

## LETTER TO BE SENT WITH FORM N149C

Date

Address

Ref:

### **Claim title and number:**

This letter accompanies Form N149C which has been sent out pursuant to CPR 26.3 because a defence has been filed with the Court. The claim has been allocated to the multi-track. This letter has been approved by the Chief Master and contains directions that must be complied with.

### **Requirements of Form N149C**

Form N149C requires the parties to file and serve Directions Questionnaires and attempt to agree directions by the deadline specified in it. The parties may agree to extend the deadline for a period or periods of up to 28 days without reference to the court. The claimant must notify the court in writing of any such extension.

A failure to file the documents specified in Form N149C by the original or the revised deadline may lead to the claim, or the defence, being struck out or some other sanction being imposed.

### **Directions Questionnaires (“DQs”)**

With effect from 1 January 2019, when the Disclosure Pilot comes into effect, the parties need not complete sections D3 and D4 of the DQ.

It is also unnecessary to provide dates when the parties or their witnesses are unavailable in section G.

### **Costs management**

The parties should consider whether the claim falls within the costs management regime (see CPR 3.12(1)(a)). The £10 million exemption from costs management only applies to claims in which the claim form states either that the amount of the money claimed is or the claim is valued at £10 million or more.

In a claim to which costs management applies, the parties should jointly consider whether they wish the court to exercise its case management powers to direct that a costs management order will not be made. Even where the parties consider a costs management order is not needed, they must exchange costs budgets in accordance with CPR 3.13. If the parties agree that a costs management order is not required, a consent order should be lodged in advance of the CCMC, with a short explanation about why the order is sought. If the order is approved, the parties do not need to file budget discussion reports.

### **Triage**

It is no longer necessary for the claimant to lodge a bundle of case management documents after DQs have been served and filed.

### **Costs and Case Management Conference**

The court will fix a date for a CCMC (or CMC) after DQs have been filed with a time estimate of 1½ hours for a CCMC (and 1 hour for a CMC). If the claim is likely to require a longer hearing, the court

should be provided with an agreed time estimate and the estimated pre-reading time within 7 days of the DQs being filed. In a substantial case, it may be necessary for the parties to see the assigned Master at an AWN with a view to discussing arrangements for the hearing and the time estimate.

If the parties wish the court to have regard to the availability of counsel, dates to avoid may be provided. It is, however, a matter for the court to decide whether the hearing is listed taking dates to avoid into account, particularly where the availability of counsel is limited.

A bundle must be lodged for the hearing. It must include:

- A case summary, normally not exceeding 1,500 words
- An agreed list of issues for trial not normally exceeding 3 pages: if the list cannot be agreed, the bundle should contain a version showing the differences between them
- Statements of case
- Orders
- DQs
- Draft directions
- The Disclosure Review Document (or Disclosure reports if filed)
- Budgets
- Precedent Rs (if a costs management order is to be made)
- Correspondence should only be provided if it is essential for the court to have regard to it

A CCMC/CMC provides an important opportunity for the court to consider the claim and the steps that are required to bring it on to a trial. The parties should not assume that the court will accept their agreed directions and even where the parties are agreed about all issues. It is rare for a CCMC/CMC hearing to be vacated and an order made 'by consent'.

Full engagement about disclosure before the CCMC/CMC is essential in accordance with the Disclosure Pilot. Careful thought should be given to the identity and number of witnesses that may be needed and whether expert evidence is needed and, if so, in relation to which issue or issues. The court will set a time estimate for trial and it needs to be as accurate as possible. The estimate will make provision for judicial pre-reading and, where appropriate, a break between evidence and closing submissions.

### **Disclosure after 1 January 2019**

The Disclosure Pilot provides an entirely new approach to disclosure. At a CMC held after 1 January 2019, the court will only be able to make orders for disclosure in accordance with the pilot. There are no transitional provisions.

The obligation to file and serve a disclosure report ceases with effect from 1 January 2019 and the Electronic Documents Questionnaire is superseded by the Disclosure Review Document.

## **CHANCERY ISSUE SECTION**