

GUIDE TO THE PREPARATION AND SERVICE OF BUNDLES, SKELETON ARGUMENTS AND AUTHORITIES IN THE BUSINESS AND PROPERTY COURTS IN LIVERPOOL

This guide has been prepared to assist court users by summarising the requirements for the service of bundles, skeleton arguments and authorities for non-urgent cases in the Business and Property Courts in Liverpool other than insolvency petitions and applications during the COVID-19 pandemic. The current situation presents significant challenges to practitioners and to the judges, and the aim is to promote cooperation to ensure that the work of the BPCs continues as smoothly as possible. These provisions apply unless the court otherwise orders in a particular case.

In summary, the main points are:

- **Electronic bundles are required in all cases. Hard copy bundles must not be lodged unless the court specifically directs that hard copy bundles are to be used.**
- **Bundles or links to bundles should be lodged no later than three clear business days before the hearing. They should only contain the essential documents or parts of documents and should comply with the guidance below.**
- **Replacement bundles should not be lodged without the consent of the judge.**
- **Skeleton arguments (with copies of authorities) should be filed no later than two clear business days before the hearing.**
- **Skeleton arguments should avoid excessive citation of authorities. Where well-established principles of law are relied on, reference to a textbook will suffice.**
- **If the case is on CE-file, bundles, skeleton arguments and authorities should be filed by uploading attachments or links to CE file. Please note that documents on CE file cannot be accessed by a judge until they have been processed, which may take some time.**
- **If a case is not on CE file, bundles, skeleton arguments and authorities should be filed by sending attachments and/or links to liverpoolbpc@justice.gov.uk. The subject field of the email must identify the relevant case by including at the start the case number and the parties' names in short form and e.g. "G60LV230 Anfield v Goodison."**
- **If an email address has been given for the judge who is going to hear the case, attachments or links should be sent directly to the judge as well as to the court.**

This guide sets out the latest time for lodging documents. Where possible, the parties should lodge documents earlier, to allow time for getting them to the judge and to ensure that the judge has time to read and digest the material before the hearing. This is particularly important during the COVID-19 pandemic, due to the additional demands of remote working and the limited capacity for court staff to chase up missing documents. The late filing of bundles, skeleton arguments and/or authorities may lead to the court being unable to deal with the hearing in a fair manner and being forced to adjourn the hearing. In that event the court may have to consider whether to disallow costs or make an adverse costs order.

A separate guide applies to bundles in Insolvency petitions and applications. It can be found here: <https://www.judiciary.uk/wp-content/uploads/2020/10/North-BPC-Bundle-Guidance.pdf>.

1. Hearing Bundles

- a. A hearing bundle is required for every hearing. If no bundle has been lodged, the judge will have no documents to read, so it is likely that the hearing will have to be adjourned to the next available date.
- b. During the COVID-19 pandemic, the default position is that only electronic bundles and not hard copy bundles should be filed. However, the court may specifically direct that hard copy bundles are to be provided. This is likely to happen if one or more of the parties is a litigant in person; the party preparing the bundle must check previous orders to see whether such a direction has been given.
- c. The parties should bear in mind that, where a case is being heard by remote means and is not on CE file, the judge may not have access to the hard copy court file.
- d. Responsibility for lodging the hearing bundle will usually fall on the Applicant or Claimant. Where the Applicant or Claimant is a litigant in person, a represented party in the same case should assume the responsibility. If there are no represented parties, the Applicant or Claimant should assume responsibility for the bundle. If there has been no previous court order for hard copy bundles, and an unrepresented party is unable to prepare an electronic bundle in accordance with this guidance, then they should contact the court without delay for further directions. The parties must co-operate and all parties have responsibility for ensuring that the court receives the bundle in time.
- e. For interim applications, the bundle must be lodged at least three business days before the hearing, save where this is impossible owing to the urgency of the hearing.
- f. For trials, bundles for the judge should be lodged not less than three and not more than seven working days before the trial unless otherwise ordered. The parties are responsible for ensuring that every witness has access to their own individual copy of the bundle.
- g. Late service of documents is not a good reason to delay lodging the bundle. If necessary, documents may be provided by supplemental bundle later.
- h. A fresh bundle should be provided for every hearing (including adjourned hearings) unless the court orders otherwise.
- i. Bundles should comply with PD32 paragraph 27, and paragraph 10.3 of PD51O. They should only contain the documents (or parts of documents) necessary to determine the hearing and they must not contain duplicate or illegible documents. Black and white reproductions of photographs or plans which were originally in colour are not acceptable. Large bundles can be difficult to navigate, especially in electronic format. To keep bundles to a manageable size, the parties should consider including only the relevant parts of documents.
- j. An electronic hearing bundle must:
 - i. Only contain essential documents or parts of documents;
 - ii. Be a single PDF;
 - iii. Be fully bookmarked;
 - iv. If practicable have a hyperlinked index and hyperlinks in any witness statement to any document there referred to;
 - v. Be fully paginated, with the electronic pagination matching the page number as displayed on each page;
 - vi. Be prepared so that the default view when the document is opened is 100%
 - vii. Display pages so that none need to be rotated in order to be read;
 - viii. Have had OCR applied (in so far as practicable) so it can be searched and edited;

- ix. Be given an electronic file name that identifies it with the relevant case by including at the start the case number and the parties' names in short form and e.g. "BL-2019-LIV-012345 Anfield v Goodison."
 - k. Once a hearing bundle has been lodged, no alterations should be made to it, nor any replacement bundle lodge, without first contacting the Court and enquiring whether the Judge requires (i) a replacement bundle, (ii) an additional electronic bundle, or (iii) some other solution. The default position is that an additional electronic bundle containing only the necessary additional documents should be lodged.
2. Skeleton arguments
- a. Skeleton arguments are required on any matter of substance.
 - b. They should in all cases be lodged not less than two business days before the hearing, save where the application is urgent and without notice in which case they should be lodged at the earliest opportunity.
 - c. They should identify relevant authorities, with citation of the authorities in accordance with Practice Direction (Citation of Authorities) [2012] 1 WLR 780, restricted to the expression of legal principle rather than the application of such principle to particular facts. They should identify which authorities are being referred to for which propositions and the relevant paragraphs of the authorities on which reliance will be placed. Where reference is made to well-established principles it is normally sufficient to refer to the content of any authoritative textbook, with copies of the relevant extract. Where reference is made to well-known quotations from well-established authorities it is normally sufficient simply to set out the quotation.
3. Authorities
- a. In trials and substantial applications, the parties should exchange skeleton arguments in sufficient time to allow a single joint bundle of authorities to be lodged no later than the time prescribed for lodging skeleton arguments.
 - b. In any event, given that the authorities upon which a party seeks to rely should have been identified in the skeleton arguments, copies of the authorities should be lodged at court no later than the time at which the skeleton argument is lodged. If a party subsequently seeks to rely on authorities that are not identified in their skeleton argument (for example in reply to a proposition in another party's skeleton argument), copies of such additional authorities should be lodged at court as soon as reasonably practicable.
 - c. An electronic authorities bundle must comply with the guidance for bundles above. In addition, where possible it must contain a PDF of the relevant law report in the form it appears in the hard bound version of the law report in question.
4. Uploading of bundles, skeleton arguments and authorities
- a. Electronic bundles, skeleton arguments and authorities should be uploaded to CE file as an attachment or link to an electronic data room. PDFs can be uploaded to CE file if the electronic file does not exceed 50Mb. The size limit for documents that are being emailed because the case is not on CE file is 36Mb. For larger file sizes, the parties need to provide a link to an electronic data room.
 - b. Documents on CE file cannot be seen by the judge until they been processed, which can take some time, and so if filed late will not necessarily be available to the judge either prior to or at the hearing.
 - c. If the case is not on CE file, attachments or links as the case may be should be sent to the court by email to liverpoolbpc@justice.gov.uk. In urgent cases, this may also be used for sending attachments or links in cases on CE file.

- d. If the email address of the judge has been provided, attachments or links should be sent directly to that address as well.

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