

Appendix 2 to Practice Direction 51U

Disclosure Review Document

[[Draft] Amendments – September 2020]

Section 1A:

Issues for Disclosure and proposed Disclosure Models

Brief description of the Issue for Disclosure ²		Reference to statement of case	Issue agreed?		Proposed Model of Extended Disclosure (A – E)		Decision (for the court)
			Yes	No (party not agreeing)	To be completed by claimant	To be completed by defendant	
1.							
	<i>[Alternative proposed wording, if not agreed]¹</i>						
2.							

1 If the wording of any Issue for Disclosure cannot be agreed, the alternative wording proposed should be included immediately under the claimant's formulation.

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Brief description of the Issue for Disclosure ²							Decision (for the
<u>6.</u>							

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Brief description of the Issue for Disclosure ²		Reference to statement of case	Issue agreed?		Proposed Model of Extended Disclosure (A – E)		Decision (for the court)
			Yes	No (party not agreeing)	To be completed by claimant	To be completed by defendant	
<u>7.</u>							
<u>8.</u>							
<u>9.</u>							
<u>10.</u>							

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Section 1B: Model C requests for Disclosure

Claimant / Defendant (delete as appropriate)				
	Issue for Disclosure	Request for Document <u>document</u> or narrow category <u>classes</u> of documents which are <u>likely relating</u> to support or undermine its own case or that of another party	Response	Decision (for the court)
1.	Issue []:			
2.		.		
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

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[Note: Parties should refer to the guidance on 'Completion of section 2 of the DRD' in the 'Explanatory notes for the DRD' when completing this section]

Section 2: Questionnaire

Claimant / Defendant (delete as appropriate)		
	Question	Details
Phase 01	DATA MAPPING	

1.	<p>Hard copy documents / files</p> <p>Confirm whether hard copy documents (for example, notebooks, lever arch files, note pads, drawings/plans and handwritten notes) that are not originally electronic files should be included in <u>the collection of documents which you propose to search</u>.</p> <p>Please propose an approach for the production of hard copy documents: if they will be scanned and made searchable or if they will be disclosed and made available for inspection in hard copy only.</p>	
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2.	<p>Electronic files: data sources/locations</p> <p>Please set out details on all data sources to be considered at collection including <u>which you propose to search. Please include details of any sources that are unavailable but may host relevant documents or which may raise particular difficulties due to their location, format or any other reason.</u></p> <p><u>Examples of sources to be considered may include the following:</u></p>	
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	Question	Details
	<p>(1) Document repositories and/or geographical locations</p> <p>(2) Computer systems or electronic storage devices</p> <p>(3) Mobile phones, tablets and other handheld devices</p> <p>(4) Document management systems</p> <p>(5) Email servers</p> <p>(6) Cloud based data storage</p> <p>(7) Webmail accounts e.g. Gmail, Hotmail etc</p> <p>(8) Back-up systems</p> <p>(9) Social media accounts</p> <p>(10) Third parties who may have relevant documents which are under your control (e.g. agents or advisors)</p> <p>If a data source is likely only to host documents relevant to particular <u>Issues for Disclosure</u>, that<u>this</u> should be noted <u>in this section</u>.</p> <p>Please identify any sources which may raise particular difficulties due to their location, format or any other reason.</p>	

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	Question	Details
	<p>Please describe the format or file types in which relevant documents may have been created or stored on devices.</p> <p>Please identify <u>and provide details of</u> any bespoke or licenced proprietary software in which relevant documents have been created or stored which may not be available to the other party but without which it is not possible to review the relevant data (e.g.</p>	
4.	<p><u>Custodians and date ranges</u></p> <p>_____</p> <p>likely to be <u>which are</u> relevant to Issues for Disclosure. <u>for which any</u></p>	

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5.	<p><i>(For completion after discussions between the parties)</i></p> <p>Initial Disclosure — description of searches already undertaken</p> <p>In accordance with paragraph 10.4 of the Practice Direction, each party should (save as already described for Initial Disclosure) describe any searches for documents that it has undertaken or caused to be undertaken</p>	<p>Claimant: []</p> <p>Defendant: []</p>
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6.

Custodians

Search proposals

Please ~~set out a list~~ any searches and methods of those custodians whose files searching (including any automated searches or techniques other than keyword searches) you propose have identified at this stage that you may use to search for the data to identify documents that may need to be disclosed.

If a certain method of searching, proposed search or keyword is relevant only to issues a particular Issue for Disclosure for which any party seeks Extended Disclosure.

If a custodian is only relevant to certain Issues for Disclosure, or a certain date range, please indicate this next to their name if this it might allow the scope of the search to be narrowed.

Note: The use of initial keywords may assist the parties to identify the likely volume of data that may need to be reviewed. However, keywords will need to be tested and refined during the disclosure process. Accordingly, any keywords proposed at this stage are for the purposes of discussion only.

The fact that a party may propose a keyword at this stage should not be taken as an acceptance that the keyword should ultimately be used, particularly if, on testing the keyword against the available data, it provides false positive results.

If it is not practicable to provide a list of keywords prior to the CMC, the parties should engage and seek to co-operate following the CMC to identify and agree the key words they propose using and thereafter test those key words against the data to determine whether or not they are appropriate.

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	Question	Details
	scope of the search to be narrowed. If the list is extensive, please set out a proposal to prioritise key custodians.	
7.	<i>(For completion after discussions between the parties)</i> Are the proposals at <u>6</u> agreed? If not, set out any areas of disagreement.	
7.	Date ranges Please set out the date range (or ranges) within which you would propose to search for documents. If a narrower range of dates is appropriate for a particular Issue for Disclosure, or a particular custodian, please indicate this.	
8.	<i>(For completion after discussions between the parties)</i> Are the proposals at <u>8</u> agreed? If not, set out areas of disagreement.	
9.	Keyword search terms Please list any keywords identified at this stage that you may use to search the data to identify documents that may need to be disclosed. If a certain keyword is relevant only to a particular Issue for Disclosure, please indicate this if it might allow the scope of the search to be narrowed. Nb: The use of initial keywords may assist the parties to identify the likely volume of data that may need to be reviewed. However, keywords will	

	Question	Details
	<p>need to be tested and refined during the disclosure process. Accordingly, any keywords proposed at this stage are for the purposes of discussion only.</p> <p>The fact that a party may propose a keyword at this stage should not be taken as an acceptance that the keyword should ultimately be used, particularly if, on testing the keyword against the available data, it provides false positive results.</p> <p>If it is not practicable to provide a list of keywords prior to the CMC, the parties should engage and seek to co-operate following the CMC to identify and agree the key words they propose using and thereafter test those key words against the data to determine whether or not they are appropriate.</p>	
<p>11.</p>	<p><i>(For completion after discussions between the parties)</i></p> <p>Are the proposals at 10 agreed? If not, set out areas of disagreement.</p>	
<p>8.</p>	<p>Irretrievable documents</p> <p>Please state if you anticipate any documents being irretrievable due to, for example, their destruction or loss, the destruction or loss of devices upon which they were stored, or other reasons.</p>	

<p>9.</p>	<p><u>Use of analytics</u></p> <p>Parties are to consider using the full range of tools in the analytics suite available to them (either in house or via e disclosure specialist firms), to assist in the review. This might include some of the more complex tools available such as technology <u>Technology / computer assisted review</u></p> <p><u>Parties are to consider the use of technology to facilitate the efficient collection of data and its further use for data review. This may include the use of some of the more sophisticated forms of technology / computer assisted review software (TAR / CAR / analytics). If the parties are in a position to propose the use of any technology or computer assisted review tools in advance of the CMC, those proposals should be set out in this section.</u></p> <p><u>Where parties have considered the use of such tools but decided against this at this stage (particularly where the review universe is in excess of 50,000 documents), they should explain why such tools will not be used, particularly where this may mean that large volumes of data will have to be the subject of a manual review exercise. Parties should update this form and draw any material updates to the attention of all parties and the Court if they later determine it would be appropriate to use such tools.</u></p>	
<p><u>10.</u></p>	<p><u>Estimates of costs</u></p> <p><u>Where the parties have agreed searches to be undertaken, state the estimated cost of collection, processing, search, review and production of your Extended Disclosure.</u></p>	
<p><u>11.</u></p>	<p><u>Where any aspect of the approach to Disclosure is not agreed, estimate your costs of collection, processing, search, review and production of your documents based on Extended Disclosure (Models and scope of any search required) requested by the claimant(s).</u></p>	

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<p><u>12.</u></p>	<p><u>Where any aspect of the approach to Disclosure is not agreed, estimate your costs of collection, processing, search, review and production of your documents based on Extended Disclosure (Models and scope of any search required) requested by the defendant(s).</u></p>	
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