

103rd UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the existing Practice Direction, supplementing the Civil Procedure Rules 1998, are made by the Master of the Rolls under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Lucy Frazer QC MP, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The new Practice Directions and the amendments to the existing Practice Directions come into force as follows—	
Practice Direction 51R – Online Court Pilot	11.00am on 14 th January 2019

The Right Honourable Sir Terence Etherton
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor
Lucy Frazer QC MP
Parliamentary Under-Secretary of State for Justice
Ministry of Justice
Date: 04 January 2019

TRANSITIONAL PROVISION IN RELATION TO PRACTICE DIRECTION 51R

- 1) This transitional provision relates to the amendments made by this Update to Practice Direction 51R.
- 2) In this transitional provision—
 - (a) “former numbering” means the numbering of the provisions in Practice Direction 51R that applied before 11.00am on 14th January 2019; and
 - (b) “new numbering” means the numbering of the provisions in Practice Direction 51R that applies on and after 11.00am on 14th January 2019.
- 3) On and after 11.00am on 14th January 2019—

- (a) any reference to the pilot by the previous name of “the Online Court” will be treated as a reference to the pilot by the name of “Online Civil Money Claims”;
- (b) any reference to a provision using the former numbering will be treated as a reference to that provision numbered with the new numbering, and any action taken by reference to the former numbering will remain valid beyond the introduction of the new numbering; and
- (c) any reference to form OCN1 will be treated as a reference to form OCON1, and any claim issued in the form of form OCN1 before 11.00am 14th January 2019 will continue to be valid on and after that date.

PRACTICE DIRECTION 51R – THE ONLINE COURT PILOT

- 1) The Pilot is re-named the Online Civil Money Claims Pilot.
- 2) Omit the following paragraphs and Sections –
 - a) paragraphs 9 and 10;
 - b) Section 5;
 - c) Paragraph 54; and
 - d) Paragraphs 63, 64 and 65.
- 3) The provisions in the pilot are re-numbered in accordance with the Re-location of Provisions Table set out in Annex A to this Update. References to paragraph numbers below are references to the paragraphs as re-numbered, unless otherwise stated.
- 4) For the Table of Contents, substitute the Table of Contents set out in Annex B to this Update.
- 5) At the end of the heading to Section 1, insert, “and interpretation”.
- 6) After the heading to Section 1, insert the paragraph heading, “Definitions”.
- 7) Before the definition of “all proceedings order”, insert –

“affordability calculation” means a calculation made electronically by the court, by applying a formula to information submitted by the parties. The explanation of the formula is set out in Annex A. The purpose of the calculation is to establish what rate of repayment of an amount of money that a defendant is likely to be able to afford;

“affordability calculation repayment plan” means a plan that sets out the rate of repayment established by the affordability calculation.

- 8) In the definition of “alternative response”, for “43” substitute “9.1”.
- 9) After the definition of “the defendant”, insert –

““defendant’s home court” means the County Court hearing centre serving the address where the defendant resides or carries on business;”

10) After the definition of “directions”, insert –

““enter judgment” means the court makes and records a judgment;”

11) In the definition of “legal adviser”, for “51Q – the County Court Legal Advisers Pilot Scheme” substitute “2E – Jurisdiction of the county court that may be exercised by a legal adviser”.

12) In the definition of “new features”, for “Online Court” substitute “Online Civil Money Claims”.

13) In the definition of “online claim” –

- a) for “paragraph 5” substitute “paragraph 2.1(3)” and
- b) for “Online Court” substitute “Online Civil Money Claims”.

14) In the definition of “online claim form” –

- a) for “OCN1” substitute “OCON1”; and
- b) for “Online Court website”, substitute “OCMC website”.

15) For the definition of “the Online Court website”, substitute –

““the OCMC website” means the website that hosts Online Civil Money Claims and that can be found at the following website address:
www.moneyclaims.service.gov.uk, and accessible for claimants at www.gov.uk/make-money-claim, and for defendants at www.gov.uk/respond-money-claim;”.

16) Each time that it appears in the Practice Direction, for “Online Court website” substitute “OCMC website”.

17) After the definition of “protected party”, insert –

““regulated agreement” has the meaning given in section 189 of the Consumer Credit Act 1974;

“repayment plan” means the plan that sets out the terms that a claimant or defendant may propose for the repayment of an amount of money, which could be payment so that the claimant receives it by a date that is more than 5 days after the date of admission, or payment by instalments.”.

18) In the definition of “response form”, for “21” substitute “5.1(3).

19) After the definition of “stay”, insert –

“Interpretation – “completion” of forms, and signing of forms

1.2-(1) For the purposes of this practice direction, a party completes a form by completing all parts of the form that are relevant to the proceedings that the party is involved in.

(2) If a person is required to sign a form, that form is signed by that person entering their name in the required field in an online form, or manually signing at the appropriate place on a paper form.”.

20) After the heading to Section 2, insert the paragraph heading “Scope of this Pilot”.

21) In paragraph 2.1(1) –

- a) for ““the Online Court””, substitute ““Online Civil Money Claims””; and
- b) for “Paragraph 5” substitute “Sub-paragraph (3)”.

22) In paragraph 2.1(2), for “the Online Court” each time it appears, substitute “Online Civil Money Claims”.

23) In paragraph 2.1(3)(c), after “1974” insert “, unless it is brought under section 141 of that Act, to enforce a “regulated agreement” (as defined) relating only to money”.

24) After paragraph 2.13(c), insert –

“(d) the claimant will not be getting help with bringing the claim from a “legal representative” (as defined);”.

25) In paragraph 2.1(3)(n)(iv), after ““protected party””, insert “(as defined)”.

26) In paragraph 2.1(4), for “the Online Court” substitute “Online Civil Money Claims”.

27) In paragraph 2.1(5) –

- a) for “the Online Court” substitute “Online Civil Money Claims”;
- b) for “rules”, each time it appears, substitute “Civil Procedure Rules”.

28) After paragraph 2.1, insert –

“SECTION 3 – COURT TO KEEP THE PARTIES UPDATED ON THE PROGRESS OF THE PROCEEDINGS

Court to keep the parties updated on the progress of the proceedings

3.1-(1) When a party uses Online Civil Money Claims to take a formal step in relation to the claim, the court must keep a record of the fact the step has been taken, and of the date the step is recorded as taken.

(2) The court must tell the party when it records the step as taken, and the date recorded.

(3) The court must also tell the other parties if any step is recorded as taken, and the date of the step taken, unless the court has ordered or this practice direction provides that the other parties not be told.”.

29) In the Section heading before paragraph 4.1, for “3” substitute “4”.

30) In paragraph 4.1(1)(a), for “OCN1”, substitute “OCON1”.

31) For paragraph 4.1(2), substitute –

“(2) As part of completing the claim form, the claimant must –

(a) set out all the details about their claim that they want to rely on to support their claim; and

(b) list any documents or other evidence that they may want to rely on to support their claim.”.

32) In the Section heading before paragraph 5.1, for “4” substitute “5”.

33) After that Section heading, insert the paragraph heading –

“Defendant’s response online – when and how to respond”.

34) In table A –

a) in first row, the third column, for “5” substitute “2.1(2)”;

b) in the third column, each time it appears, for “Online Court postal address” substitute “Online Civil Money Claims postal address”.

35) In the words in brackets following paragraph 5.1(7), for “10” substitute “14”.

36) In paragraph 5.1(9), for “paragraphs 59 to 61” substitute “paragraph 11.1”.

37) After Section 5, insert Sections 6 to 8, as set out in Annex C to this Update.

38) For the Section heading before paragraph 9.1 substitute the Section and paragraph headings –

“SECTION 9 – DEFENDANT’S RESPONSE ONLINE – ALTERNATIVE RESPONSES

Alternative responses”.

39) For paragraph 9.1(1), substitute –

“9.1-(1) Sub-paragraph (2) applies if the defendant submits a response form, but the response is other than –

- (a) only to defend the whole of the claim;
- (b) using “new features” (as defined) only to admit the whole of the claim;
- (c) using “new features” only to admit part of the claim;
- (d) using “new features” to admit part and defend the rest of the claim.

Such a response is referred to as an “alternative response”. An example of alternative response is where the defendant counterclaims or brings another additional claim under Part 20 of the Civil Procedure Rules.”.

- 40) In paragraph 9.1(2), for “the Online Court” substitute “Online Civil Money Claims”.
- 41) In the Section heading before paragraph 10.1, for “7” substitute “10”.
- 42) After that Section heading, insert the paragraph heading “Defendant’s response on paper”.
- 43) In paragraph 10.1, each time it appears, for “the Online Court”, substitute “Online Civil Money Claims”.
- 44) In paragraph 10.1(10), for “paragraphs 59 to 61”, substitute “paragraph 11.1”.
- 45) For the Section heading before paragraph 11.1, for “8” substitute “11”.
- 46) In paragraph 11.1(2), for “via” substitute “using”.
- 47) In paragraph 11.1(3), for “the Online Court to the CCBC” substitute “Online Civil Money Claims to the CCBC. (Paragraph 7.47 contains an exception to this requirement, where the defendant has already made an informal admission using “new features” (as defined).)”.
48) After paragraph 11.2, insert –

“SECTION 12 – WHAT HAPPENS WHERE THERE HAS BEEN NO ACTION ON A CLAIM FOR 6 MONTHS

What happens where there has been no action on a claim for 6 months

12.1 If no steps have been taken on a claim by either the claimant or the defendant for 6 months, the court must “stay” the proceedings (as defined).”.

- 49) In the Section heading before paragraph 13.1, for “9” substitute “13”.

- 50) After that Section heading, insert the paragraph heading “Confirming that the contents of claim forms, response forms and paper response forms are true (statement of truth)”.
- 51) In the words in brackets following paragraph 13.1(4), after “Part 81” insert “of the Civil Procedure Rules”.
- 52) In the Section heading before paragraph 14.1, for “10” substitute “14”.
- 53) After that Section heading, insert the paragraph heading “Submitting documents at court– timing of submitting, and responsibility for submitting on time”.
- 54) In paragraph 14.1(3), after “CCBC” insert “(as defined)”.
- 55) After paragraph 14.1, insert –

“SECTION 15 – FORM OF JUDGMENTS – STANDARD REQUIREMENTS

Form of judgments – standard requirements

15.1-(1) Any judgment, order or “directions” (as defined) made under this practice direction must state the name and the judicial title or other official role of the person who made them.

(2) A party must comply with a judgment or order for the payment of money (including costs) within 19 days of the date of the judgment or order, unless –

(a) the judgment or order sets a different date for the payment;

(b) any of the provisions of this practice direction specifies a different time for compliance; or

(c) the court has “stayed” (as defined) the proceedings or judgment.

SECTION 16 – PROCESS FOR RESUMING A CLAIM THAT HAS BEEN STAYED (“LIFTING” A STAY)

Process for resuming a claim that has been stayed (“lifting” a stay)

16.1-(1) This Section sets out the process for lifting a stay of proceedings (as defined) so that proceedings on a claim may be resumed. If, however, another provision contains provisions about resuming claims that have been stayed in particular circumstances, that provision prevails to the extent that it is inconsistent with this Section.

(2) If the proceedings have been stayed, any party may make an application to the court using form N244 Application notice to “lift” the stay (as defined) so that the proceedings on the claim can be resumed.

(3) An application to lift the stay must be made using the procedure set out in Civil Procedure Rules Part 23.

(4) If the court receives an application to lift the stay, the court must refer the application to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.”.

56) For the Section heading before paragraph 17.1, substitute the Section and paragraph headings –

“SECTION 17 – PROCEDURE WHERE THE PARTIES MAKE AN APPLICATION OR REQUEST TO THE COURT NOT COVERED BY ONLINE CIVIL MONEY CLAIMS

Procedure where the parties make an application or request to the court not covered by online civil money claims”.

57) In Section 17 –

a) for “the Online Court”, each time it appears, substitute “Online Civil Money Claims”;
and

b) after “application” each time it appears, insert “or request”.

58) In paragraph 17.2 after “applications” insert “or requests”.

59) In the Section heading before paragraph 18.1, for “12” substitute “18”.

60) In Section 18, each time it appears, for “the Online Court”, substitute “Online Civil Money Claims”.

61) For the Section heading before paragraph 19.1, substitute the Section and paragraph headings –

“SECTION 19 – PROCESS FOR SENDING A CLAIM OUT OF ONLINE CIVIL MONEY CLAIMS WHERE NO OTHER PROVISION APPLIES

Process for sending a claim out of online civil money claims where no other provision applies”.

62) In Section 19, each time it appears, for “the Online Court”, substitute “Online Civil Money Claims”.

63) After Section 19, insert Annex A to the practice direction – Explanation of the Affordability Calculator in Online Civil Money Claims as set out in Annex D to this Update.

ANNEX A

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS

RE-LOCATION OF PROVISIONS TABLE

<u>Numbering before 11.00am on 14th January 2019</u>	<u>Numbering on and after 11.00am on 14th January 2019 (note: existing provisions may have been amended as well as re-numbered)</u>
	Section 1 – Definitions and interpretation
1	1.1
-	1.2 (new provision - interpretation)
	Section 2 - Scope of the Pilot
2	2.1(1)
3	2.1(2)
<i>[4 was omitted previously]</i>	
5	2.1(3)
5A	2.1(4)
6	2.1(5)
	Section 3 – Court to keep the parties updated on the progress of proceedings
-	3.1 (new provision – notification by court - although incorporates the substance of former paragraphs 9, 10 and 54)
	Section 4 – Starting a claim
7	4.1(1)
8	4.1(2)
9	- (replaced by new general notification provision paragraph 3.1)

10	- (replaced by new general notification provision paragraph 3.1)
11	4.2(1)
12	4.2(2)
13	4.2(3)
14	4.3(1)
15	4.3(2)
16	4.3(3)
17	4.3(4)
18	4.3(5)
	Section 5 – Defendant’s response online - general
19	5.1(1)
20	5.1(2)
21	5.1(3)
Table A	Table A
22	5.1(4)
23	5.1(5)
24	5.1(6)
25	5.1(7)
26	5.1(8)
27	5.1(9)
	Section 6 – defendant’s response online – defendant only defends the whole of the claim, and makes no other response (although former Section 5 has been omitted, the effect of some of the provisions have been replicated in new Section 6)
28	6.1(1) (28.3 now 6.4(1))
-	6.2 (new provision - defendant claiming they have paid in full and willing to negotiate)
-	6.3 (new provision - defendant claiming they have paid in full but not willing to negotiate)
29	6.4(2)
30	6.4(3)
31	6.4(4)
32	- (replaced by new general provision on lifting stays – paragraph 16.1)
33	- (replaced by new general provision on lifting stays – paragraph 16.1)
34	6.4(5)
35	6.4(6)
36	6.4(7)
37	6.4(8)
38	6.4(9)
39	6.5
40	6.6(1)
-	6.6(1)(a) to (d) – new provisions

40.1	omitted
40.2	6.6(1)(e)
40.3	6.6(1)(f)
40.4	6.6(1)(g)
40.5	6.6(1)(h)
41	6.6(2)
42	6.6(3)
	Section 7 – New features – defendant’s response online – defendant responds only to admit the claim in whole or part, or to admit part and defend the rest of the claim
-	7.1-7.47 (all new provisions on admission)
	Section 8 – New features – counterclaims
	(As yet, this Section does not have any provisions in it)
	Section 9 – Defendant’s response online –alternative responses
43	9.1(1)
44	9.1(2)
	Section 10 – Defendant’s response on paper
45	10.1(1)
46	10.1(2)
47	10.1(3)
48	10.1(4)
49	10.1(5)
50	10.1(6)
51	10.1(7)
52	10.1(8)
53	10.1(9)
54	- (provision removed in favour of general provision on notification – new paragraph 3.1)
55	10.1(10)
56	10.1(11)
57	10.1(12)
58	10.1(13)
	Section 11 – consequences of the defendant failing to respond on time
59	11.1(1)
60	11.1(2)
61	11.1(3)
62	11.2
63 to 65	- (replaced with the general provision on lifting stays – paragraph 16.1)

	Section 12 – What happens where there has been no action on a claim for 6 months
-	12.1 (new general provision)
	Section 13 – Confirming that the contents of claim forms, response forms and paper response forms are true (statement of truth)
66	13.1(1)
67	13.1(2)
68	13.1(3)
69	13.1(4)
	Section 14 – Submitting documents at court – time of submitting and responsibility for submitting on time
70	14.1(1)
71	14.1(2)
72	14.1(3)
73	14.1(4)
	Section 15 – Form of judgments – standard requirements
-	15.1 (new provision)
	Section 16 – Process for resuming a claim that has been stayed (“lifting” a stay)
-	16.1 (new provision)
	Section 17 – Procedure where the parties make an application or request to the court not covered by Online Civil Money Claims
74	17.1(1)
75	17.1(2)
	Section 18 – Parties or the court requiring the claim to be sent out of Online Civil Money Claims
76	18.1
77	18.2
	Section 19 – Process for sending a claim out of Online Civil Money Claims where no other provision applies
78	19.1(1)
79	19.1(2)
80	19.1(3)
81	19.1(4)
82	19.1(5)

ANNEX B

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS

TABLE OF CONTENTS

“CONTENTS OF THIS PRACTICE DIRECTION

Title	Paragraph number
SECTION 1 – Definitions and interpretation	
Definitions	Paragraph 1.1
Interpretation – “completion” of forms, and signing of forms	Paragraph 1.2
SECTION 2 – Scope of the pilot	
Scope of the Pilot	Paragraph 2.1
SECTION 3 – Court to keep the parties updated on the progress of the proceedings	
Court to keep the parties updated on the progress of the proceedings	Paragraph 3.1
SECTION 4 – Starting a claim	
Starting an online claim	Paragraph 4.1
Making changes to the claim form	Paragraph 4.2
Issue and service of the claim by the court	Paragraph 4.3
SECTION 5 – Defendant’s response online - general	
Defendant’s response online – when and how to respond	Paragraph 5.1
SECTION 6 – Defendant’s response online – defendant only defends the whole of the claim, and makes no other response	
Sub-section A - Introduction	Paragraph 6.1
Sub-section B – “new feature” – defendant claiming they have paid in full, but willing to negotiate	Paragraph 6.2
Sub-section C – “new feature” – defendant claiming they have paid in full, and not willing to negotiate	Paragraph 6.3
Sub-section D – defendant defends for reasons other than that the amount has been paid in full, but defendant willing to negotiate	Paragraph 6.4
Sub-section E - defendant defends for reasons other than that the amount has been paid in full, and defendant not willing to negotiate	Paragraph 6.5
Sub-section F – under Section 6, sending claims out of Online Civil Money Claims	Paragraph 6.6

SECTION 7 – New Features – Defendant’s response online – defendant responds only to admit the claim in whole or part, or to admit part and defend the rest of the claim	
Sub-section A – Introduction to this Section	
Introduction to this Section	Paragraph 7.1
Sub-section B – defendant admits the whole of the claim using form OCON9A and makes no other response	
Introduction to Sub-section B	Paragraph 7.2
Court to notify the claimant of when the defendant proposing to make payment of the whole amount	Paragraph 7.3
Defendant offers to pay the whole amount owed within 5 days	Paragraph 7.4
Defendant has not offered to pay the amount owed within 5 days, but instead has asked for more tie to pay and has proposed repayment plan	Paragraph 7.5
Claimant accepts the defendant’s proposed repayment plan	Paragraph 7.6
Claimant accepts defendant’s repayment plan and decides to request a judgment on admission	Paragraph 7.7
Claimant accepts defendant’s repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement	Paragraph 7.8
Claimant accepts the defendant’s proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond	Paragraph 7.9
Claimant rejects the defendant’s proposed repayment plan, proposes different plan; defendant is an individual, which includes a sole trader; affordability calculation	Paragraph 7.10
Claimant accepts affordability calculation repayment plan, or that plan amounts to the claimant’s proposed repayment plan - court asks claimant whether they request judgment, or are proposing a settlement agreement instead	Paragraph 7.11
Claimant accepts affordability calculation repayment plan or that plan amounts to the claimant’s proposed repayment plan - claimant requests judgment	Paragraph 7.12
Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement agreement	Paragraph 7.13
Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond	Paragraph 7.14
Claimant rejects defendant’s proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined	Paragraph 7.15
Claimant rejects the defendant’s proposed repayment plan,	Paragraph 7.16

proposes different terms – defendant is not an individual	
Claimant fails to respond to defendant’s proposed repayment plan, or to the affordability calculation repayment plan	Paragraph 7.17
Sub-section C – defendant’s response online – defendant responds to admit part of the claim only, and makes no other response	
Introduction to Sub-section C	Paragraph 7.18
Defendant claims they have paid the amount admitted, or offers to pay the whole amount admitted within 5 days – claimant asked whether they accept the defendant’s claim or offer	Paragraph 7.19
Defendant offers to pay the whole of the amount admitted within 5 days – claimant accepts the offer	Paragraph 7.20
Defendant offers to pay the whole of the amount admitted within 5 days – claimant rejects the offer	Paragraph 7.21
Defendant offers to pay the whole of the amount admitted within 5 days – claimant fails to respond to the offer	Paragraph 7.22
Defendant has not offered to pay the whole amount admitted within 5 days, but instead has asked for more time to pay and has proposed a repayment plan – claimant asked whether they accept the offer and repayment plan	Paragraph 7.23
Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer and repayment plan	Paragraph 7.24
Claimant accepts defendant’s offer and repayment plan and decides to request a judgment on admission	Paragraph 7.25
Claimant accepts defendant’s offer and proposed repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement	Paragraph 7.26
Claimant accepts the defendant’s proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond	Paragraph 7.27
Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer but not the repayment plan, proposes different plan; defendant is an individual, which includes a sole trader: affordability calculation	Paragraph 7.28
Claimant accepts affordability calculation repayment plan or the affordability calculation repayment plan amounts to the claimant’s proposed repayment plan - court asks claimant whether they request judgment, or are proposing a settlement agreement instead	Paragraph 7.29
Claimant accepts affordability calculation repayment plan or affordability calculation repayment plan amounts to the claimant’s proposed repayment plan - claimant requests judgment	Paragraph 7.30
Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement	Paragraph 7.31

agreement	
Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond	Paragraph 7.32
Claimant rejects defendant's proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined	Paragraph 7.33
Claimant rejects the defendant's proposed repayment plan, proposes different terms - defendant is not an individual	Paragraph 7.34
Claimant fails to respond to defendant's proposed repayment plan, or to the affordability calculation repayment plan	Paragraph 7.35
Defendant offers to pay the amount admitted and proposed repayment plan – claimant rejects both the offer and repayment plan	Paragraph 7.36
Sub-section D – part admission and defence of the rest of the claim	
When this sub-section applies	Paragraph 7.37
Court to notify the claimant of when the defendant proposing to make payment of the partial amount admitted, and that the defendant is also defending the rest of the claim	Paragraph 7.38
Court to ask claimant for their response, and claimant's response	Paragraph 7.39
The claimant accepts the part admission with payment within 5 days	Paragraph 7.40
The claimant accepts the part admission and repayment terms	Paragraph 7.41
The claimant accepts the part admission but not the repayment terms	Paragraph 7.42
Claimant rejects the part admission	Paragraph 7.43
Claimant fails to respond to the part admission	Paragraph 7.44
Sub-section E – full and part admission – change of circumstances	
Full and part admission – circumstances change so that either party wants to change the repayment terms	Paragraph 7.45
Full and part admission – defendant changes their mind and wants to withdraw their full or part admission	Paragraph 7.46
Sub-section F – admission online, but not in the form of OCON9A	
The defendant's admission is online, but is not in form OCON9A	Paragraph 7.47
SECTION 8 – Defendant's response online – defendant counterclaims	
[This Section is blank at present]	
SECTION 9 – Alternative responses	
Alternative responses	Paragraph 9.1
SECTION 10 – Defendant's response on paper	
Defendant's response on paper	Paragraph 10.1

SECTION 11 – Consequences of the defendant failing to respond on time	
Consequences of the defendant failing to respond to the court on time – judgment in default of responding	Paragraph 11.1
What happens when the defendant does not respond, and the claimant does not take further action against the defendant, for 6 months	Paragraph 11.2
SECTION 12 – What happens where there has been no action on a claim for 6 months	
What happens where there has been no action on a claim for 6 months	Paragraph 12.1
SECTION 13 – Confirming that the contents of claim forms, response forms and paper response forms are true (statement of truth)	
Confirming that the contents of claim forms, response forms and paper response forms are true (statement of truth)	Paragraph 13.1
SECTION 14 – Submitting documents at court – timing of submitting, and responsibility for submitting on time	
Submitting documents at court – timing of submitting, and responsibility for submitting on time	Paragraph 14.1
SECTION 15 – Form of judgments – standard requirements	
Form of judgments – standard requirements	Paragraph 15.1
SECTION 16 – Process for resuming a claim that has been stayed (“lifting” a stay)	
Process for resuming a claim that has been stayed (“lifting” a stay)	Paragraph 16.1
SECTION 17 – Procedure where the parties make an application to the court not covered by Online Civil Money Claims	
Procedure where the parties make an application to the court not covered by Online Civil Money Claims	Paragraph 17.1
SECTION 18 – Parties or the court requiring the claim to be sent out of Online Civil Money Claims	
The claimant or defendant no longer wishes to take part in Online Civil Money Claims	Paragraph 18.1
Court considers that a claim is not – or is no longer – suitable for Online Civil Money Claims	Paragraph 18.2
SECTION 19 – Process for sending a claim out of Online Civil Money Claims where no other provision applies	
Process for sending a claim out of Online Civil Money Claims where no other provision applies	Paragraph 19.1
ANNEX A – Formula for calculation by the court of repayment terms	

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ANNEX C

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS

SECTIONS 6 TO 8

“SECTION 6 – DEFENDANT’S RESPONSE ONLINE – DEFENDANT ONLY DEFENDS THE WHOLE OF THE CLAIM, AND MAKES NO OTHER RESPONSE

Sub-section A - Introduction

6.1-(1) This Section applies if the defendant –

- (a) responds online to the court on time; and
- (b) wishes only to defend the whole of the claim and makes no other response.

(2) Sub-section B applies if –

- (a) the claim has been selected to test “new features” (as defined) on or after 11.00am on 14th January 2019;
- (b) the defendant defends the claim on the grounds that the amount has been paid in full; and
- (c) if the defendant has notified the court that they are willing to mediate or are willing to negotiate further.

(3) Sub-section C applies if –

- (a) the claim has been selected to test “new features” (as defined) on or after 11.00am on 14th January 2019;
- (b) the defendant defends the claim on the grounds that the amount has been paid in full; and
- (c) if the defendant is not willing to mediate or negotiate further.

(4) Sub-section D applies if –

(a) neither sub-section B or C applies; and

(b) the defendant has notified the court that they are willing to mediate or are willing to negotiate further.

(5) Sub-section E applies if –

(a) neither sub-section B or C applies; and

(b) the defendant is not willing to mediate or negotiate

(6) Sub-section F applies if a claim is to be sent out of Online Civil Money Claims.

Sub-section B – “new feature” – defendant claiming they have paid in full, but willing to negotiate

6.2-(1) This paragraph is a new feature. It applies when sub-section B of section 6 applies.

(2) The court must ask the claimant whether they accept that the amount has been paid, or whether they do not accept that it has been paid and wish to continue with the claim.

(3) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they do not wish to continue with the claim, the claim will be automatically “stayed” (as defined)].

(4) If the claimant fails to respond online within the 33 days, the court must “stay” the proceedings (as defined).

(5) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they wish to continue with the claim and if the claimant has also told the court that they are willing to mediate or negotiate further, the court must “stay” the proceedings (as defined) for 28 days. The 28-day period is calculated from and including the date that the response form is received by the court. The court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.

(6) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they wish to continue with the claim, but they have not told the court whether they are willing to mediate or negotiate further, the court must ask the claimant

whether they are willing to mediate or negotiate.

(7) If, within 5 days after the date of the court's enquiry, the claimant tells the court that they agree to mediate or negotiate further, the court must stay the proceedings for 28 days. The 28-day period is calculated from and including the date that the court receives the claimant's response to their enquiry. The court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.

(8) The claimant must tell the court if a settlement is reached. The claimant must also tell the court if the parties have agreed that the claim can be discontinued or dismissed.

(9) If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached, the court must refer the matter to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

(10) If a settlement is reached within the 28 days, but the parties have not agreed that the claim can be dismissed or discontinued, the court must stay the proceedings. When it stays the proceedings and if the settlement is in form OCON Settlement Agreement, the court must also enable either or both parties to return to the court if the settlement breaks down, by giving permission for the parties to apply for –

(a) judgment to be given for the unpaid balance of the outstanding sum of the settlement agreement;

(b) the court to enforce any of the other terms of the settlement agreement;

(c) the claim to be resumed for a hearing of the full amount of the claim.

(11) If the court receives an application for judgment, enforcement or for the claim to be resumed, the court must send the claim out of Online Civil Money Claims.

(12) If the claimant does not respond on time to the court's enquiry about mediation or further negotiation, or responds but with a refusal to mediate or negotiate, the court must refer the matter to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

Sub-section C – “new feature” – defendant claiming they have paid in full, and not willing to negotiate

6.3- (1) This paragraph is a new feature. It applies when sub-section C of Section 6 applies.

(2) The court must ask the claimant whether they accept that the amount has been paid, or whether they do not accept that it has been paid and wish to continue with the claim.

(3) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they do not wish to continue with the claim, the claim will be automatically “stayed” (as defined).

(4) If the claimant fails to respond online within the 33 days, the court must “stay” the proceedings (as defined).

(5) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they wish to continue with the claim, the court must refer the matter to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

Sub-section D – defendant defends for reasons other than that the amount has been paid in full, but defendant willing to negotiate

6.4-(1) This paragraph applies if sub-section D of Section 6 applies.

(2) If, before the court receives the response form, the claimant has also told the court that they are willing to mediate or negotiate further, the court must “stay” the proceedings (as defined) for 28 days. The 28-day period is calculated from and includes the date that the response form is received by the court. The court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.

(3) If, before the court receives the response form, the claimant has not told the court that they are willing to mediate or negotiate further, the court must ask the claimant whether they are willing to mediate or negotiate.

(4) If, within 5 days after the date of the court’s enquiry, the claimant tells the court that they agree to mediate or negotiate further, the court must stay the proceedings for 28 days. The 28-day period is calculated from and includes the date that the court receives the claimant’s response to their enquiry. The court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.

(5) The claimant must tell the court if a settlement is reached. The claimant must also tell the court if the parties have agreed that the claim can be discontinued or dismissed.

(6) If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached, the court must refer the matter to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

(7) If a settlement is reached within the 28 days, but the parties have not agreed that the claim can be dismissed or discontinued, the court must stay the proceedings. When it stays the proceedings and if the settlement is in form OCON Settlement Agreement, the court must also enable either or both parties to return to the court if the settlement breaks down, by giving permission for the parties to apply for –

(a) judgment to be given for the unpaid balance of the outstanding sum of the settlement agreement;

(b) the court to enforce any of the other terms of the settlement agreement;

(c) the claim to be resumed for a hearing of the full amount of the claim.

(8) If the court receives an application for judgment, enforcement or for the claim to be resumed, the court must send the claim out of Online Civil Money Claims.

(9) If the claimant does not respond on time to the court's enquiry about mediation or further negotiation, or responds but with a refusal to mediate or negotiate, the court must refer the matter to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

Sub-section E - defendant defends for reasons other than that the amount has been paid in full, and defendant not willing to negotiate

6.5- (1) This paragraph applies if sub-section E of Section 6 applies.

(2) If the defendant –

(a) responds online to the court on time;

(b) wishes only to defend the whole of the claim and makes no other response; and

(c) has not notified the court that they are willing to mediate or negotiate further,

the court must send the claim out of Online Civil Money Claims.

Sub-section F – under Section 6, sending claims out of Online Civil Money Claims

6.6 -(1) This paragraph applies if the defendant has submitted a response online defending the whole of the claim and the court sends or may send the claim out of Online Civil Money

Claims under the following provisions –

(a) paragraph 6.2(9) (28 day stay expires without parties notifying the court they have reached a settlement);

(b) paragraph 6.2(11) (the court receives an application for judgment, enforcement, or for the claim to be resumed);

(c) paragraph 6.2(12) (the claimant fails to tell the court whether they are willing to mediate or negotiate, or refuses to mediate or negotiate).

(d) paragraph 6.3(5) (the defendant does not indicate that they are willing to mediate);

(e) paragraph 6.4(6) (28 day stay expires without parties notifying the court they have reached a settlement);

(f) paragraph 6.4(8) (the court receives an application for judgment, enforcement, or for the claim to be resumed);

(g) paragraph 6.4(9) (the claimant fails to tell the court whether they are willing to mediate or negotiate, or refuses to mediate or negotiate);

(h) paragraph 6.5(2) (the defendant does not indicate that they are willing to mediate).

(2) The court must send the claim out of Online Civil Money Claims to the “CCBC” (as defined). The court must inform the claimant and defendant that the claim has been sent out of Online Civil Money Claims, and explain why the claim has been sent out.

(3) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

(a) Civil Procedure Rule 26.3 (provisional allocation of a case to a case track in the court, and directions questionnaires) will apply as if the defendant files the defence when the CCBC receives the defendant’s response form from Online Civil Money Claims; and

(b) Civil Procedure Rules 26.4 and 26.4A do not apply.

SECTION 7 – NEW FEATURES – DEFENDANT’S RESPONSE ONLINE – DEFENDANT RESPONDS ONLY TO ADMIT THE CLAIM IN WHOLE OR PART, OR TO ADMIT PART AND DEFEND THE REST OF THE CLAIM

Sub-section A - Introduction to this Section

7.1 – (1) This Section applies in relation to claims that have been specifically selected to test “new features” (as defined) on or after 11.00am on 14th January 2019, where the defendant responds online admitting the whole or part of the claim, or admitting part and defending the rest of the claim.

(2) Sub-section B applies only to full admissions, where the defendant uses form OCON9A to make the admission and makes no other response.

(3) Sub-section C applies only to part admissions, where the defendant uses form OCON9A to make the part admission and makes no other response.

(4) Sub-section D applies where the defendant part admits the claim, defends the rest of it, and uses form OCON9A to make the part admission and part defence.

(5) Sub-section E applies to both full and part admissions, where the defendant uses form OCON9A to make the admission and there has been a change of circumstances.

(6) Sub-section F applies to both full and part admissions, where the defendant does not use form OCON9A to make the admission.

Sub-section B – defendant admits the whole of the claim using form OCON9A and makes no other response

Introduction to Sub-section B

7.2 This Sub-section applies where the defendant admits the whole of the claim, uses form OCON9A to make the admission and makes no other response.

Court to notify the claimant of when the defendant proposing to make payment of the whole amount

7.3 When the court tells the claimant that it has received the admission, it must also tell the claimant –

(a) whether the defendant has offered to pay the whole amount owed so that the claimant receives it within 5 days of the date of the admission, or whether the defendant has asked for more time to pay; and

(b) if the defendant has asked for more time to pay, what “repayment plan” (as defined) the defendant is proposing for payment, which could be payment so that the claimant receives it by a date that is more than 5 days after the date of admission, or payment by instalments.

Defendant offers to pay the whole amount owed within 5 days

7.4-(1) If the defendant has offered to pay the whole amount so that the claimant receives it within 5 days of the date of the admission, but then the claimant does not receive the whole amount within that time, the claimant may request a judgment on admission.

(2) The claimant requests the judgment by completing form OCON225 and submitting it to the court using the OCMC website. When requesting judgment, the claimant may also specify its repayment plan (as defined).

(3) If the court receives a request for judgment on admission, it must “enter judgment” (as defined).

(4) If the claimant has specified a repayment plan in the request for judgment, the judgment must state that repayment is to be made in accordance with that repayment plan.

(5) If the claimant has not specified a repayment plan in the request for judgment, the judgment must state that the whole amount owed must be repaid in full within 5 days of the date of the judgment.

(6) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has already paid;

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

Defendant has not offered to pay the amount owed within 5 days, but instead has asked for more time to pay and has proposed a repayment plan

7.5-(1) If the defendant has not offered to pay the amount owed so that the claimant receives it within 5 days of the date of the admission, but the defendant has instead asked for more time to pay and has proposed “a repayment plan” (as defined), the claimant may accept or reject the proposal.

(2) The claimant accepts or rejects the proposal by completing form OCON225 and submitting it to the court using the OCMC website.

Claimant accepts the defendant’s proposed repayment plan

7.6-(1) If the claimant has accepted the defendant’s proposed repayment plan using form OCON225, the claimant may request a judgment on admission, but does not have to: the claimant may decide to propose a settlement agreement instead.

Claimant accepts defendant’s repayment plan and decides to request a judgment on admission

7.7(1) If the claimant decides to request a judgment on admission, the claimant requests the judgment by completing form OCON225 and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) on the defendant repayment plan.

(3) The judgment will be made for the amount of –

- (a) the claim, minus any payments of the amount owed that the defendant has already paid; and
- (b) any interest that the claimant is entitled to and has claimed on the claim form; and
- (c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the defendant’s repayment plan.

Claimant accepts defendant’s proposed repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement

7.8(1) If –

(a) instead of requesting a judgment on admission, the claimant has proposed a settlement agreement on the same terms as the defendant's proposed repayment plan;

(b) the proposed agreement is in the form of OCON Settlement Agreement A;

(c) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and

(d) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement,

the court must "stay" the proceedings (as defined). When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down, and the defendant fails to comply with the settlement agreement.

(2) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(4) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

Claimant accepts the defendant's proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond

7.9(1) If –

(a) instead of requesting a judgment on admission, the claimant has proposed a settlement agreement on the same terms as the defendant's proposed repayment plan;

(b) the proposed agreement is in the form of OCON Settlement Agreement A;

(c) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and

(d) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have rejected the proposal and do not agree to the settlement agreement, or within that time has failed to notify the court of their response,

the claimant may request a judgment on admission.

(2) The claimant requests a judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) with payment to be made in accordance with the defendant's proposed repayment plan.

(4) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the defendant's proposed repayment plan.

Claimant rejects the defendant's proposed repayment plan, proposes different plan; defendant is an individual, which includes a sole trader; affordability calculation

7.10-(1) This paragraph, and paragraphs 7.11 to 7.15 apply where the defendant is an individual, which includes a sole trader.

(2) If the claimant has rejected the defendant's proposed repayment plan, the claimant may also suggest a repayment plan.

(3) On receiving the claimant's suggested repayment plan, the court will produce an "affordability calculation". The affordability calculation will be carried out electronically, by the application of a formula to the information submitted by the parties. The purpose of the calculation is to establish what rate of repayment a defendant is likely to be able to afford, based on the information submitted by the parties: an "affordability calculation repayment plan".

(4) The explanation of the formula is set out in Annex A to this practice direction.

(5) If the affordability calculation indicates that the defendant will not be able to afford to repay the amount owed in accordance with the claimant's repayment plan, the court will tell the claimant, and ask the claimant whether they accept or reject the affordability calculation repayment plan instead.

(6) The claimant may accept or reject the affordability calculation repayment plan using the OCMC website.

Claimant accepts affordability calculation repayment plan, or that plan amounts to the claimant's proposed repayment plan - court asks claimant whether they request judgment, or are proposing a settlement agreement instead

7.11 If the claimant accepts the affordability calculation repayment plan, or if that plan is calculated as amounting to the claimant's repayment plan, the court will ask the claimant whether they wish to request judgment on admission, or whether they are proposing a settlement agreement instead.

Claimant accepts affordability calculation repayment plan or that plan amounts to the claimant's proposed repayment plan - claimant requests judgment

7.12-(1) If, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed, the claimant wishes to request a judgment on admission, they may make the request by completing form OCON225A and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment, it must “enter judgment” (as defined) with payment to be made in accordance with the “affordability calculation repayment plan” (as defined).

(3) The judgment will be made for the amount of –

- (a) the claim, minus any payments of the amount owed that the defendant has already paid; and
- (b) any interest that the claimant is entitled to and has claimed on the claim form; and
- (c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(5) If, after judgment has been made, the defendant objects to the affordability calculation repayment plan, or if the claimant no longer agrees to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount owed by the defendant. The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(6) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(7) If the court receives a request for re-determination on time, it must send the claim out of Online Civil Money Claims to the defendant’s “home court” (as defined).

Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement agreement

7.13(1) This paragraph applies, if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

- (a) the claimant uses the OCMC website to tell the court that –
 - (i) it proposes a settlement agreement to the defendant;
 - (ii) the settlement agreement is in the form of OCON Settlement Agreement A; and

(iii) the settlement agreement if for repayment of the amount owed in accordance with the affordability calculation repayment plan, and

(b) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement.

(2) If the defendant has accepted the settlement agreement in those circumstances, the court must "stay" the proceedings (as defined).

(3) When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down and the defendant fails to comply with the settlement agreement.

(4) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(5) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) on terms that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(6) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(7) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

(8) If, after the judgment has been made, the claimant or the defendant changes their mind about the affordability calculation repayment plan and wishes to object to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount owed by the defendant.

(9) The claimant or defendant may make their request for re-determination using the OCMC

website. When requesting a re-determination, the claimant or defendant must explain why they now object to the affordability calculation repayment plan.

(10) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(11) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond

7.14(1) This paragraph applies, if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

(a) the claimant uses the OCMC website to tell the court that –

(i) it proposes a settlement agreement to the defendant;

(ii) the settlement agreement is in the form of OCON Settlement Agreement A; and

(iii) the settlement agreement is for repayment of the amount owed in accordance with the affordability calculation repayment plan; and

(b) within 7 days of the date of the claimant's proposal, the defendant uses the OCMC website to tell the court that they reject the settlement agreement or the defendant does not respond to the court within the 7 days.

(2) If the defendant has rejected the settlement agreement or failed to respond within the 7 days in those circumstances, the claimant can request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) on terms that the amount outstanding to be paid in accordance with the affordability calculation repayment plan.

(4) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has

already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(6) If, after the judgment has been made, the claimant changes their mind about the affordability calculation repayment plan and wishes to object to the plan, or the defendant wishes to object to the affordability calculation repayment plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount owed by the defendant.

(7) The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Claimant rejects defendant's proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined

7.15(1) If, following an affordability calculation, the claimant wishes to reject the affordability calculation repayment plan, they may do so using the OCMC website.

(2) If the claimant rejects the affordability calculation repayment plan, they may still request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined), with the plan for the repayment of the amount owed by the defendant to be determined.

(4) The judgment will be made for the amount of –

(a) the claim, minus any payments of the amount owed that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the plan for the repayment of the amount owed by the defendant is to be determined.

(6) The plan for the repayment of the amount owed by the defendant must be ordered by a judge.

(7) If either party objects to the plan for repayment ordered by the judge, they may ask, on time, for a re-determination of the plan for the repayment of the amount owed by the defendant. The claimant or defendant may make their request for re-determination to Online Civil Money Claims. When requesting a re-determination, the claimant or defendant must explain why they object to the plan ordered by the judge.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Claimant rejects the defendant's proposed repayment plan, proposes different terms – defendant is not an individual

7.16-(1) This paragraph applies where –

(a) the defendant is not an individual; and

(b) the claimant has rejected the defendant's proposed repayment plan.

(2) The claimant may also suggest a repayment plan.

(3) On receiving the claimant's rejection, the court will send the claim out of Online Civil Money Claims, to the "CCBC" (as defined).

Claimant fails to respond to defendant's proposed repayment plan, or to the

affordability calculation repayment plan

7.17 If, within 33 days after being asked by the court, the claimant fails to tell the court whether they accept –

- (a) the defendant's proposed repayment plan; or
- (b) (where relevant) the affordability calculation repayment plan,

the court must “stay” the proceedings (as defined). If the claimant then responds later, the court must automatically “lift” the stay (as defined) to allow the proceedings to be resumed.

Sub-section C – defendant's response online – defendant responds to admit part of the claim only, and makes no other response

Introduction to Sub-section C

7.18- (1) This Sub-section applies where the defendant responds online to the court admitting part of the claim, uses form OCON9A to make the admission and makes no other response.

(2) When the court tells the claimant that it has received the part admission, it must also tell the claimant –

- (a) whether the defendant claims they have already paid the amount admitted;
- (b) whether the defendant has offered to pay the whole of the amount admitted so that the claimant receives it within 5 days of the date of the part admission, or whether the defendant has asked for more time to pay; and
- (c) if the defendant has asked for more time to pay, what “repayment plan” (as defined) the defendant is proposing for payment, which could be payment so that the claimant receives it by a date that is more than 5 days after the date of part admission, or payment by instalments.

Defendant claims they have paid the amount admitted, or offers to pay the whole amount admitted within 5 days – claimant asked whether they accept the defendant's claim or offer

7.19-(1) If the defendant claims they have paid the amount admitted already, or offers to pay

the whole amount admitted so that the claimant receives it within 5 days of the date of the part admission, the court must ask the claimant whether they accept the offer in full settlement of the claim, or whether they reject the offer and wish to continue with the claim.

(2) The claimant accepts or rejects the offer, or the defendant's claim that the amount admitted has been paid already, by completing form OCON225A and submitting it to the court using the OCMC website.

Defendant offers to pay the whole of the amount admitted within 5 days – claimant accepts the offer

7.20-(1) If the claimant uses form OCON225A to accept the defendant's offer of the amount admitted in full settlement of the claim, but then the claimant has not received the whole amount admitted before the end of the 5 days, the claimant may request a judgment on admission.

(2) The claimant requests the judgment by completing form OCON225A and submitting it to the court using the OCMC website. When requesting judgment, the claimant may also specify its repayment plan.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined).

(4) If the claimant has specified a repayment plan in the request for judgment, the judgment must state that repayment is to be made in accordance with that repayment plan.

(5) If the claimant has not specified a repayment plan in the request for judgment, the judgment must state that the whole amount admitted must be repaid in full within 5 days of the date of the judgment.

(6) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount owed that the defendant has already paid;

(b) any interest on the amount admitted that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

Defendant offers to pay the whole of the amount admitted within 5 days – claimant rejects the offer

7.21-(1) If the claimant uses form OCON225A to reject the defendant's offer, or the defendant's claim that the amount admitted has been paid already, it will be treated as a defence of the claim and Section 6 will apply. The court must inform the parties of this.

Defendant offers to pay the whole of the amount admitted within 5 days – claimant fails to respond to the offer

7.22 If, within 33 days after being asked by the court whether they accept the defendant's offer, the claimant fails to respond, the court must "stay" the proceedings (as defined). If the claimant then responds later, the court must automatically "lift" the stay (as defined) to allow the proceedings to be resumed.

Defendant has not offered to pay the whole amount admitted within 5 days, but instead has asked for more time to pay and has proposed a repayment plan – claimant asked whether they accept the offer and repayment plan

7.23-(1) If the defendant has not offered to pay the whole amount admitted so that the claimant receives it within 5 days of the date of the part admission, but the defendant has instead asked for more time to pay and has proposed a "repayment plan" (as defined), the court must ask the claimant whether they –

- (a) accept the offer in full settlement of the claim, and if yes, whether they also accept the defendant's repayment plan; or
- (b) reject the offer and wish to continue with the claim.

(2) The claimant accepts or rejects –

- (a) the offer;
- (b) the repayment plan,

by completing form OCON225A and submitting it to the court using the OCMC website.

Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer and repayment plan

7.24 If the claimant uses OCON225A to accept the defendant's offer of the amount admitted

in full settlement of the claim and proposed repayment plan, the claimant may request a judgment on admission, but does not have to: the claimant may decide to propose a settlement agreement instead.

Claimant accepts defendant's offer and repayment plan and decides to request a judgment on admission

7.25(1) If the claimant decides to request judgment on admission, the claimant requests the judgment by completing form OCON225A and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) on the defendant's repayment plan.

(3) The judgment will be made for the amount of –

- (a) the amount admitted, minus any payments of the amount owed that the defendant has already paid; and
- (b) any interest on the amount admitted that the claimant is entitled to and has claimed on the claim form; and
- (c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the defendant's repayment plan.

Claimant accepts defendant's offer and proposed repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement

7.26(1) If –

- (a) the claimant accepts the defendant's offer and proposed repayment plan;
- (b) instead of requesting a judgment on admission, the claimant has proposed a settlement agreement on the same terms as the defendant's proposed repayment plan;
- (c) the proposed agreement is in the form of OCON Settlement Agreement A;

(d) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and

(e) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement,

the court must "stay" the proceedings (as defined). When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down, and the defendant fails to comply with the settlement agreement.

(2) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

Claimant accepts the defendant's proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond

7.27(1) If –

(a) the claimant accepts the defendant's offer and proposed repayment plan;

(b) instead of requesting a judgment on admission, the claimant has proposed a

settlement agreement on the same terms as the defendant's proposed repayment plan;

(c) the proposed agreement is in the form of OCON Settlement Agreement A;

(d) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and

(e) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have rejected the proposal and do not agree to the settlement agreement, or within that time has failed to notify the court of their response,

the claimant may request a judgment on admission.

(2) The claimant requests a judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) with payment to be made in accordance with the defendant's proposed repayment plan.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the defendant's proposed repayment plan.

Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer but not the repayment plan, proposes different plan; defendant is an individual, which includes a sole trader: affordability calculation

7.28-(1) This paragraph, and paragraphs 7.29 to 7.33 apply where

(a) the claimant has accepted the offer, but not the repayment plan; and

(b) the defendant is an individual, which includes a sole trader.

(2) If the claimant has rejected the defendant's proposed repayment plan, the claimant may also suggest a repayment plan.

(3) On receiving the claimant's suggested repayment plan, the court will produce an "affordability calculation". The affordability calculation will be carried out electronically, by the application of a formula to the information submitted by the parties. The purpose of the calculation is to establish what rate of repayment a defendant is likely to be able to afford, based on the information submitted by the parties: an "affordability calculation repayment plan".

(4) The explanation of the formula is set out in Annex A to this practice direction.

(5) If the affordability calculation indicates that the defendant will not be able to afford to repay the amount admitted in accordance with the claimant's repayment plan, the court will tell the claimant, and ask the claimant whether they accept or reject the affordability calculation repayment plan instead.

(6) The claimant may accept or reject the affordability calculation repayment plan using the OCMC website.

Claimant accepts affordability calculation repayment plan or the affordability calculation repayment plan amounts to the claimant's proposed repayment plan - court asks claimant whether they request judgment, or are proposing a settlement agreement instead

7.29 If the claimant accepts the affordability calculation repayment plan, or if the affordability calculation repayment plan is calculated as amounting to the claimant's repayment plan, the court will ask the claimant whether they wish to request judgment on admission, or whether they are proposing a settlement agreement instead.

Claimant accepts affordability calculation repayment plan or affordability calculation repayment plan amounts to the claimant's proposed repayment plan - claimant requests judgment

7.30-(1) If, after an affordability calculation has been done and the court has asked the

claimant how they wish to proceed, the claimant wishes to request a judgment on admission, they may make the request by completing form OCON225A and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment, it must “enter judgment” (as defined) with payment to be made in accordance with the “affordability calculation repayment plan” (as defined).

(3) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(5) If, after judgment has been made, the defendant objects to the affordability calculation repayment plan, or if the claimant no longer agrees to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant. The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(6) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(7) If the court receives a request for re-determination on time, it must send the claim out of Online Civil Money Claims to the defendant’s “home court” (as defined).

Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement agreement

7.31(1) This paragraph applies, if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

(a) the claimant uses the OCMC website to tell the court that –

- (i) it proposes a settlement agreement to the defendant;
- (ii) the settlement agreement is in the form of OCON Settlement Agreement A; and
- (iii) the settlement agreement is for repayment of the amount admitted in accordance with the affordability calculation repayment plan; and

(b) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement.

(2) If the defendant has accepted the settlement agreement in those circumstances, the court must "stay" the proceedings (as defined).

(3) When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down and the defendant fails to comply with the settlement agreement.

(4) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(5) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) on terms that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(6) The judgment will be made for the amount of –

(a) the admitted amount, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(7) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

(8) If, after the judgment has been made, the claimant or the defendant changes their mind

about the affordability calculation repayment plan and wishes to object to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant.

(9) The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they now object to the affordability calculation repayment plan.

(10) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(11) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond

7.32-(1) This paragraph applies if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

(a) the claimant uses the OCMC website to tell the court that –

(i) it proposes a settlement agreement to the defendant;

(ii) the settlement agreement is in the form of OCON Settlement Agreement A; and

(iii) the settlement agreement is for repayment of the amount admitted in accordance with the affordability calculation repayment plan; and

(b) within 7 days of the date of the claimant's proposal, the defendant uses the OCMC website to tell the court that they reject to the settlement agreement or the defendant does not respond to the court within the 7 days.

(2) If the defendant has rejected the settlement agreement or failed to respond within the 7 days in those circumstances, the claimant can request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined) on terms that the amount outstanding be paid in accordance with the affordability

calculation repayment plan.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(6) If, after the judgment has been made, the claimant changes their mind about the affordability calculation repayment plan and wishes to object to the plan, or the defendant wishes to object to the affordability calculation repayment plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant.

(7) The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Claimant rejects defendant's proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined

7.33(1) If, following an affordability calculation, the claimant wishes to reject the affordability calculation repayment plan, they may do so using the OCMC website.

(2) If the claimant rejects the affordability calculation repayment plan, they may still request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must “enter judgment” (as defined), with the plan for the repayment of the amount owed by the defendant to be determined.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the plan for the repayment of the amount admitted by the defendant is to be determined.

(6) The plan for the repayment of the amount admitted by the defendant must be ordered by a judge.

(7) If either party objects to the plan for repayment ordered by the judge, they may ask, on time, for a re-determination of the plan for the repayment of the amount admitted by the defendant. The claimant or defendant may make their request for re-determination to Online Civil Money Claims. When requesting a re-determination, the claimant or defendant must explain why they object to the plan ordered by the judge.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant’s “home court” (as defined).

Claimant rejects the defendant’s proposed repayment plan, proposes different terms - defendant is not an individual

7.34-(1) This paragraph applies where –

(a) the defendant is not an individual; and

(b) the claimant has accepted the defendant’s offer, but has rejected the defendant’s proposed repayment plan.

(2) The claimant may also suggest a repayment plan.

(3) On receiving the claimant's rejection, the court will send the claim out of Online Civil Money Claims, to the "CCBC" (as defined).

Claimant fails to respond to defendant's proposed repayment plan, or to the affordability calculation repayment plan

7.35 If, within 33 days after being asked by the court, the claimant fails to tell the court whether they accept –

- (a) the defendant's offer in full settlement of the claim;
- (b) the defendant's proposed repayment plan; or
- (c) (where relevant) the affordability calculation repayment plan,

the court must "stay" the proceedings (as defined). If the claimant then responds later, the court must automatically "lift" the stay (as defined) to allow the proceedings to be resumed.

Defendant offers to pay the amount admitted and proposed repayment plan – claimant rejects both the offer and repayment plan

7.36 If the claimant uses form OCON225A to reject the defendant's part admission, it will be treated as a defence of the claim and Section 6 will apply. The court must inform the parties of this.

Sub-section D – part admission and defence of the rest of the claim

When this sub-section applies

7.37 This sub-section applies where the defendant part admits the claim, defends the rest of the claim and uses form OCON9A to make the part admission and part defence.

Court to notify the claimant of when the defendant proposing to make payment of the partial amount admitted, and that the defendant is also defending the rest of the claim

7.38 When the court tells the claimant that it has received the part admission, it must also tell the claimant –

(a) whether the defendant has offered to pay the whole amount admitted so that the claimant received it within 5 days of the date of the admission, or whether the defendant has asked for more time to pay;

(b) if the defendant has asked for more time to pay, what “repayment plan” (as defined) the defendant is proposing for payment which could be payment so that the claimant received it by a date that is more than 5 days after the date of part admission, or payment by instalments; and

(c) that the claimant is defending the rest of the claim.

Court to ask the claimant for their response, and claimant’s response

7.39- (1) The court must ask the claimant whether they accept–

(a) the part admission in full settlement of the claim; and

(b) any repayment plan,

or whether they reject the part admission and wish to continue with the claim.

(2) The claimant accepts or rejects the part admission and repayment terms (if relevant) by completing form OCON225A, and submitting it to the court using the OCMC website.

The claimant accepts the part admission with payment within 5 days

7.40-(1) This paragraph applies if the claimant accepts the part admission in full settlement of the claim where the defendant has offered to pay the amount admitted so that it is received within 5 days of the date of the part admission.

(2) The part admission is treated as if there had been no part defence as well, so that paragraph 7.20 applies. The court must inform the parties of this.

The claimant accepts the part admission and repayment plan

7.41- (1) This paragraph applies if the claimant accepts the part admission and repayment plan where the defendant has asked for more than 5 days to pay.

(2) The part admission is treated as if there had been no part defence as well, so that paragraphs 7.24 to 7.27 apply. The court must inform the parties of this.

The claimant accepts the part admission but not the repayment plan

7.42-(1) This paragraph applies if the claimant accepts the part admission but not the repayment plan where the defendant has asked for more than 5 days to pay.

(2) The part admission is treated as if there had been no part defence as well, so that paragraphs 7.28 to 7.33 apply if the defendant is an individual, which includes a sole trader, and paragraph 7.34 applies if the defendant is not an individual. The court must inform the parties of this.

The claimant rejects the part admission

7.43 If the claimant rejects the part admission, the defendant's response will be treated as a defence of the whole, and Section 6 applies. The court must inform the parties of this.

The claimant fails to respond to the part admission

7.44 If, within 33 days after being asked by the court how they will respond to the defendant's part admission and part defence, the claimant fails to respond, the court must "stay" the proceedings (as defined). If the claimant then responds later, the court must automatically "lift" the stay (as defined) to allow the proceedings to be resumed.

Sub-section E – full and part admission – change of circumstances

Full and part admission – circumstances change so that either party wants to change the repayment plan

7.45-(1) If since the date of judgment on admission or part admission (or since the date of re-determination of repayment plan if relevant) there is a change in circumstances, either party may apply to the court to change the repayment plan.

(2) A party makes an application to change repayment plan by completing the relevant form set out in the table A, and submitting it to the court using the OCMC website. (Sub-paragraph (3) explains what plan would be considered more favourable to a defendant.)

TABLE A

Applicant	Nature of application	Relevant form
Claimant	Change repayment plan to be more favourable to the defendant	OCON294
Claimant	Change repayment plan to be less favourable to the defendant	OCON244
Defendant	Change repayment plan to be more favourable to themselves	OCON245

(3) If, within 6 years of the date of judgment or redetermination, the claimant asks to change the repayment plan to a plan that is more favourable to the defendant, the court must make an order changing the repayment plan as requested. A more favourable plan would be one that required repayment of a lump sum to be made later, or by instalments. A more favourable plan would also be one that required repayment by smaller instalments than originally required.

(4) If the claimant asks for a plan more favourable to the defendant more than 6 years after the date of judgment or redetermination, the request must be referred to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

(5) If the claimant asks for a plan less favourable to the defendant, the claimant must give reasons for the request, as well as the proposed plan.

(6) If the court receives a request for a plan less favourable to the defendant, it must transfer the claim out of Online Civil Money Claims to the defendant's home court.

(7) If the defendant asks for a change of the repayment plan, the court must refer the request to a judge for directions, which may include that the claim be sent out of Online Civil Money Claims.

Full and part admission – defendant changes their mind and wants to withdraw their full or part admission

7.46-(1) If the defendant changes their mind and wants to withdraw their full or part

admission, they may ask the court's permission to withdraw the admission.

(2) The defendant asks permission to withdraw their admission by making an application using the procedure set out in Civil Procedure Rules Part 23.

(3) If the court receives an application for permission to withdraw, the court must send the claim out of Online Civil Money Claims.

(4) When the court sends the claim out of Online Civil Money Claims, it must direct that paragraph 7.2 of Civil Procedure Rule Practice Direction 14 is to apply to the application for permission to withdraw. That paragraph sets out the circumstances that the court has to consider, when it decides whether to give permission for a defendant to withdraw an admission that they made under Part 14 of the Civil Procedure Rules.

Sub-section F – admission online, but not in the form of OCON9A

The defendant's admission is online, but is not in form OCON9A

7.47-(1) This sub-section applies if the defendant makes an "informal admission" by–

- (a) responding online to the court on time;
- (b) admitting the whole or part of the claim;
- (c) but not using form OCON9A to make the whole or part admission; and
- (d) making no other response.

(2) When the court tells the claimant that it has received an informal admission, it must also send a copy of the informal admission to the claimant.

(3) The claimant may request judgment on admission by completing and sending to the court form N225. Any such request must be supported by a copy of the informal admission.

(4) If the court receives a request for judgment on whole or part admission, it must refer the request to a judge for "directions" (as defined). The directions may include a direction to enter judgment, or a direction to send the claim out of Online Civil Money Claims.

(5) If the court receives an informal admission, but then also receives a request for judgment in default of a response from the defendant, the court must not send the claim out of Online

Civil Money Claims under paragraph 11.1(3); instead the court must refer the request for default judgment to the judge for “directions” (as defined).

SECTION 8 – DEFENDANT’S RESPONSE ONLINE – DEFENDANT COUNTERCLAIMS

[This Section is blank at present.]”.

ANNEX D

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS

ANNEX A – EXPLANATION OF THE AFFORDABILITY CALCULATOR IN ONLINE CIVIL MONEY CLAIMS

“ANNEX A – Explanation of the Affordability Calculator in Online Civil Money Claims

1. When affordability calculated in OCMC

If as part of a full or partial admission, a claimant rejects the repayment plan proposed by a defendant, the service will use the defendant’s financial information to determine the rate of payments to be paid to the claimant.

1.1 The Determination of means calculator may be applied to cases issued in OCMC with the exception of (a)

Ineligible cases

- a. Claims where the defendant is not an individual.

2. Determination of means calculation

- 2.1 Calculate disposable income = (Monthly turnover + Total Monthly Income + Total Bank and/or Building Society converted to income) – (Credit debt + total priority debts + total monthly mortgage/rent + total Court orders + living arrangement allowance + Dependents allowance + pensioner allowance + disability allowance)

For Example	
a.	Monthly Turnover £100 +
b.	Total Monthly Income £1500 +
c.	Monthly total bank or building society credit converted to income £8.33 -
d.	Credit debt, priority debt, court orders £80 –
e.	Rent/Mortgage £600 -
f.	Allowances £896.56
g.	Monthly Disposable Income £31.77

2.1.1 Calculate Monthly Turnover as annual turnover divided by 12 to obtain a monthly value.

2.1.2 Calculate Total monthly income as the sum of monthly converted values for:

- a. Monthly Turnover
- b. Income from your job
- c. Universal credit
- d. Jobseeker's allowance (income based)
- e. Jobseekers allowance (contribution based)
- f. Income Support
- g. Working tax credit
- h. Child tax credit
- i. Child benefit
- j. Carer's allowance
- k. Pension credit
- l. Council tax support
- m. Pension (paid to the defendant)
- n. Other (there may be more than one of these)

2.1.3 Add bank or building society balances in credit to give Total Bank and Building Society Credit

- If the **Total bank or Building Society Credit** amount is more than 1.5 times the defendant's monthly income (or more than 7 times their weekly income), the amount in excess of this should be converted into a monthly or weekly figure (by dividing by 12 or 52) and included in the calculation as **Total Bank or Building Society Credit converted to Income**.

For example, a defendant takes home £600 per month and has £1,000 in his bank account. $1.5 \times £600 = £900$. The amount in excess (£100) can be converted into monthly income. This converts to £8.33 per month.

If the defendant takes home £600 per month and has £300 in his bank account. $1.5 \times £600 = £900$. The amount in the defendant's bank account is excluded from the calculation.

2.1.4 If the defendant is a full or part time sole trader, annual turnover divided by 12 is included with any other income

2.1.5 Calculate **Total Monthly Expenditure** = (Credit debt + total priority debts + total monthly mortgage/rent + total Court orders + personal allowances + dependent children allowance + pensioner allowance + disability allowance)

2.1.5.1 Total monthly credit debt is the sum of monthly converted values for all loans and credit card debt

2.1.5.2 Total Priority Debts is the sum of monthly converted values for arrears of:

- a. Mortgage
- b. Rent
- c. Council Tax or Community Charge

- d. Gas
- e. Electricity
- f. Water
- g. Maintenance Payments

- 2.1.5.3 Total mortgage/rent is the sum of monthly converted values for mortgage and rent payments
- 2.1.5.4 Total court orders is the sum of monthly converted values for court order payments
- 2.1.5.5 Personal allowances are based on the defendant's age and whether they have a partner [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.6 Dependent children allowance is based on how many dependants the defendant has [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.7 Pensioner Allowance is based on whether the defendant, and their partner if they have one, receives an income from a pension [allowance set out in the list of benefit and pension rates published by the DWP]
- 2.1.5.8 Disability Allowance is based on whether the defendant/their partner is disabled or severely disabled. The defendant can also receive an allowance if they have a disabled dependant or are a carer [allowance set out in the list of benefit and pension rates published by the DWP]

Where the conditions for more than one allowance within the same category are satisfied, only the highest allowance will be awarded.

2.2 Determination of means rules are applied to identify the payment rate to be ordered by the court.

- 2.2.1 If the defendant has offered to pay by instalments, an instalment payment plan is calculated as follows:
 - a. Use the rate offered by the defendant - if the defendant offers an instalment amount greater than the calculated instalment amount.
 - b. Use the claimant's offered instalment amount - if it is less than or equal to the calculated determination of means amount, and, greater than the defendant's offered amount.
 - c. Use the calculated determination of means amount - if it is greater than the defendant's offered amount.

For Example

Rule Priority	Rule	Defendant's instalment amount	Claimant's instalment amount	Defendant's Disposable income	Value used in the order
1	Defendant's instalment amount is greater than or equal to disposable income Use defendant's offered amount.	£200	£300	£150	£200

Rule Priority	Rule	Defendant's instalment amount	Claimant's instalment amount	Defendant's Disposable income	Value used in the order
2	Claimant's instalment amount is lower than or equal to disposable income use claimant's instalment amount	£100	£125	£150	£125
3	Disposable income greater than defendant's offered instalment amount and less than or equal to claimant's instalment amount Use disposable income.	£100	£200	£150	£150

2.2.2 If the defendant has offered to pay by a set date and the claimant has offered an earlier date, calculate a court defined payment date, then:

For Example

Rule Priority	Rule	Defendant's date	Claimant's	Court calculated set date	Date used in the order
1	Defendant's date is earlier than or equal to court calculated date. Use defendant's date.	1/7/2018	1/5/2018	1/8/2018	1/7/2018
2	Claimant's date is later than or equal to court calculated date. Use claimant's date.	1/8/2018	15/9/2018	1/9/2018	15/9/2018
3	Court calculated date is earlier than defendant's date and later than or equal to claimant's date Use court calculated date.	1/10/2018	01/5/2018	1/9/2018	1/9/2018

For example, payment date determined by the court

For example, today's date is 1st May 2018 (1/5/2018)

Defendant offers to pay outstanding claim amount of £900 by 1st October 2018 (1/10/2018)

Claimant requires immediate payment (1/5/2018 (note court allows a grace payment of 5 days for immediate payment)

4.1 Calculated disposable income for defendant is £408.33

4.2 $\text{£900} / \text{£408.33} = 3$ payment periods

4.3 Court date is calculated as (1/5/2018 + 1 month (by default) + 3 months (per 4.2 above)) = 1st September 2018 (1/9/2018)

4.4 Court date is included in the order i.e. 1/9/2018

1. Calculate time required to pay off an outstanding amount

The time required to pay off an outstanding amount, using the proposed instalments is calculated as follows:

Amount outstanding divided by instalment amount = number of weekly or monthly instalments,

- If a part instalment value is calculated, the instalments are rounded to pounds with any balancing payment in pennies.

For example, a defendant's outstanding amount is £997.36 with a £10 monthly instalment.

$(\text{£997.36} / \text{£10}) = 99$ payments of £10 and one payment of £7.36

100 payments of £10 per month will take 8 years 4 months to pay a total amount of £997.36

2. Rules for converting Payment Frequencies

The following rules are used to convert monthly amounts to weekly or two weekly amounts and vice versa.

Convert fromto....	Conversion rule
<i>Weekly to monthly</i>	<i>Multiply by 4.3.</i>
<i>Monthly to weekly</i>	<i>Divide by 4.3</i>
<i>Weekly to two weekly</i>	<i>Multiply by 2</i>
<i>Two weekly to weekly</i>	<i>Divide by 2</i>
<i>Two weekly to monthly</i>	<i>Multiply by 2.15</i>
<i>Monthly to two weekly</i>	<i>Divide by 2.15</i>

4.1 Should the defendant offer to pay by instalments, they must also provide the frequency by which they will make these payments (weekly, fortnightly or monthly). If the claimant rejects the

defendant's offer they can suggest their own plan. When calculating the appropriate amount, that the defendant should pay the affordability calculator will retain the defendant's frequency.".