

Precedent S Reference Sheets

Phase and Task Codes

Phase Code	Task Code	Phase in Bill of Costs	Phase in Precedent H	Task Name	Task Description	Phase Sort Order Number	Task Sort Order Number
P1		Initial and Pre-Action Protocol Work	Pre-Action Costs		Work relating to the obtaining of instructions, identification of witnesses, dealing with locus and evidential issues, dealing with and identifying legal issues arising from the case and strategy, and dealing with any protocol related matters, if not covered elsewhere.	1	
	T1	Initial and Pre-Action Protocol Work	Pre-Action Costs	Factual investigation	Work required to understand the facts of the case including instructions from the client and the identification of potential witnesses		1
	T2	Initial and Pre-Action Protocol Work	Pre-Action Costs	Legal investigation	Includes identification of the legal issues raised by the case facts and developing the strategy for the case.		2
	T3	Initial and Pre-Action Protocol Work	Pre-Action Costs	Pre-action protocol (or similar) work	Communications at an initial stage in compliance with pre-action protocol including letters before action and responses.		3

P2		Issue / Statements of Case	Issue / Statements of Case		Covers issue and acknowledgment of proceedings, Statements of Case and Further Information requests/responses. Includes taking instructions, making inquiries and searches, researching, drafting, editing, filing and all meetings and communications for the purpose of such documents.	2	
	T4	Issue / Statements of Case	Issue / Statements of Case	Issue and Serve Proceedings and Preparation of Statement(s) of Case	Work related to effecting service, including dealing with process servers or the foreign process office. Work in preparation of claims, petitions and any other originating process, Statements of Case, Part 20 proceedings, including reviewing those of other parties whether or not a responsive document is served. Includes all work with counsel thereon and all dealings with client and others in connection therewith. In appeals includes Appellants' and Respondents' Notices and supporting skeleton arguments.		4
	T5	Issue / Statements of Case	Issue / Statements of Case	Review of Other Party(s)' Statements of Case	Considering Other Party(s)' Claim Form and Statements of Case.		5
	T6	Issue / Statements of Case	Issue / Statements of Case	Requests for Further Information	Preparing and considering requests for Further Information and responses thereto.		6
	T7	Issue / Statements of Case	Issue / Statements of Case	Amendment of Statements of Case	Preparing and considering amendments to originating process, Statements of Case, Part 20 proceedings. In appeals refers to amendments to Appellants' and Respondents' Notices and supporting skeleton arguments.		7

P3	T8	Case Management Conference	CMC	Case Management Conference	Work relating to such hearings and the preparation for them, including PTR and CMC's. This does not include interim applications heard at the same time (excludes costs management).	3	8
P4		Disclosure	Disclosure		Work relating to gathering and reviewing documents for potential disclosure, preparing disclosure lists and practical steps of disclosure.	4	
	T9	Disclosure	Disclosure	Preparation of the disclosure report and the disclosure proposal	Preparation of the disclosure report and the disclosure proposal to comply with obligations that came in on 1-April-2013 (applicable to both manual and e-disclosure). All Disclosure related work required for the CMC. Additionally, this task encompasses work such as determining the location of documents, letters to client re disclosure obligations and setting up client based disclosure teams.		9
	T10	Disclosure	Disclosure	Obtaining and reviewing documents	Obtaining and reviewing documents to determine relevance (applicable to both manual and e-disclosure).	T10	10
	T11	Disclosure	Disclosure	Preparing and serving disclosure lists	Preparing and serving disclosure lists (applicable to both manual and e-disclosure).		11
	T12	Disclosure	Disclosure	Inspection and review of the other side's disclosure for work undertaken after exchange of	Inspection and review of the other side's disclosure for work undertaken after exchange of disclosure lists (applicable to both manual and e-disclosure).		12

				disclosure lists.			
P5		Witness statements	Witness statements		Work that relates to the identification of potential witnesses and preparing their evidence for trial (excludes witness evidence in relation to interim applications).	5	
	T13	Witness statements	Witness statements	Taking, preparing and finalising witness statement(s)	Work involved in identifying appropriate witnesses, tracing and communicating with same, taking instructions for, preparing and serving witness statements or affidavits, preparing and serving witness summaries, preparing and serving any notices under Civil Evidence or similar Acts, preparing and serving witness summonses, including reviewing other materials for these purposes and all dealings with client, witnesses, inquiry agents, counsel, Other Party(s) and others in relation to own side witness statements.		13
	T14	Witness statements	Witness statements	Reviewing Other Party(s)' witness statement(s)	Considering Other Party(s)' witness statements, affidavits, witness summaries, Civil Evidence Act or similar notices, reviewing same in context of other evidence and material, considering strategy to deal with issues raised.		14
P6		Expert reports	Expert reports		Work that relates to the identification of potential experts and preparing their evidence for trial (excludes expert evidence in relation to interim applications).	6	

	T15	Expert reports	Expert reports	Own expert evidence	Identifying and interviewing experts and consultants (testifying or non-testifying), working with them, and developing expert reports. Reviewing case in the light of such evidence. Considering questions asked by Other Party(s) of own experts and experts' responses. Arranging experts' discussions. Considering reports of experts' discussions. Includes all communications or other work with counsel, and all communications with Other Party.		15
	T16	Expert reports	Expert reports	Other Party(s)' expert evidence	Considering Other Party(s)' expert evidence, preparing and asking questions of their experts, considering replies, reviewing case in light of such evidence.		16
	T17	Expert reports	Expert reports	Joint expert evidence	As [JH10] (own expert evidence) with appropriate modifications.		17
P7	T18	Pre-Trial Review	PTR	Pre Trial Review	Work in preparing for and attending any Pre Trial Review (excluding Costs Management).	7	18
P8		Trial preparation	Trial preparation		Work for the preparation of the trial not included in the other phases.	8	
	T19	Trial preparation	Trial preparation	Preparation of trial bundles	Time spent identifying documents for inclusion in the trial bundles, working with the other parties to agree the trial bundles, preparing and updating the trial bundles.		19
	T20	Trial preparation	Trial preparation	General work regarding preparation for trial	All other time spent in preparing for and supporting a trial, including developing overall trial strategy, preparing own witnesses for trial, working on cross-examination, preparing opening and closing arguments, , identifying documents for use at trial, preparing demonstrative materials, making any physical arrangements for trial etc		20

P9		Trial	Trial		Covers preparation for advocacy including written trial submissions and all other work from the first day on which a trial or appeal begins or, if settled, was due to begin.	9	
	T21	Trial	Trial	Advocacy	Preparation by advocates of written and oral openings, closings or skeleton arguments; preparation for examination of witnesses; preparation of and for all applications made during trial; considering all submissions of other parties; attendance of advocates during trial. Includes all dealings by advocates with others (e.g. solicitors, clients, witnesses) for these purposes.		21
	T22	Trial	Trial	Support of advocates	Work by lawyers other than advocates relating to the above matters and all attendances at court on trial days including conferences or meetings before or after court and travel and waiting. Where there is a substantial gap between trial days, work should be allocated to whichever is the more appropriate of the Trial Preparation and Trial phases.		22
	T23	Trial	Trial	Judgment and post-trial activity	Considering draft judgments, preparing and considering any written responses to the court, submissions or skeleton arguments in relation to judgment or consequential orders, preparation for and attendance at hearings when reserved judgments handed down or consequential orders considered, all dealings relating to form of judgment or order. Includes all meetings and communications relating thereto.		23
P10		ADR / Settlement	ADR / Settlement		Work that is directed to settlement including ADR	10	

	T24	ADR / Settlement	ADR / Settlement	Mediation	Work related to proposals for mediation, preparation and attendance at the mediation and any follow-up work.		24
	T25	ADR / Settlement	ADR / Settlement	Other Settlement Matters	Work that is directed to settlement including Part 36 and other offers and consequent negotiations (includes all forms of ADR other than mediation).		25
P11		Interim Applications and Hearings (Interlocutory Applications)	Contingencies		Work covering all proposed and actual interim applications and hearings. Includes taking instructions, making inquiries, research, preparing and filing applications, supporting evidence and skeleton arguments including reviewing those of other parties whether or not a responsive document is served, preparing for and attending hearings and all meetings and communications for the purpose of such applications or hearings.	11	
	T26	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Applications relating to originating process or Statement of Case or for default or summary judgment	Includes applications as to service or jurisdiction, to strike out or amend all or part of a claim or Statement of Case, or for the variation of parties.		26
	T27	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Applications for an injunction or committal	Work performed related to applications for an injunction or committal.		27

	T28	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Applications for disclosure or Further Information	Work performed related to applications for disclosure or Further Information		28
	T29	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Applications concerning evidence	Work performed related to applications concerning evidence		29
	T30	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Applications relating to Costs alone	Includes applications for security for costs, costs capping and protective costs orders. Does not include budgeting or costs management orders which are dealt with at [JB40]. Does not include applications proceeding as to costs alone where a substantive application for some other relief has settled.		30
	T31	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Permission applications	All permission applications where permission to proceed is required, such as in judicial review proceedings or on appeal.		31
	T32	Interim Applications and Hearings (Interlocutory Applications)	Contingencies	Other applications	All other types of application not covered by the categories above		32
P12	T33	Funding	N/A	Funding	All work relating to reviewing funding options, securing funding and reports to funders during the life of the case.	12	33

P13		Budgeting incl. costs estimates	N/A		All work throughout the life of the case relating to budgeting and costs management, excluding the 'costs assessment' and 'funding' related work and preparation for and attendance at any costs management hearing, all of which have discrete phases.	13	
	T34	Budgeting incl. costs estimates	N/A	Budgeting - own side's costs	Preparing budgets solely for the client and monitoring costs incurred for the purposes of any required variations. Performing budgetary work related to obtaining third party funding/ATE insurance.		34
	T35	Budgeting incl. costs estimates	N/A	Budgeting - Precedent H	Initially completing Precedent H - This task is confined to preparing and compiling the first budget required by the court in the form of Precedent H.		35
	T36	Budgeting incl. costs estimates	N/A	Budgeting - between the parties	Work on budgeting between the parties following initial completion of the first budget, including the monitoring of costs incurred against the budget and any applications for variation of a budget.		36
P14	T37	Costs Management Conference	N/A	Costs Management Conference	Work in preparing for and attending any Costs Management Conference / Hearing including the hearing of any applications to vary a budget.	14	37
P15		Costs Assessment	N/A		Work related to the assessment or agreement of costs following trial or settlement of the underlying action	15	
	T38	Costs Assessment	N/A	Preparing costs claim	Includes the reconciliation of the costs claimed to any approved budget in and the preparation of the bill of costs for detailed assessment		38
	T39	Costs Assessment	N/A	Points of dispute, Replies and Negotiations	Work on the formal procedural steps under CPR 47 following service of a bill of costs together with Part 36 and other offers to settle costs and consequent negotiations		39

	T40	Costs Assessment	N/A	Hearings	Includes preparation for and attendance at hearings for directions and interim certificate applications as well as the detailed assessment itself		40
	T41	Costs Assessment	N/A	Post Assessment Work (excluding Hearings)	Includes post-hearing calculations and all other work required to finalise the amounts due for principal, interest and the costs of the assessment		41

Activity Codes

Activity Code	Activity Name	Activity Description	Activity Sort Order Number
A1	Appear For/Attend	Any appearance for or attendance at a scheduled event related to the matter	1
A2	Communicate (with Counsel)	Any communication by letter, fax, email, telephone, meetings and conferences with own-side Counsel	2
A3	Communicate (with client)	Any communication by letter, fax, email, telephone, meetings and conferences with client	3
A4	Communicate (witnesses)	Any communication by letter, fax, email, telephone, meetings and conferences with witnesses	4
A5	Communicate (experts)	Any communication by letter, fax, email, telephone, meetings and conferences with experts	5
A6	Communicate (Other Party(s)/other outside lawyers)	Any communication by letter, fax, email, telephone, meetings and conferences with opposing lawyers or other outside lawyers not representing the client	6
A7	Communicate (other external)	Any communication by letter, fax, email, telephone, meetings and conferences with other external parties not already categorised within these activity codes.	7

A8	Communicate (internally within legal team)	Any internal communications within firm.	8
A9	Billable Travel Time	Includes time spent waiting associated with the matter when other billable services are not performed for the client.	9
A10	Plan, Prepare, Draft, Review	Any planning or preparation associated with a matter; Any drafting or revision or other preparation of documents or other material; Any review or analysis of documents or other material; Any handling of documents, files or data.	10

Disbursement Codes

Expense Code	Expense Name	Expense Sort Order Number
X1	Counsel's Fees	1
X2	Experts' Fees	2
X3	Court Fees	3
X4	Arbitrators' or Mediators' Fees	4
X5	Witness Expenses	5
X6	Transcripts	6
X7	Litigation Support Suppliers (incl eDisclosure)	7
X8	Consultants, Other Professionals or Foreign Lawyers	8
X9	Travel Expenses	9
X10	Copying/Imaging	10
X11	ATEI Premiums	11
X12	Medical Records	12
X13	Translation Costs	13
X14	Bank Fees	14
X15	Process Server Fees	15

ACL Bill Reference Sheets

Task Codes

Phase	Task	Description
1. Initial and Pre-action protocol work		Work relating to the obtaining of instructions, identification of witnesses, dealing with locus and evidential issues, dealing with and identifying legal issues arising from the case and strategy, and dealing with any protocol related matters, if not covered elsewhere.
	1.1 Factual investigation	Work required to understand the facts of the case including instructions from the client and the identification of potential witnesses
	1.2 Legal investigation	Includes identification of the legal issues raised by the case facts and developing the strategy for the case.
	1.3 Pre-action protocol (or similar) work	Communications at an initial stage in compliance with pre-action protocol including letters before action and responses.
2. Issue / Statements of Case		Covers issue and acknowledgment of proceedings, Statements of Case and Further Information requests/responses. Includes taking instructions, making inquiries and searches, researching, drafting, editing, filing and all meetings and communications for the purpose of such documents.
	2.1 Issue and Serve Proceedings and Preparation of Statement(s) of Case	Work related to effecting service, including dealing with process servers or the foreign process office. Work in preparation of claims, petitions and any other originating process, Statements of Case, Part 20 proceedings, including reviewing those of other parties whether or not a responsive document is served. Includes all work with counsel thereon and all dealings with client and others in connection therewith. In appeals includes Appellants' and Respondents' Notices and supporting skeleton arguments.
	2.2 Review of Other Party(s)' Statements of Case	Considering Other Party(s)' Claim Form and Statements of Case.
	2.3 Requests for Further Information	Preparing and considering requests for Further Information and responses thereto.
	2.4 Amendment of Statements of Case	Preparing and considering amendments to originating process, Statements of Case, Part 20 proceedings. In appeals refers to amendments to Appellants' and Respondents' Notices and supporting skeleton arguments.
3. Case and Costs Management Hearings	3.1 Case Management Conference	Work relating to such hearings and the preparation for them, including PTR and CMC's. This does not include interim applications heard at the same time (excludes costs management).

4. Disclosure		Work relating to gathering and reviewing documents for potential disclosure, preparing disclosure lists and practical steps of disclosure.
4.1	Preparation of the disclosure report and the disclosure proposal	Preparation of the disclosure report and the disclosure proposal to comply with obligations that came in on 1-April-2013 (applicable to both manual and e-disclosure). All Disclosure related work required for the CMC. Additionally, this task encompasses work such as determining the location of documents, letters to client re disclosure obligations and setting up client based disclosure teams.
4.2	Obtaining and reviewing documents	Obtaining and reviewing documents to determine relevance (applicable to both manual and e-disclosure).
4.3	Preparing and serving disclosure lists	Preparing and serving disclosure lists (applicable to both manual and e-disclosure).
4.4	Inspection and review of the other side's disclosure for work undertaken after exchange of disclosure lists.	Inspection and review of the other side's disclosure for work undertaken after exchange of disclosure lists (applicable to both manual and e-disclosure).
5. Witness statements		Work that relates to the identification of potential witnesses and preparing their evidence for trial (excludes witness evidence in relation to interim applications).
5.1	Taking, preparing and finalising witness statement(s)	Work involved in identifying appropriate witnesses, tracing and communicating with same, taking instructions for, preparing and serving witness statements or affidavits, preparing and serving witness summaries, preparing and serving any notices under Civil Evidence or similar Acts, preparing and serving witness summonses, including reviewing other materials for these purposes and all dealings with client, witnesses, inquiry agents, counsel, Other Party(s) and others in relation to own side witness statements.
5.2	Reviewing Other Party(s)' witness statement(s)	Considering Other Party(s)' witness statements, affidavits, witness summaries, Civil Evidence Act or similar notices, reviewing same in context of other evidence and material, considering strategy to deal with issues raised.
6. Expert reports		Work that relates to the identification of potential experts and preparing their evidence for trial (excludes expert evidence in relation to interim applications).
6.1	Own expert evidence	Identifying and interviewing experts and consultants (testifying or non-testifying), working with them, and developing expert reports. Reviewing case in the light of such evidence. Considering questions asked by Other Party(s) of own experts and experts' responses. Arranging experts' discussions. Considering reports of experts' discussions. Includes all communications or other work with counsel, and all communications with Other Party.
6.2	Other Party(s)' expert evidence	Considering Other Party(s)' expert evidence, preparing and asking questions of their experts, considering replies, reviewing case in light of such evidence.
6.3	Joint expert evidence	As [JH10] (own expert evidence) with appropriate modifications.
7. PTR	7.1 Pre Trial Review	Work in preparing for and attending any Pre Trial Review (excluding Costs Management).
8. Trial preparation		Work for the preparation of the trial not included in the other phases.
8.1	Preparation of trial bundles	Time spent identifying documents for inclusion in the trial bundles, working with the other parties to agree the trial bundles, preparing and updating the trial bundles.
8.2	General work regarding preparation for trial	All other time spent in preparing for and supporting a trial, including developing overall trial strategy, preparing own witnesses for trial, working on cross-examination, preparing

		opening and closing arguments, identifying documents for use at trial, preparing demonstrative materials, making any physical arrangements for trial etc	
9. Trial			
		Covers preparation for advocacy including written trial submissions and all other work from the first day on which a trial or appeal begins or, if settled, was due to begin.	
	9.1	Advocacy	Preparation by advocates of written and oral openings, closings or skeleton arguments; preparation for examination of witnesses; preparation of and for all applications made during trial; considering all submissions of other parties; attendance of advocates during trial. Includes all dealings by advocates with others (e.g. solicitors, clients, witnesses) for these purposes.
	9.2	Support of advocates	Work by lawyers other than advocates relating to the above matters and all attendances at court on trial days including conferences or meetings before or after court and travel and waiting. Where there is a substantial gap between trial days, work should be allocated to whichever is the more appropriate of the Trial Preparation and Trial phases.
	9.3	Judgment and post-trial activity	Considering draft judgments, preparing and considering any written responses to the court, submissions or skeleton arguments in relation to judgment or consequential orders, preparation for and attendance at hearings when reserved judgments handed down or consequential orders considered, all dealings relating to form of judgment or order. Includes all meetings and communications relating thereto.
10. ADR / Settlement			
	10.1	Mediation	Work related to proposals for mediation, preparation and attendance at the mediation and any follow-up work.
	10.2	Other Settlement Matters	Work that is directed to settlement including Part 36 and other offers and consequent negotiations (includes all forms of ADR other than mediation).
11. Contingencies			
	11.1	Contingent A	To be used as contingencies as set out within the Precedent H
	11.2	Contingent B	To be used as contingencies as set out within the Precedent H
	11.3	Contingent C	To be used as contingencies as set out within the Precedent H
	11.4	Contingent D	To be used as contingencies as set out within the Precedent H
	11.5	Contingent E	To be used as contingencies as set out within the Precedent H
	11.6	Contingent F	To be used as contingencies as set out within the Precedent H
	11.7	Contingent G	To be used as contingencies as set out within the Precedent H
	11.8	Contingent H	To be used as contingencies as set out within the Precedent H
	11.9	Contingent I	To be used as contingencies as set out within the Precedent H
Interlocutory Applications			
	12.1	Application 1	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.2	Application 2	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.3	Application 3	To be used for additional applications not anticipated in accordance with PD3E para 7.9

	12.4	Application 4	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.5	Application 5	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.6	Application 6	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.7	Application 7	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.8	Application 8	To be used for additional applications not anticipated in accordance with PD3E para 7.9
	12.9	Application 9	To be used for additional applications not anticipated in accordance with PD3E para 7.9
Funding			
	13.1	Funding	All work relating to reviewing funding options, securing funding and reports to funders during the life of the case, excluding LAA work.
	13.2	Costs against the Legal Aid Fund	Costs Sought against the LAA fund only.
Budgeting incl. costs estimates			All work throughout the life of the case relating to budgeting and costs management, excluding the 'costs assessment' and 'funding' related work and preparation for and attendance at any costs management hearing, all of which have discrete phases.
	14.1	Precedent H preparation	Initially completing Precedent H - This task is confined to preparing and compiling the first budget required by the court in the form of Precedent H.
	14.2	Budgeting - between the parties	Work on budgeting between the parties, preparation of BDR's and budget discussions.
	14.3	Budgeting - Further Budget work, monitoring and amendments	Work on budgeting post first budget, including the monitoring of costs incurred against the budget and any applications for variation of a budget.
	14.4	Costs Management Hearing/Conference	Work in preparing for and attending any Costs Management Conference / Hearing including the hearing of any applications to vary a budget.
Costs Assessment			Work related to the assessment or agreement of costs following trial or settlement of the underlying action
	15.1	Preparing costs claim	Includes the reconciliation of the costs claimed to any approved budget in and the preparation of the bill of costs for detailed assessment
	15.2	Points of dispute, Replies and Negotiations	Work on the formal procedural steps under CPR 47 following service of a bill of costs together with Part 36 and other offers to settle costs and consequent negotiations
	15.3	Hearings	Includes preparation for and attendance at hearings for directions and interim certificate applications as well as the detailed assessment itself
	15.4	Post Assessment Work (excluding Hearings)	Includes post-hearing calculations and all other work required to finalise the amounts due for principal, interest and the costs of the assessment

Activity Codes

Code	Activity	Description
A1	Appear for / Attend	Appear for / Attend

C1	Coms - outside counsel	Communicate (with Outside Counsel)
C2	Coms - client	Communicate (with client)
C3	Coms - witnesses	Communicate (witnesses)
C4	Coms - experts	Communicate (expert)
C5	Coms - Other Party(s) / other outside lawyers	Communicate (Other Party(s) / other outside lawyers)
C6	Coms - other external	Communicate (other external)
C7	Coms - internal	Communicate (internally within legal team)
T1	Travel & Waiting Time	Billable Travel & Waiting Time
D1	Plan/prepare/draft/review	Plan/prepare/draft/review

Communication Codes

Communication type	Description
PA	Personal Attendances
TA	Timed Telephone Attendances
TL	Timed Letter/Email
RL	Routine Letters
RE	Routine E-mails
RC	Routine Telephone Attendances
LI	Letter In

Disbursement Codes

Expense Code	Expense Name
X1	Court Fees
X2	Medical Records Costs

X3	Medical Records Analysis
X4	Other Records Costs
X5	Housing File Release fee
X6	Land Registry Fees
X7	Expert 1 Fee
X8	Expert 2 Fee
X9	Expert 3 Fee
X10	Expert 4 Fee
X11	Expert 5 Fee
X12	Expert 6 Fee
X13	Expert 7 Fee
X14	Expert 8 Fee
X15	Expert 9 Fee
X16	Expert 10 Fee
X17	Other Expert Fee
X18	Conference Call expenses
X19	Travel Expenses
X20	Witnesses Fees
X21	Court Transcription fees
X22	Translation/Interpreter fees
X23	Arbitrators/Mediators
X24	Private Investigators Fees
X25	Local Solicitor Agents
X26	Process Server Fees
X27	ATE Premiums/Insurance
X28	Not in Use - Please Specify in Reference data
X29	Not in Use - Please Specify in Reference data
X30	Not in Use - Please Specify in Reference data
X31	Not in Use - Please Specify in Reference data
X32	Not in Use - Please Specify in Reference data
X33	Not in Use - Please Specify in Reference data
X34	Not in Use - Please Specify in Reference data
X35	Not in Use - Please Specify in Reference data

X36

Not in Use - Please Specify in Reference data

DRAFT FIRST ORDER

Before [XXXXX] on [DATE];

UPON the court taking notice of the COVID 19 (Coronavirus) pandemic and the measures being taken in response and the Protocol regarding remote hearings issued on 20 March 2020 (“the Protocol”) a copy of which can be found at <https://www.judiciary.uk/wp-content/uploads/2020/03/Civil-court-guidance-on-how-to-conduct-remote-hearings.pdf> ;

AND UPON the parties being referred to the Guidance for the Conduct of Remote Costs Hearings a copy of which can be found at <https://www.associationofcostslawyers.co.uk>;

AND UPON the court having considered matters on the papers;

AND UPON it being recorded that the court expects the parties to do their utmost to co-operate with each other in all things and lodge consent orders wherever possible;

AND UPON the parties being reminded of the HMCTS Email Guidance referred to in CPR PD 5B which provides that the total size of an email, including attachments, must not exceed 10 megabytes;

AND WITHOUT A HEARING AND ON THE COURT’S OWN INITIATIVE;

IT IS ORDERED THAT: -

1. Upon receipt of this Order, the parties shall use their best endeavours to agree: -
 - a. A mode of remote hearing to allow the costs hearing in this matter to proceed on the listed date (to include suggesting a platform); and
 - b. The scope of the remote hearing.
2. Not less than 20 business days prior to the date fixed for the costs hearing, or (if this is not possible due to the proximity of the hearing, as soon as practicable), the receiving party shall send an email to the court at [email address] with a request for approval of the agreed mode, platform and, if applicable, scope of remote hearing.
3. In the event that the parties fail to reach agreement as to mode, platform and/or scope (including if one or both of the parties would prefer to be listed for an hearing in person once the Covid-19 pandemic resolves), the parties will email the court as above with their reasons, upon which the court will issue directions which may include the vacation of the costs hearing or the requirement for the parties to attend a brief telephone directions hearing.
4. Where it is proposed that the hearing is to address only preliminary issues, the parties must identify those preliminary issues by reference to the numbered points of dispute.
5. Emails must contain the claim number, the name of the case and the date and time of the hearing in the subject line.
6. Available platforms for remote hearings include (non-exhaustively) Skype for Business/Microsoft Teams, CVP via Kinly Video Conferencing, BT MeetMe, and ordinary telephone call. It is likely that a video hearing via Skype for Business/Microsoft Teams will be preferred over any other platform. If the court does not agree with the parties' suggested platform, it will propose an alternative.

7. Because this order has been made without a hearing a party may apply to set it aside or to vary its terms. Such an application:
 - a. may be made by email to [email address];
 - b. must be made within 7 days of service of this order and be copied to all parties;
 - c. must include the claim number, the name of the case, the date of the listed hearing and the words “APPLICATION TO VARY” in uppercase letters in the subject line of the email;
 - d. must attach a draft of the order the court is invited to make;
 - e. must set out in the body of the email on what grounds the proposed order is sought;
 - f. will be dealt with on paper without a hearing.

Dated

DRAFT SECOND ORDER

Before [XXXXX] on [DATE];

UPON the court taking notice of the COVID 19 (Coronavirus) pandemic and the measures being taken in response and the Protocol regarding remote hearings issued on 20 March 2020 (“the Protocol”) a copy of which can be found at <https://www.judiciary.uk/wp-content/uploads/2020/03/Civil-court-guidance-on-how-to-conduct-remote-hearings.pdf> ;

AND UPON the parties being referred to the Guidance for the Conduct of Remote Costs Hearings a copy of which can be found at <https://www.associationofcostslawyers.co.uk>;

AND UPON the court having considered matters on the papers;

AND UPON it being recorded that the court expects the parties to do their utmost to co-operate with each other in all things and lodge consent orders wherever possible;

AND UPON the parties being reminded of the HMCTS Email Guidance referred to in CPR PD 5B which provides that the total size of an email, including attachments, must not exceed 10 megabytes;

AND WITHOUT A HEARING AND ON THE COURT’S OWN INITIATIVE;

IT IS ORDERED THAT:

Copyright © 2018 Association of Costs Lawyers

8. The parties should consider this Order carefully and, if they object to any part of the order, make an application to the court to vary the order. If both parties object to any part of this order, they should file a consent order reflecting that agreement for the court to consider.

[For Detailed Assessments and Oral Reviews from Provisional Assessments

9. Not less than 3 business days before the detailed assessment hearing is to take place, the receiving party must electronically file: -
 - a. An electronic copy of the bill in an editable format (for old-style paper bills, this should be in Microsoft Word (.doc or .docx); for e-Bills, this should be in Microsoft Excel (.xls or .xlsx);
 - b. A composite Points of Dispute and Replies document as a single .pdf document;
 - c. Their papers in support of the bill (“the eBundle”);
 - d. An electronic bundle of offers made to settle the detailed assessment proceedings (“the Offers Bundle”);
 - e. The advocates’: -
 - i. Email addresses to which the invitation for the video hearing may be sent ;
 - ii. telephone numbers on which they confirm they can be reached by the court on the day of the hearing; and
 - iii. Stating in what capacity (e.g. counsel, solicitor, Cost Lawyer, party, etc.) they are attending.

10. The documents referred to above will be deemed filed when the receiving party emails to the court at [email address] a link to an online data room containing those documents. The advocates' details identified above should be included in the body of the email to the court. The email to the court must contain the claim number, the name of the case and the date and time of the hearing in the subject line.
11. The electronic copy of the bill should not include any supporting documentation (such as disbursement vouchers).
12. The eBundle should comprise a single .pdf file which includes an index. If paginated, page numbers must match the 'electronic' page number of the .pdf file.
13. The use of hyperlinks and/or bookmarks where possible is encouraged to allow for easy navigation around the bundle. The receiving party is also encouraged to make the eBundle "readable" such that key word searches can be performed (where possible).
14. The eBundle should be organised as follows: -
 - a. Any skeleton arguments;
 - b. Extracts of any authorities upon which either party wishes to rely;
 - c. A core case documents to include: -

- i. Pre-action letter of claim and letter of response;
- ii. Statements of case (to include schedules and counter schedules of loss);
- iii. Court Orders;
- iv. Key disclosure;
- v. Witness statements (relevant to the main action, and not witness statements in support of any interlocutory applications); and
- vi. All disclosed experts' reports (to include experts' joint statements)

arranged in chronological order.

d. Precedent Q (if the case was subject to a Costs Management Order);

e. The receiving party's last approved Costs Budget;

f. All other documents in support of the bill identified in CPR 47PD13.12. In the case of an oral review from a provisional assessment, such documents should be limited to documents in respect of those points of dispute which are under review. Wherever possible, documents should be prepared in the order in which those documents will likely be considered by the court, on the assumption that the points of dispute will be taken in turn.

15. The identity of the documents referred to at **paragraph 7(a)-(e)** inclusive should be agreed between the parties. At the same time as filing the eBundle at court, the receiving party must serve by email upon the paying party, or otherwise make available to the paying party at an

online data room, a copy of the eBundle, save that the documents referred to at **paragraph 7(f)** above may be excluded. For the avoidance of doubt, pagination of the served eBundle should match the court's eBundle for ease of reference during the hearing.

16. It is a matter for the receiving party which documents they choose to include in respect of the direction at **paragraph 7(f) above**. It should be borne in mind that the Judge will not have access to any documents not included within the eBundle and so it must be complete.
17. At the detailed assessment hearing, the receiving party's advocate should be prepared to direct the Judge to the relevant page numbers of documents in the eBundle when dealing with each point of dispute.
18. The Offers bundle should comprise a single .pdf file. If paginated, page numbers must match the 'electronic' page number of the .pdf file. The file should require a password to open. The password should not be communicated to the court until such time as the assessment has concluded and the court is entitled to see the offers. The receiving party's advocate must be in a position to provide the password to the court at the conclusion of the hearing.]

[Applications for the court to certify an amount payable from a child or protected party's damages pursuant to CPR 46.4(4)...

19. Not less than 3 business days before the hearing is to take place, the applicant must electronically file: -
 - a. An electronic copy of the bill in an editable format (for old-style paper bills, this should be in Microsoft Word (.doc or .docx); for e-Bills, this should be in Microsoft Excel (.xls or .xlsx);
 - b. Any documents in support of the application ("the eBundle");

c. The advocates': -

- i. Email addresses to which the invitation for the video hearing may be sent ;
- ii. telephone numbers on which they confirm they can be reached by the court on the day of the hearing; and
- iii. Stating in what capacity (e.g. counsel, solicitor, Cost Lawyer, party, etc.) they are attending.

20. The documents referred to above will be deemed filed when the applicant emails to the court at [email address] a link to an online data room containing the bill and the eBundle. The advocates' details identified above should be included in the body of the email to the court. The email to the court must contain the claim number, the name of the case and the date and time of the hearing in the subject line.
21. The eBundle should comprise a single .pdf file which includes an index. If paginated, page numbers must match the 'electronic' page number of the .pdf file.
22. The use of hyperlinks and/or bookmarks where possible is encouraged to allow for easy navigation around the bundle. The receiving party is also encouraged to make the eBundle "readable" such that key word searches can be performed (where possible).
23. The eBundle should comprise the documents required by CPR 21PD11, plus any other supporting documents upon which the applicant relies.
24. In addition, the eBundle should include a copy of the Certificate of Suitability of a Litigation Friend, or any Order appointing a deputy.
25. Unless otherwise ordered, the court will make arrangements for the hearing by way of email invitation to a video meeting to the email addresses provided for the advocates in accordance with paragraph 2(e)/12(c) above.
26. All participants must ensure, in advance, that that they have installed and/or tested their ability to participate in the hearing.

27. If any party has not received the invitation by 12 noon on the preceding day, they should contact the relevant court office urgently citing the case name and date of hearing.
28. If there is an unavoidable change in the representative it is for that party to make arrangements for any alteration in the invitation email in good time for any hearing. The parties are reminded that administrative support in the courts is greatly reduced now in this time of national crisis and late amendments will not always be able to be accommodated in time and may result in a hearing occurring in the absence of a party or being adjourned with potential cost consequences.
29. In all remote hearing cases the parties must recognise that the hearings may not commence at the appointed time and/or conclude in the time estimate and must make themselves available well beyond the time allotted to allow for such contingencies which may include technical difficulties or cases running over. Legal representatives are reminded that it will not be appropriate for them to expect to be able to conduct multiple hearings in proximity of time as a consequence of these matters and costs orders may be made against them if they are unable to attend as required.
30. The court will retain responsibility for recording the hearing in accordance with The Protocol.
31. If the paying party successfully invokes the Pamplin procedure codified in 47PD 13.13, and if the receiving party elects to disclose the document, the court will “share” that document with the parties on the screen. Where that process is inadequate or inconvenient, the Judge will direct how the document(s) shall be disclosed.

32. If, for any reason, a short adjournment is granted (e.g. to take instructions or undertake calculations etc.), then the Judge will leave the hearing. **NB: If the hearing is being recorded via Skype for Business/Teams, the hearing will continue to be recorded unless the Judge stops recording, irrespective of whether the Judge remains in the hearing or temporarily leaves the hearing. If the parties do not wish the recording to continue, they should ask the Judge to stop the recording.** The Judge will direct how and when the hearing will be reconvened.
33. Parties are encouraged mute their microphones when not speaking to prevent distracting background noise.
34. Because this order has been made without a hearing a party may apply to set it aside or to vary its terms. Such an application:
- a. may be made by email to [email address];
 - b. must be made within 7 days of service of this order and be copied to all parties;
 - c. must include the claim number, the name of the case, the date of the listed hearing and the words “APPLICATION TO VARY” in uppercase letters in the subject line of the email;
 - d. must attach a draft of the order the court is invited to make;
 - e. must set out in the body of the email on what grounds the proposed order is sought;
 - f. will be dealt with on paper without a hearing.

Dated

GUIDANCE FOR THE CONDUCT OF REMOTE COSTS HEARINGS

Preamble

1. Guidance has been issued by the Judiciary of England and Wales regarding the conduct of remote hearings. The parties are referred to the following:
 - a. Practice Direction 51Y – “Video or Audio Hearings During Coronavirus Pandemic”, in force 25 March 2020;
 - b. The Protocol regarding Remote Hearings, issued 26 March 2020 and updated 31 March 2020 - https://www.judiciary.uk/wp-content/uploads/2020/03/Remote-hearings.Protocol.Civil.GenerallyApplicableVersion.f-amend-26_03_20-1.pdf (“The Protocol”). Parts of the Protocol are imported into this Guidance Note for ease of reference.
 - c. Practice Direction 51ZA – “Extension of Time Limits and Clarification of PD51Y”, in force 2 April 2020.
 - d. Civil Listing Priorities, issued 3 April 2020.
2. Parties are encouraged regularly to check for updates in relation to the aforementioned Practice Directions and Protocol, as well as to check the “HMCTS daily operational summary on courts and tribunals during the coronavirus (Covid-19) outbreak” - <https://www.gov.uk/guidance/hmcts-daily-operational-summary-on-courts-and-tribunals-during-coronavirus-covid-19-outbreak>.
3. Further guidance has been issued by the Lead Presiding and Designated Civil Judges of the Circuits. Parties are referred to the respective guidance.

4. **IMPORTANT: Where the contents of this guidance and an Order of the Court are in contradiction, the Order of the court must always be followed over the contents of this guidance.**

5. However:

- a. it being recognised that there is no reference in the Civil Listing Priorities to the hearings listed below; and
- b. it being considered possible to conduct those hearings remotely

it is thought appropriate to outline specific guidance for the conduct of remote costs hearings to deal with the particular challenges brought by those hearings in the Circuits. This document is to be read in conjunction with the aforementioned guidance.

Scope

6. This guidance is intended to address the remote conduct of the following costs hearings throughout the period of the Covid-19 pandemic: -

- a. Detailed assessment hearings.
- b. Oral review hearings of provisional assessments listed pursuant to a CPR 47.15(7) request.
- c. Application hearings in which the court is invited to certify an amount payable from a child or protected party's damages pursuant to CPR 46.4(4).

7. This guidance is likely to apply only where all parties are legally represented.

Communication

8. Parties should communicate with the court by email.
9. All emails must contain the following information in the subject line: -
 - a. The claim number;
 - b. The claim name;
 - c. The time and date of the hearing.

Request Procedure

10. Where a hearing date has been requested (to include cases where a hearing date has been fixed, or was fixed and has been adjourned in light of the Covid-19 pandemic), the parties should as soon as practicable communicate with each other and seek to agree:
 - a. a mode of remote hearing including suggested platform;
 - b. the scope of the remote hearing;
11. Once a hearing date has been fixed, the parties should, not less than 20 business days prior to the date fixed for the hearing, or (if this is not possible due to the proximity of the hearing, as soon as practicable), communicate with the court with a request for approval of the mode, platform and, if applicable, scope of remote hearing.
12. Where it is proposed that the hearing is to address only preliminary issues, the parties must identify those preliminary issues by reference to the numbered points of dispute.

13. In the event that the parties fail to reach agreement as to the matters in paragraph 10 above (including if one or both of the parties would prefer to be listed for an hearing in person once the Covid-19 pandemic resolves), the parties will email the court as above with their reasons, upon which the court will issue directions which may include the vacation of the costs hearing or the requirement for the parties to attend a brief telephone directions hearing.
14. Available platforms for remote hearings include (non-exhaustively) Skype for Business/Microsoft Teams, CVP via Kinly Video Conferencing, BT MeetMe, and ordinary telephone call. It is likely that a video hearing via Skype for Business/Microsoft Teams will be preferred over any other platform. If the court does not agree with the parties' suggested platform, it will propose an alternative.

Consideration by the Court

15. Upon consideration of the parties' request, the court is likely to issue an order which will address preparation, filing and service of skeleton arguments (if ordered) and bundles.
16. Parties should consider court Orders carefully and, if they object to any part of the order, make an application to the court to vary the order. If both parties object to any part of the order they should file a consent order reflecting that agreement for the court to consider.

Bundles

Detailed assessment hearings

17. Not less than 3 business days before the detailed assessment hearing is to take place (or such other period as is specified in a court Order), the receiving party should electronically file: -

- b. An electronic copy of the bill in an editable format (for old-style paper bills, this should be in Microsoft Word (.doc or .docx); for e-Bills, this should be in Microsoft Excel (.xls or .xlsx);
- c. A composite Points of Dispute and Replies document as a single .pdf document;
- d. Their papers in support of the bill (“the eBundle”);
- e. An electronic bundle of offers made to settle the detailed assessment proceedings (“the Offers Bundle”);
- f. The advocates’: -
 - i. Email addresses to which the invitation for the video hearing may be sent ;
 - ii. telephone numbers on which they confirm they can be reached by the court on the day of the hearing; and
 - iii. Stating in what capacity (e.g. counsel, solicitor, Cost Lawyer, party, etc.) they are attending.

18. The documents referred to above will be deemed filed when the receiving party emails to the court a link to an online data room containing those documents. The court will provide the appropriate email address for that purpose. The advocates’ details identified above should be included in the body of the email to the court.

19. The electronic copy of the bill should not include any supporting documentation (such as disbursement vouchers).

20. The eBundle should comprise a single .pdf file which includes an index. If paginated, page numbers must match the ‘electronic’ page number of the .pdf file.

21. The use of hyperlinks and/or bookmarks where possible is encouraged to allow for easy navigation around the bundle. The receiving party is also encouraged to make the eBundle “readable” such that key word searches can be performed (where possible).

22. The eBundle should be organised as follows: -

- a. Any skeleton arguments;
- b. Extracts of any authorities upon which either party wishes to rely;
- c. A core case documents to include: -
 - i. Pre-action letter of claim and letter of response;
 - ii. Statements of case (to include schedules and counter schedules of loss);
 - iii. Court Orders;
 - iv. Key disclosure;
 - v. Witness statements (relevant to the main action, and not witness statements in support of any interlocutory applications); and
 - vi. All disclosed experts’ reports (to include experts’ joint statements) arranged in chronological order.
- d. Precedent Q (if the case was subject to a Costs Management Order);
- e. The receiving party’s last approved Costs Budget;
- f. All other documents in support of the bill identified in CPR 47PD13.12. Wherever possible, documents should be prepared in the order in which those documents will likely be considered by the court, on the assumption that the points of dispute will be taken in turn.

23. The identity of the documents referred to at paragraph 22(a)-(e) inclusive should be agreed between the parties. At the same time as filing the eBundle at court, the receiving party must serve by email upon the paying party, or otherwise make available to the paying party at an online data room, a copy of the eBundle, save that the documents referred to at paragraph 22(f) above may be excluded. For the avoidance of doubt, pagination of the served eBundle should match the court’s eBundle for ease of reference during the hearing.

24. It is a matter for the receiving party which documents they choose to include in respect of the direction at paragraph 22(f) above. It should be borne in mind that the Judge will not have access to any documents not included within the eBundle and so it must be complete. This does not alter the documents which must be provided in accordance with CPR 47PD 13.12. As such, the court should be in a position to consider any document it would have wished to consider at a hearing attended in person.
25. At the detailed assessment hearing, the receiving party's advocate should be prepared to direct the Judge to the relevant page numbers of documents in the eBundle when dealing with each point of dispute.
26. The Offers bundle should comprise a single .pdf file. If paginated, page numbers must match the 'electronic' page number of the .pdf file. The file should require a password to open. The password should not be communicated to the court until such time as the assessment has concluded and the court is entitled to see the offers. The receiving party's advocate must be in a position to provide the password to the court at the conclusion of the hearing.

Oral reviews of provisional assessment listed pursuant to a CPR 47.15(7) request

27. Paragraphs 10-26 above apply to oral reviews of provisional assessments listed pursuant to a CPR 47.15(7) request save that the documents referred to at paragraph 22(f) should be limited to documents in respect of those points of dispute which are under review.

Applications for the court to certify an amount payable from a child or protected party's damages pursuant to CPR 46.4(4)

28. In respect of applications to certify an amount payable from a child or protected party's damages pursuant to CPR r.46.4(4), paragraphs 17(a), (c) and (e), 18, 20, 21 above shall apply, modified as set out below.

29. Reference to the “receiving party” should be taken as a reference to the applicant.
30. In such applications, the eBundle should comprise the documents required by CPR 21PD11, plus any other supporting documents upon which the applicant relies. The court may direct specific documents should be included.
31. In addition, the eBundle should include a copy of the Certificate of Suitability of a Litigation Friend, or any Order appointing a deputy.

Conduct of the Remote Hearing

32. If the remote hearing is to be conducted on a video platform, careful thought needs to be given to a number of matters. The parties are referred to <https://www.judiciary.uk/wp-content/uploads/2020/03/Civil-court-guidance-on-how-to-conduct-remote-hearings.pdf>.
33. The court will likely make arrangements for the hearing by way of email invitation to a video meeting to the email addresses provided for the advocates in accordance with paragraph 17(e) above.
34. All participants must ensure, in advance, that that they have installed and/or tested their ability to participate in the hearing.
35. If any party has not received the invitation by 12 noon on the preceding day, they should contact the relevant court office urgently citing the case name and date of hearing.
36. If there is an unavoidable change in the representative it is for that party to make arrangements for any alteration in the invitation email in good time for any hearing. The parties are reminded that administrative support in the courts is greatly reduced now in this time of national crisis and late amendments will not always be able to be accommodated in time and may result in a hearing occurring in the absence of a party or being adjourned with potential cost consequences.

37. In all remote hearing cases the parties must recognise that the hearings may not commence at the appointed time and/or conclude in the time estimate and must make themselves available well beyond the time allotted to allow for such contingencies which may include technical difficulties or cases running over. Legal representatives are reminded that it will not be appropriate for them to expect to be able to conduct multiple hearings in proximity of time as a consequence of these matters and costs orders may be made against them if they are unable to attend as required.
38. The court will retain responsibility for recording the hearing in accordance with The Protocol.
39. The court will mark or amend the copy of the bill with which it has been provided during the course of the detailed assessment to reflect the decisions made.
40. If the paying party successfully invokes the Pamplin procedure codified in 47PD 13.13, and if the receiving party elects to disclose the document, the court will “share” that document with the parties on the screen. Where that process is inadequate or inconvenient, the Judge will direct how the document(s) shall be disclosed.
41. If, for any reason, a short adjournment is granted (e.g. to take instructions or undertake calculations etc.), then the Judge will leave the hearing. **NB: If the hearing is being recorded via Skype/Teams, the hearing will continue to be recorded unless the Judge stops recording, irrespective of whether the Judge remains in the hearing or temporarily leaves the hearing. If the parties do not wish the recording to continue, they should ask the Judge to stop the recording.** The Judge will direct how and when the hearing will be reconvened.
42. Parties are encouraged to mute their microphones when not speaking to prevent distracting background noise.

GENERAL GUIDANCE ON PDF BUNDLES

This guidance is provided in order to achieve a level of useful consistency in the provision of PDF bundles for use by judges in hearings. It is not immutable, and should give way to any specific directions by particular courts or the requirements of particular judges in particular cases. However, it should, if operated properly, provide judges with bundles which are as useful as they can be made. It should be provided to solicitors and litigants in person as a guide to the construction of useful bundles. They ought to be able to comply with all or most of these requirements. If they cannot they should explain why.

However, please note that these notes are not intended for use in the tribunals.

Bundling should follow the following principles:

1. All bundles **must**, where the character of the document permits, be the subject of OCR (optical character recognition). This is the process which turns the document from a mere picture of a document to one in which the text can be read as text so that the document becomes word-searchable and words can be highlighted in the process of marking them up. It is acknowledged that some individual documents may not be susceptible to the process, but most should be.
2. All documents should appear in portrait mode. If an original document is in landscape, then it should be inserted so that it can be read with a **90 degree rotation clockwise**. No document should appear upside down.
3. The default view for all pages should be 100%.
4. If a core bundle is required under normal practice, then a PDF core bundle should be produced complying with the same requirements as a paper bundle.
5. Proper thought should be given to the number of bundles required. It is generally not helpful to have to open a significant number of PDF files during the course of a hearing in order to get at documents. In very many cases it will doubtless be possible to combine all documents in one bundle – statements of case, witness statements and other documents (this is the preference of the Family Courts). In larger cases it may be sensible to separate out those categories of documents into separate bundles. However, further subdivision is not helpful – eg it is not helpful to have separate witness statements in separate PDF files. Generally speaking a chronological run of documents should be in one overall file. Again generally speaking, authorities should always be provided in a separate file; this file should be page numbered like all others – see below.
6. All pages in a bundle must be numbered, and if possible by a computer generated numbering, or at least in typed form (if added by a scanner), and **not** numbered by hand. If computer generated or typed the number becomes machine readable and can be searched for. Again if possible, the number should be preceded by a letter, whether the letter of the bundle or not. This aids searching. For example, it will be quick to search for and go to page

A134 by searching for that. Searching for just “134” may throw up a number of references to that number which are not the page number, which takes the computer time.

7. Pagination should not mask relevant detail on the original document.

8. If practicable any scans of documents should not be greater than 300 dpi, in order to avoid slow scrolling or rendering.

9. All significant documents and all sections in bundles **must** be bookmarked for ease of navigation, with an appropriate description as the bookmark. The bookmark should contain the page number of the document.

10. An index or table of contents of the documents should be prepared. If practicable entries should be hyperlinked to the indexed document. Common sense will usually dictate the level of detail in this table of contents.

11. All PDF files **must** contain a short version of the name of the case and an indication of the number/letter of the bundle, and end with the hearing date. For example “Carpenters v Adventurers Bundle B 1-4-20”; or “Carpenters v Adventures correspondence 1-4-20”. They must not be labelled simply “Correspondence” or “Bundle B”.

12. If a bundle is to be added to after the file has been transmitted to the judge it should not be assumed the judge will accept it as a complete replacement because he/she may already have started to mark up the original. Inquiries should be made of the judge as to what the judge would like to do about it. Absent a particular direction, a substitute bundle should be made available, but any pages to be added should also be provided separately, in a separate file, as well, with pages appropriately sub-numbered (143.1, 143.2 etc).

13. In Family Proceedings any bundle must meet the requirements set out in FPR 2010, PD27A.

Delivering e-bundles

If an e-bundle is to be delivered by email the sender must be aware that there is a maximum size of attached files which can be received by a justice.gov (DOM1) address. It is 36Mb **in aggregate**. An email with an attached file which is bigger than that, or an email with files which together total more than that in size, will be rejected. The maximum size of the attachments sent to an ejudiciary.net address is 150Mb **in aggregate**. The latter limit is seldom likely to cause a problem, though a court-side recipient may not have an Ejudiciary account. The former may. The solution may be to transmit bundles by separate emails. Unless it is absolutely necessary the temptation to break sensibly bundled documents into smaller bundles just for the purpose of transmission should be avoided.

If bundles are transmitted by email the email subject line should provide the following detail:

(a) Case number;

(b) Case name (shortest comprehensible version);

(c) Hearing date;

(d) Judge Name (if known);

(e) The words in capitals “REMOTE HEARING”.

An alternative is to have documents submitted by a file uploading/downloading system. It is known that some solicitors are using commercial services which provide for that. HMCTS is shortly to launch its own service; details will be provided separately, and it is likely that solicitors will be encouraged to use that service.

Litigants in person

An e-bundle is an organised collection of electronic copies of documents for use at a court hearing that is to take place remotely (by video link or by telephone).

Ordinarily the applicant is responsible for preparing the e-bundle. If a litigant in person is the applicant the e-bundle must still if at all possible, comply with the above requirements. If it is not possible for a litigant in person to comply with the requirements on e-bundles, a brief explanation of the reasons for this should be provided to the court as far in advance of the hearing as possible. Where possible the litigant in person should identify a practical way of overcoming the problem so that the court can consider this.

In a case in which a litigant in person is applicant and another party has legal representation the legal representatives for other party should consider offering to prepare the e-bundle. The litigant in person will still be entitled to indicate which documents they consider necessary for inclusion in the e-bundle.

Litigants in person who are not eligible for legal aid or cannot access legal aid (publicly-funded legal assistance) and who do not have the financial means to engage legal assistance may wish to consider approaching an advice centre, law centre or pro bono organisation to see whether legal assistance can be made available without charge. Some but not all advice centres, law centres and pro bono organisations can now be reached on-line or by telephone.

Other internet guidance

Amongst the other internet guidance which is generally available, the following guides might be thought to be particularly useful because of their links with the legal profession:

(a) A QEB guide to creating an e-bundle - see this YouTube video;

(b) A video prepared by St Philips Chambers on creating a bundle using Adobe Acrobat Pro: <https://st-philips.com/creating-and-using-electronic-hearing-bundles/>

Future versions of this guidance

This document is intended to be a living document which is to be revised from time to time in the light of experience. It will therefore be useful to check back with it from time to time.

Sir Andrew McFarlane

President of the Family Division

Lady Justice Thirlwall

Senior Presiding Judge

Mr Justice Mann

Judge in charge of Live Services



JUDICIARY OF
ENGLAND AND WALES

CIVIL JUSTICE IN ENGLAND and WALES PROTOCOL REGARDING REMOTE HEARINGS

26 March 2020

Introduction to this Protocol

1. The current pandemic necessitates the use of remote hearings wherever possible. This Protocol applies to hearings of all kinds, including trials, applications and those in which litigants in person are involved in the County Court, High Court and Court of Appeal (Civil Division), including the Business and Property Courts. It should be applied flexibly.
2. This Protocol seeks to provide basic guidance as to the conduct of remote hearings. Whilst most court buildings currently remain open, the objective is to undertake as many hearings as possible remotely so as to minimise the risk of transmission of Covid-19.
3. The method by which all hearings, including remote hearings, are conducted is always a matter for the judge(s), operating in accordance with applicable law, Rules and Practice Directions. Nothing in this Protocol derogates from the judge's duty to determine all issues that arise in the case judicially and in accordance with normal principles. Hearings conducted in accordance with this Protocol should, however, be treated for all other purposes as a hearing in accordance with the CPR.
4. It is inevitable that undertaking numerous hearings remotely will cause teething troubles. All parties are urged to be sympathetic to the technological and other difficulties experienced by others.
5. CPR Part 39.9 provides that “[a]t any hearing, whether in the High Court or the County Court, the proceedings will be tape recorded or digitally recorded unless the judge directs otherwise” and that “[n]o party or member of the public may use unofficial recording equipment in any court or judge's room without the permission of the court”.
6. CPR Part 39.2(3)(g) provides that hearings can (actually must) be held in private if the court is satisfied that it is, for any reason, “necessary, to secure the proper administration of justice”. In such a case, however, a copy of the court's order to that effect must, under CPR Part 39.2(5), be published on www.judiciary.uk, “[u]nless and to the extent that the court otherwise directs”, and non-parties may apply to attend the hearing and make submissions, or apply to set aside or vary the order.
- 6A. A new Practice Direction 51Y entitled “Video or Audio Hearings During Coronavirus Pandemic” came into force on 25 March 2020. It provides that: “where the court directs

that proceedings are to be conducted wholly as video or audio proceedings and it is not practicable for the hearing to be broadcast in a court building, the court may direct that the hearing must take place in private where it is necessary to do so to secure the proper administration of justice". Remote hearings accessed by a media representative are public proceedings. But if an order is made under PD51Y, there is no requirement for the order to be published as under CPR Part 39.2(5).

7. There are, therefore, the following legal issues to be addressed before any remote hearing can begin: (i) whether the hearing is to be in public or in private; if in private, on what grounds, and (ii) how is the hearing to be recorded, or can an order properly be made to dispense with recording?

8. As to the first, remote hearings should, so far as possible, still be public hearings. This can be achieved in a number of ways: (a) one person (whether judge, clerk or official) relaying the audio and (if available) video of the hearing to an open court room; (b) allowing a media representative to log in to the remote hearing; and/or (c) live streaming of the hearing over the internet, where broadcasting hearings is authorised in legislation (such as the new s85A recently inserted into the Courts Act 2003). The principles of open justice remain paramount.

9. As to the second, the recording of hearings and compliance with CPR Part 32.9 can also be achieved in a number of ways: (a) recording the audio relayed in an open court room by the use of the court's normal recording system, (b) recording the hearing on the remote communication programme being used (e.g. BT MeetMe, Skype for Business, or Zoom), or (c) by the court using a mobile telephone to record the hearing. It is not, however, permitted for the parties to record the hearing without the judge's permission.

What should happen when a hearing is fixed?

10. In the present circumstances, the court and the parties and their representatives will need to be more proactive in relation to all forthcoming hearings.

11. It is good practice for the listing office, judges, clerks and court officials to consider as far ahead as possible how future hearings should best be undertaken.

12. It will normally be possible for all short, interlocutory, or non-witness, applications to be heard remotely. Some witness cases will also be suitable for remote hearings.

13. Available methods for remote hearings include (non-exhaustively) BT conference call, Skype for Business, court video link, BT MeetMe, Zoom and ordinary telephone call. But any communication method available to the participants can be considered if appropriate.

14. Before ordering a hearing by court video link, the judge must check with the listing office that suitable facilities are available.

15. The listing office will seek to ensure that the judge(s) and the parties are informed, as long in advance as possible, of the identity of the judge(s) hearing the case.

16. Judges, clerks, and/or officials will, in each case, wherever possible, propose to the parties one of three solutions:-

- (i) a stated appropriate remote communication method (BT conference call, Skype for Business, court video link, BT MeetMe, Zoom, ordinary telephone call or another method) for the hearing;
 - (ii) that the case will proceed in court with appropriate precautions to prevent the transmission of Covid-19; or
 - (iii) that the case will need to be adjourned, because a remote hearing is not possible **and** the length of the hearing combined with the number of parties or overseas parties, representatives and/or witnesses make it undesirable to go ahead with a hearing in court at the current time.
17. If the parties disagree with the court's proposal, they may make submissions in writing by email or CE-file (if available), copied to the other parties, as to what other proposal would be more appropriate. On receipt of submissions from all parties, the judge(s) will make a binding determination as to the way in which the hearing will take place, and give all other necessary directions.
18. It will also be open to the court to fix a short remote case management conference in advance of the fixed hearing to allow for directions to be made in relation to the conduct of the hearing, the technology to be used, and/or any other relevant matters.
19. The fact that a hearing is to be a remote hearing and, where possible, the technological method to be employed, will normally be shown in the cause list.

The remote hearing itself

20. The clerk or court official, and the parties, will all need to log in or call in to the dedicated facility in good time for the stated start time of the remote hearing. In a Skype, Zoom or BT call, the judge(s) will then be invited in by the clerk or court official.
21. The hearing will be recorded by the judge's clerk, a court official or by the judge, if technically possible, unless a recording has been dispensed with under CPR Part 39.9(1). The parties and their legal representatives are **not** permitted to record the hearing. With the court's permission, arrangements can be made with privately paid-for transcribers.
22. The hearing can be made open to the public, if technically possible, either by the judge(s) or the clerk logging in to the hearing in a public court room and making the hearing audible in that court room, or by other methods (see [8] above). But in the exceptional circumstances presented by the current pandemic, the impossibility of public access should not normally prevent a remote hearing taking place (see [6]-[7] above). If any party submits that it should do so in the circumstances of the specific case, they should make submissions to that effect to the judge.
23. The clerk, court official or the judge(s) must complete the order that is made at the end of the remote hearing. The wording of the order should be discussed and agreed with the parties.

Preparations for the remote hearing

24. The parties should, if necessary, prepare an electronic bundle of documents and an electronic bundle of authorities for each remote hearing. Each electronic bundle should be indexed and paginated and should be provided to the judge's clerk, court official or to the judge (if no official is available), and to all other representatives and parties well in advance of the hearing.

25. Electronic bundles should contain only documents and authorities that are essential to the remote hearing. Large electronic files can be slow to transmit and unwieldy to use.

26. Electronic bundles can be prepared in .pdf or another format. They must be filed on CE-file (if available) or sent to the court by link to an online data room (preferred) or email.

The Master of the Rolls

The President of the Queen's Bench Division

The Chancellor of the High Court

The Senior Presiding Judge

The Deputy Head of Civil Justice