

125th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments in relation to Practice Direction 51R 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 is approved by Chris Philp MP, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The amendments made by this Update come into force on 16 November 2020 and apply in relation to all claims submitted to the court on or after 11.00 a.m. on that date.

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

Signed by authority of the Lord Chancellor:

Chris Philp MP

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 13 November 2020

PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS PILOT

1) In the Table of Contents –

- a) In the entry for paragraph 5.2, for “New feature – defendant” substitute “Defendant”;

- b) Omit the entry for paragraph 6.6;
- c) for the entry for paragraph 6.7, substitute –

“

Sub-section G – claims for an amount of £500 or less – defendant given early indication that willing to mediate – sub-section B to apply, but with changes	Paragraph 6.7
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“.

- d) after the entry for paragraph 10.1, insert –

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Defendant’s response is other than a defence of the whole of the claim only	Paragraph 10.2
Defendant’s response is a defence of the whole of the claim only	Paragraph 10.3
Defendant submits the response form, but does not indicate the nature of the response	Paragraph 10.4

”.

- 2) In paragraph 1.1, in the definition of “paper response form” for “Form OCPN9A – Admission (specified amount), or Form OCPN9B – Defence and Counterclaim (specified amount)” substitute “Form OCON9X – Respond to a money claim”.
- 3) In the heading to paragraph 5.2, for “New feature – defendant” substitute “Defendant”.
- 4) In paragraph 5.2(1), for “This paragraph is a “new feature” (as defined) about form OCON180 and applies to claims selected to test this new feature on or after 11.00 a.m. on 9 September 2019” substitute “This paragraph applies where”.
- 5) In the words in parentheses following paragraph 6.1(2), for “and H for certain claims that are selected to test certain “new features”” substitute “for claims where the amount being claimed is £500 or less”.
- 6) Omit the words in parentheses following paragraph 6.1(3).
- 7) Omit paragraph 6.1(6), and the words in parentheses following that paragraph.
- 8) For paragraph 6.1(7)(a) substitute –

“(a) the amount being claimed is £500 or less; and”.

9) In the words in parentheses following paragraph 6.1(7)(b) for “sub-sections B and F work”, substitute “sub-section B works”.

10) Omit paragraph 6.1(8), including the words in parentheses that follow that paragraph.

11) For paragraph 6.2(5), substitute –

“(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 claimant must, at the same time, also submit completed form OCON180 to the court, to tell the court what requirements the claimant would have, should a court hearing be necessary, and must also tell the court whether they are willing to mediate.

(5A) If the claimant has told the court that they are willing to mediate –

(a) the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation, and the 28-day period is calculated from and including the date that the response form is received by the court; and

(b) 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.”.

12) Omit paragraphs 6.2(6) and 6.2(7).

13) For paragraph 6.2(9) substitute –

“(9) If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(9A) If the forms are not considered by a judge or legal adviser under subparagraph (9), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.”.

14) At the end of paragraph 6.2(11), after “Claims” insert “to the “preferred court” (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.”.

15) For paragraph 6.2(12) substitute –

“(12) If the claimant wishes to continue with the claim but refuses to mediate –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(13) If the forms are not considered by a judge or legal adviser under subparagraph (12), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(14) 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 –

(i) any of the party’s form OCON180 is treated as their completed directions questionnaire form N180;

(ii) Civil Procedure Rules 26.3, 26.4 and 26.4A do not apply; and

(iii) if an “order for allocation” has been made while the claim is in Online Civil Money Claims, Civil Procedure Rules 26.5 does not apply. (An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)”.

16) For paragraph 6.3(5) substitute –

“(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, then at the same time, the claimant must also submit completed form OCON180 to the court, to tell the court what requirements the claimant would have, should a court hearing be necessary.

(6) Once the court has received the claimant’s form OCON180 –

(a) a legal adviser may consider the forms under Section 20, Table A; or

(b) irrespective of the amount of the claim, a judge may consider the forms.

(7) If the forms are not considered by a judge or legal adviser under subparagraph (6), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(8) 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) any of the party’s form OCON180 is treated as their completed directions questionnaire form N180;

(b) Civil Procedure Rules 26.3, 26.4 and 26.4A do not apply; and

(c) if an “order for allocation” has been made while the claim is in Online Civil Money Claims, Civil Procedure Rules 26.5 does not apply. (An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)”.

17) Omit Section 6F (paragraph 6.6).

18) For the heading to paragraph 6.7 substitute –

“Sub-section G – claims for an amount of £500 or less – defendant given early indication that willing to mediate – sub-section B to apply, but with changes”.

19) In paragraph 6.7(1) –

- a) omit “is a “new feature” (as defined) about mediation. It”; and
- b) for subparagraph (a) substitute –

“(a) the amount being claimed is £500 or less; and”.

20) In paragraph 6.7(2), for “changes” substitute “change”.

21) For the table in paragraph 6.7(2) substitute –

“

Provision number	Change
Paragraph 6.2(5A)	<p>The following is substituted for that paragraph:</p> <p>“If the claimant has also not opted out of mediation –</p> <p>(a) the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation, and the 28-day period is calculated from and including the date that the response form is received by the court; and</p> <p>(b) 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.”.</p>

”.

22) Omit paragraph 6.7(3).

23) For paragraphs 10.1(3)(a) and (b), substitute –

“(a) Form OCON9 – Request more time to respond (“time extension form”);

(b) Form OCON9X – Respond to a money claim (“paper response form”); and

(c) Form OCON180, to tell the court what requirements the defendant would have, should a court hearing be necessary.”.

24) In paragraph 10.1(4), for “acknowledgment of service and paper response form” substitute “paper copies of the forms”.

25) For paragraph 10.1(6) substitute –

“(6) If the defendant would like an extended time to respond to the claim, the defendant may make the request–

(a) by asking for more time to respond when they first contact the court; or –

(b) by submitting to the court, on time, the completed time extension form.”.

26) In paragraph 10.1(7), each time it appears, for “acknowledgment of service form” substitute “time extension form”.

27) In paragraph 10.1(8), for “on the acknowledgment of service form” substitute “when first contacting the court or on the time extension form”

28) After paragraph 10.1(9), insert –

“(9A) At the same time that the defendant submits the completed paper response form, the defendant must also submit completed form OCON180 to the court, to tell the court what requirements the defendant would have, should a court hearing be necessary. The requirement to submit form OCON180 does not apply if the defendant’s response to the claim is to admit the whole of the claim.”.

29) In paragraph 10.1(10), for “acknowledgment of service” substitute “time extension form”.

30) After paragraph 10.1(10), insert the following paragraph heading –

“DEFENDANT’S RESPONSE IS OTHER THAN A DEFENCE OF THE WHOLE OF THE CLAIM ONLY”.

31) For paragraph 10.1(11), substitute –

“10.2 (1) If the defendant indicates the nature of his response, but it is other than a defence of the whole of the claim only and the defendant submits the completed time extension form (if appropriate) and paper response form on time, the court must send the claim out of Online Civil Money Claims to the CCBC.”.

32) Renumber paragraph 10.1(12) as paragraph 10.2(2).

33) Renumber paragraph 10.1(13) as paragraph 10.2(3).

34) After renumbered paragraph 10.2(3), insert –

“DEFENDANT’S RESPONSE IS A DEFENCE OF THE WHOLE OF THE CLAIM ONLY

10.3(1) If the defendant’s response is a defence of the whole of the claim only and the defendant submits the completed time extension form (if appropriate) and paper response form on time, then Section 6 applies with the following modifications –

(a) paragraph 6.1(1) does not apply;

(b) Section 6B applies to all claims, irrespective of value;

(c) Section 6G does not apply.

(2) If the defendant's response is a defence of the whole of the claim only, but the defendant submits the relevant forms without fully completing all of the forms, the court may send the claim out of Online Civil Money Claims to the CCBC, or refer the matter to a judge for directions.

DEFENDANT SUBMITS THE RESPONSE FORM, BUT DOES NOT INDICATE THE NATURE OF THE RESPONSE

10.4(1) If the defendant submits the response form and time extension form (if appropriate) on time but fails to indicate the nature of the response, the court must send the claim out of Online Civil Money Claims to the CCBC.

(2) The court must let the claimant and defendant know that the claim has been sent out of Online Civil Money Claims and explain why the claim has been sent out.”.

35) In paragraph 11.1(1) –

- a) for “an acknowledgment of service” substitute “a time extension form”; and
- b) for “completed paper response form” substitute “a paper response form”.

36) In paragraph 11.1(3) omit “using “new features” (as defined).”.

37) In paragraph 14.1(2A) –

- a) for “a form” substitute “a paper form”; and
- b) omit “on paper”.

38) In paragraph 14.1(2B) –

- a) for “a form” substitute “a paper form”; and
- b) omit “on paper copy”.

39) In paragraph 14.1(2C) omit “copy”.

40) In paragraph 20.1(1) –

- a) omit “a “new feature” (as defined)”; and
- b) omit “selected to test new features on or after 11.00 a.m. on 9 September 2019”.
- c) for subparagraph (c) and Table 1A substitute –

“(c) the “preferred court” (as defined) is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate.”.

41) In paragraph 20.2(3) –

- a) in subparagraph (b), after “electronically” insert “, except where the response is a defence of the whole of the claim and paragraph 10.3 applies”;
- b) in subparagraph (e)(i), for “paragraph 20.3(3)” substitute “paragraph 20.3(2A) and (3).

42) After paragraph 20.3(2), insert –

“(2A) If the legal adviser’s decision related to a claim where the defendant’s response–

- (a) was submitted on paper,
- (b) is a defence of the whole of the claim;
- (c) and paragraph 10.3 applies,

a request to have the legal adviser’s decision reconsidered is made on time if it is submitted to the court within 12 days of the date of the decision.”.

43) In paragraph 20.3(3), for “A request” substitute “In all other cases, a request”.