Act are payable by another person but costs can be claimed against the LSC or Lord Chancellor at prescribed rates (with or without enhancement), the solicitor of the assisted person or LSC funded client or person to whom civil legal services are provided must file a legal aid/ LSC schedule in accordance with paragraph 13.2(l) above. **If on paper (a "paper schedule") the schedule should follow as closely as possible Precedent E of the Schedule of Costs Precedents annexed to this Practice Direction. If an electronic bill of costs is served on the other person an electronic schedule may, subject to paragraphs 17.7 and 17.8 below, be prepared and filed as if it were an electronic bill.**

17.7 The schedule must set out by reference to the item numbers in the bill of costs, all the costs claimed as payable by another person, but the arithmetic in the schedule should claim those items at prescribed rates only (with or without any claim for enhancement).

17.8 Where there has been a change in the prescribed rates during the period covered by the bill of costs, **a paper schedule** (as opposed to the bill) should be divided into separate parts, so as to deal separately with each change of rate. **The paper schedule** must also be divided so as to correspond with any divisions in the bill of costs. **If the schedule is an electronic schedule, unless the format of the schedule already provides the requisite information it should incorporate a summary in a form comparable to the "Funding and Parts Table" in Precedent S to provide the information that would otherwise be provided by its division into parts.**

17.9 If the bill of costs **sets** costs claimed against the LSC or Lord Chancellor only, the schedule may be set out in a separate document or, alternatively, may be included in **the bill, shown separately from the costs claimed against other parties.**

17.10 The detailed assessment of the legal aid/ LSC schedule will take place immediately after the detailed assessment of the bill of costs but on occasions, the court may decide to conduct the detailed assessment of the legal aid/ LSC schedule separately from any detailed assessment of the bill of costs. This will occur, for example, where a default costs certificate is obtained as between the parties but that certificate is not set aside at the time of the detailed assessment of the legal aid costs.

17.11 Where costs have been assessed at prescribed rates it is the responsibility of the legal representative to enter the correct figures allowed in respect of each item and to recalculate the summary of the legal aid/ LSC schedule.

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Detailed assessment procedure where costs are payable out of a fund other than the Community Legal Service fund or by the Lord Chancellor under part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012: rule 47.19

18.1 Rule 47.19 enables the court to direct under rule 47.19(3) that the receiving party must serve a copy of the request for assessment and copies of the documents which accompany it, on any person who has a financial interest in the outcome of the assessment.

18.2 A person has a financial interest in the outcome of the assessment if the assessment will or may affect the amount of money or property to which that person is or may become entitled out of the fund. Where an interest in the fund is itself held by a trustee for the benefit of some other person, that trustee will be treated as the person having such a financial interest unless it is not appropriate to do so. 'Trustee' includes a personal representative, receiver or any other person acting in a fiduciary capacity.

18.3 The request for a detailed assessment of costs out of the fund should be in Form N258B, be accompanied by the documents set out at paragraph 17.2(1) (a) to (e) and the following—

- (a) a statement signed by the receiving party giving his name, **email address**, address for service, reference **and** telephone number,
- (b) a statement of the postal address of any person who has a financial interest in the outcome of the assessment; and
- (c) if a person having a financial interest is a child or protected party, a statement to that effect.

18.4 The court will decide, having regard to the amount of the bill, the size of the fund and the number of persons who have a financial interest, which of those persons should be served and may give directions about service and about the hearing. The court may dispense with service on all or some of those persons.

18.5 Where the court makes an order dispensing with service on all such persons it may proceed at once to make a provisional assessment, or, if it decides that a hearing is necessary, give appropriate directions. Before deciding whether a hearing is necessary, the court may require the receiving party to provide further information relating to the bill.

18.6

(1) The court will send the provisionally assessed bill to the receiving party with a notice in Form N253. If the receiving party is legally represented the legal representative should, if the provisional assessment is to be accepted, then complete the bill.

(2) The court will fix a date for a detailed assessment hearing, if the receiving party informs the court within 14 days after receiving the notice in Form N253, that the receiving party wants the court to hold such a hearing.

18.7 The court will give at least 14 days notice of the time and place of the hearing to the receiving party and to any person who has a financial interest and who has been served with a copy of the request for assessment.

18.8 If any party or any person who has a financial interest wishes to make an application in the detailed assessment proceedings, the provisions of Part 23 (General Rules about Applications for Court Orders) apply.

18.9 If the receiving party is legally represented the legal representative must complete the bill by inserting the correct figures in respect of each item and must recalculate the summary of the bill.

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Costs of detailed assessment proceedings – rule 47.20: offers to settle under part 36 or otherwise

19 Where an offer to settle is made, whether under Part 36 or otherwise, it should specify whether or not it is intended to be inclusive of the cost of preparation of the bill, interest and VAT. Unless the offer states otherwise it will be treated as being inclusive of these.

Appeals from authorised court officers in detailed assessment proceedings: rules 47.22 to 47.25

20.1 This Section relates only to appeals from authorised court officers in detailed assessment proceedings. All other appeals arising out of detailed assessment proceedings (and arising out of summary assessments) are dealt with in accordance with Part 52 and Practice Directions 52A to 52E. The destination of appeals is dealt with in accordance with the Access to Justice Act 1999 (Destination of Appeals) Order 2016.

20.2 In respect of appeals from authorised court officers, there is no requirement to obtain permission, or to seek written reasons.

20.3 The appellant must file a notice which should be in Form N161 (an appellant's notice).

20.4 The appeal will be heard by a costs judge or a District Judge of the High Court, and is a re-hearing.

20.5 The appellant's notice should, if possible, be accompanied by a suitable record of the judgment appealed against. Where reasons given for the decision have been officially recorded by the court an approved transcript of that record should accompany the notice. Where there is no official record the following documents will be acceptable—

- (a) the officer's comments written on the bill;
- (b) advocates' notes of the reasons agreed by the respondent if possible and approved by the authorised court officer.

When the appellant was unrepresented before the authorised court officer, it is the duty of any advocate for the respondent to make a note of the reasons promptly available, free of charge to the appellant where there is no official record or if the court so directs. Where the appellant was represented before the authorised court officer, it is the duty of the appellant's own former advocate to make a note available. The appellant should submit the note of the reasons to the costs judge or District Judge hearing the appeal.

20.6 Where the appellant is not able to obtain a suitable record of the authorised court officer's decision within the time in which the appellant's notice must be filed, the appellant's notice must still be completed to the best of the appellant's ability. It may however be amended subsequently with the permission of the costs judge or District Judge hearing the appeal.