

ORDERS IN THE SPECIALIST CIVIL COURTS IN LEEDS

GUIDANCE NOTE

Introduction

1. The coming into operation of The Business and Property Courts in Leeds on 2 October 2017 is an opportunity to remind court users about how they can assist the court in the production of orders, with a view to orders being produced as efficiently and quickly as reasonably possible.
2. This note applies only to the following:
 - a. Orders which are required to be produced following a hearing (whether in person or by telephone) before a High Court Judge, s.9 Judge or Deputy High Court Judge (“a Judge”) in one of the courts or lists of The Business and Property Courts in Leeds (which comprise the Chancery Division, the Technology and Construction Court and the Circuit Commercial Court (previously known as the Mercantile Court)). In this context, hearings include, for example, trials and applications in the applications list;
 - b. Draft consent orders which a Judge is asked to make without a hearing, in proceedings in The Business and Property Courts in Leeds;
 - c. Other draft orders which accompany an application notice, in proceedings in The Business and Property Courts in Leeds, where the applicant requests, in the application notice, that the application is to be determined without a hearing.
3. Nothing in this note is intended to, nor does anything in this note, alter the requirements of the Civil Procedure Rules or the Practice Directions. Court users are still required to comply with the Civil Procedure Rules and the Practice Directions. This note sets out the additional steps which the court expects users to take to assist it in the more efficient production of orders in The Business and Property Courts in Leeds.

Steps to be taken – Hearings

4. Where there is a hearing, the Judge will usually order one of the legally represented parties to serve a copy of the order on the other parties. If the Judge omits to do so, it is the responsibility of the parties to seek such an order from the Judge. It is the responsibility of the party who is required to serve the order to file a draft order.
5. Following the hearing, the party required to file the draft order must, at the same time, file confirmation from each of the other parties that they agree the form of draft order, unless the court orders otherwise. Such confirmation can be in the form of an email chain showing the agreement of the legal representatives of the parties or the parties themselves.
6. In rare cases, where agreement as to the form of draft order is not possible, it should be made clear, when the draft order is filed, to what extent there is agreement and to what extent there is disagreement, so that the Judge can consider how to resolve the dispute. If

the parties are agreed that the Judge may resolve their disagreement without a further hearing, that fact should also be confirmed to the court.

Steps to be taken – Orders without hearings

7. In relation to:

- a. Draft consent orders which a Judge is asked to make without a hearing, the filing party must, in addition to filing an electronic copy, also file a paper copy of the draft consent order in the form required by Part 40 of the Civil Procedure Rules and the filing party must otherwise proceed as if an electronic copy of the draft consent order had not been filed. Additionally, the parties must have agreed which party is to be the serving party;
- b. Any other application where the applicant requests that it is to be determined without a hearing, the applicant must file an electronic copy of the draft order to assist the court. However, the applicant must also proceed as if an electronic copy of the draft order had not been filed. In drafting the order, the applicant is to assume that, if the court makes an order without a hearing, it will also order that the applicant is to be the serving party.

Steps to be taken generally

8. Whenever a draft order is filed it must be filed as a Word attachment to an email; however else it is also filed.
9. It must comply with paragraphs 22.3 and 22.4 of the Chancery Guide (as amended, most recently, in October 2017). (A copy of the Chancery Guide is available at www.judiciary.gov.uk/wp-content/uploads/2017/09/chancery-guide-bpcs-amendments-20171002.pdf). In particular, the draft order must:
 - a. Where the identity of the Judge and the date the order was made is known, state those details, immediately below that part of the heading which identifies the court; for example:

“HIS HONOUR JUDGE [NAME] SITTING AS A JUDGE OF THE
HIGH COURT

[Date]”;
 - b. If made following a hearing, record, in the recitals, if the Judge heard from legal representatives, not only that fact, but their names; for example:

“Upon hearing Ms Eve Jones, counsel for the Claimant, and Mr Adam
Smith, solicitor advocate for the Defendant”
 - c. If it is by consent, state that fact;
 - d. As the final paragraph in the body of the order, provide: “This order shall be served by [party] on the [party/parties];”
 - e. Contain, at the end of the draft order, the following text:

“Service of order

The court has provided a sealed copy of this order to the serving party: [name of serving party’s solicitors], [postal address], [DX address, if available], [reference]”.

An example of these requirements is at paragraph 22.8 of the Chancery Guide.

10. Annexed to this guidance note, is a guide to the correct heading for court documents in the Business and Property Courts in Leeds. It is important to note that documents in existing proceedings (that is, those begun before 2 October 2017) will continue to be headed as they were before the coming into operation of the BPCs, unless and until, in the case of Chancery Division proceedings, they are allocated **by the court** to a list or sub-list of the Business and Property Courts in Leeds. Such allocation may be of the court’s own motion or at a hearing when the case is next before the court. Parties should not make a separate application in this respect but should raise the matter (orally or on paper) before the Chancery court when the case is next before the court.
11. As regards Tomlin Orders, if the document (the Schedule) recording the parties’ agreement is intended to be confidential, the parties can adopt the practice suggested in the Chancery Guide of identifying the document but not annexing it to the order. In such cases, both the document and where it is held must be clearly identified; for example:

“AND the parties having agreed the terms set out in a confidential [schedule/agreement] dated [date], copies of which are held by Smith & Co., the solicitors for the Claimant, and Jones LLP, the solicitors for the Defendant”.
12. Where it is possible to do so, the draft Tomlin Order should contain the following additional recital:

“AND the solicitors having certified that the only relief sought in this claim/counterclaim is the payment of money including any interest and costs, and that no ancillary relief has been sought at any stage”
13. The e-mail address for the filing of electronic versions of draft orders is orders@leeds.districtregistry.gsi.gov.uk. The subject line of the covering e-mail must contain the following information, in the following order:
 - a. Claim number;
 - b. Short title of the claim (for example; Smith v. Jones);
 - c. If the draft order relates to a hearing before a Judge which has already taken place, the following statement: “Draft order for approval – Hearing before [name of Judge] on [date]”.
14. If the draft order relates to an application for the making of a consent order without a hearing, the body of the e-mail must also contain the following information:
 - a. That attached to the email is a Word version of a draft consent order for a Judge’s approval;

- b. The date the application or request for the making of a consent order was filed at court;
 - c. How and when the fee for the application or request was paid.
- 15. If the draft order relates to any other application in respect of which the applicant has requested a determination by a Judge without a hearing, the body of the e-mail must also contain the following information:
 - a. That attached to the e-mail is a Word version of the draft order which accompanied an application which the applicant has requested, in the application notice, is dealt with without a hearing;
 - b. The date the application notice was filed;
 - c. How and when the fee for the application was paid.
- 16. The court is willing to return the sealed copy of the order as a PDF attachment to an email to the solicitors for the party ordered to serve the order. At present, the court is only able to do so if it receives an express written request from those solicitors for the court to return the sealed copy of the order in this way. If, therefore, those solicitors wish to receive the sealed copy of the order as a PDF attachment to an email (e.g. to assist with service of the order), the draft order, from whomever it is received by the court, must be accompanied by such a written request from the solicitors.
- 17. If, in a particular case, a party cannot comply with the guidance contained in this note or believes that compliance will be difficult, the party should contact the court by telephone, explaining the difficulty, and the matter will be referred to a Judge. The telephone number for this purpose is: 0113 306 2461.
- 18. More generally, if court users experience problems in applying the guidance, they should raise the matter with a member of the Court Users' Committee for The Business and Property Courts in Leeds.

HH Judge Mark Raeside QC

HH Judge Davis-White QC

HH Judge Klein

HHJ Judge Saffman

Updated 20 October 2017

**ANNEX: HEADINGS FOR COURT DOCUMENTS IN THE BUSINESS AND
PROPERTY COURTS IN LEEDS (WHERE PROCEEDINGS BEGIN ON OR AFTER 2
OCTOBER 2017)**

1. Court users will know that the BPCs PD says as follows:

“The work of the Business and Property Courts is divided and listed into the following courts or lists: the Admiralty Court, the Business List, the Commercial Court, the Circuit Commercial Courts, the Competition List, the Financial List, the Insolvency and Companies List, the Intellectual Property List, the Property, Trusts, and Probate List, the Revenue List, and the Technology and Construction Court.

The courts or lists of the Business and Property Courts include sub-lists, as follows:

- i. The Pensions sub-list and Financial Services and Regulatory sub-list are sub-lists of the Business List;
- ii. The Patents Court and Intellectual Property Enterprise Court are sub-lists of the Intellectual Property List.”

2. Court users will also know that these courts, lists and sub-lists operate in either Chancery Division or Queen’s Bench Division; as follows:

- a. QBD

Commercial Court, Admiralty Court, Circuit Commercial Courts, Technology and Construction Court.

- b. ChD

Business List, Insolvency and Companies List, Intellectual Property List, Property, Trusts, and Probate List, Competition List, Revenue List.

- c. QBD or ChD

Financial List.

3. Against this background, below are examples of the correct form of headings for court documents.

All cases in the BPCs in the High Court – other than the CCC (for the present)

4. This is an example of a case in the Business List (but not one of its sub-lists):

Claim No.

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS IN LEEDS

BUSINESS LIST (ChD)

5. This is an example of a case in the Pensions sub-list of the Business List:

Claim No.

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
PENSIONS (ChD)

6. This is an example of a case in the Technology and Construction Court

Claim No.

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
TECHNOLOGY AND CONSTRUCTION COURT (QBD)

Cases in the Circuit Commercial Court

7. CPR Pt.59 PD provides that, in the Circuit Commercial Court, the form of heading is as follows:

Claim No.

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
LEEDS DISTRICT REGISTRY
CIRCUIT COMMERCIAL COURT

8. However, in the light of the Chancellor's Advisory Note, the following form of heading is equally acceptable:

Claim No.

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
CIRCUIT COMMERCIAL COURT (QBD)

9. It is expected that, in the near future, the Practice Direction will be amended to bring it into line with the Chancellor's Advisory Note.

Cases in the County Court which are Business and Property Work (i.e. which were previously County Court Chancery Business or TCC County Court cases)

10. The heading should be:

Claim No.

IN THE COUNTY COURT AT LEEDS
BUSINESS AND PROPERTY WORK

Chancery Appeals

11. When lodging an appeal to the Technology and Construction Court or the Patents Court, the case should be marked accordingly. For all other appeals to or in the Business and Property Courts in Leeds, the title should be as follows:

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN LEEDS
APPEALS (ChD)