

## **PRACTICE NOTE**

**1 December 2018**

1. This Practice Note applies to claims in the following lists in the Business and Property Courts of England and Wales (“the Chancery Lists”):
  - Business List (ChD) (and its sublists)
  - Competition List
  - Intellectual Property List
  - Property Trusts and Probate List
  - Revenue List
2. The Practice Note issued on 8 September 2014 immediately before the introduction of the electronic court file in the Chancery Division is now redundant other than it remains essential to file a hearing bundle for every hearing.
3. This Practice Note is issued shortly before the Disclosure Pilot comes into force on 1 January 2019. From that date, the parties to claims in the Chancery Lists are not required to serve and file Disclosure Reports and the Electronic Disclosure Questionnaire has been replaced.

### **Provisional notice of allocation**

4. An opportunity has been taken to streamline the steps that are to be taken following the service of a defence. It will no longer be necessary from 1 January 2019 for the claimant to lodge a case management bundle, to enable the court to carry out a review of the claim on paper, prior to fixing a date for a case management conference. The standard letter that will be sent out by the court with Form 149C (the Provisional Notice of Allocation) is annexed to this note. The letter may be the subject of minor revisions from time to time.
5. It will also no longer be necessary to file with the DQ:
  - (i) Costs budgets; they are to be filed and served in accordance with CPR 3.13.
  - (ii) A list of issues for trial. It is to be filed with the CMC bundle. If a list of issues for trial cannot be agreed, the parties are to file a version showing the differences between them.

### **Case management conferences**

6. As the letter indicates, the case management conference provides a useful opportunity for the court to review the claim. The court will consider, amongst other matters, whether the claim should remain in the High Court and, if so, whether London is the appropriate venue. If the claim is to remain in London consideration will be given to whether the trial should take place before a High Court judge or a Master.
7. It is of assistance to the court for the parties to try to agree directions. However, the parties cannot assume the court will agree with what they have proposed, particularly in relation to venue, the level of the judiciary for trial, disclosure and expert evidence.

8. It will be unusual for the court to agree to vacate a case management conference on the basis of an agreed order.

#### **The Disclosure Pilot**

9. The pilot does not have transitional provisions.
10. Where a case management conference takes place in the early stages of the pilot the court may not have a completed Disclosure Review Document. If the court is to be asked to make an order for Extended Disclosure, the parties should, as far as possible, assist the court by providing with the CMC bundle a list of the Issues for Disclosure and the Models they consider to be most suitable
11. The court will have an increased role in relation to disclosure from 1 January 2019 because there is no entitlement to an order for Extended Disclosure and no default provision. If the parties ask the court to make an order for Extended Disclosure in relation to some or all Issues for Disclosure, the court will wish to review carefully the parties' proposals. If the parties are proposing use of Model D (or exceptionally Model E) in relation to some or all Issues for Disclosure, they should have considered whether Model C is appropriate and be in a position to explain their approach.
12. A request for the court to hold a Disclosure Guidance Hearing is made by issuing an application notice. The court will where possible provide an early hearing date. The court will normally expect the legal representative with direct responsibility for the conduct of disclosure to attend the hearing and be the person who participates in discussion of the issue or issues the court is asked to consider.

**Matthew Marsh**

**Chief Master**

**3 December 2018**