

129th UPDATE – PRACTICE DIRECTION AMENDMENTS

The new Practice Direction 27B and the amendments to the Practice Directions 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 Lord Wolfson of Tredegar QC, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The new Practice Direction 27B and the amendments to the existing Practice Directions come into force on 31 May 2021—
Practice Direction 7A – How to Start Proceedings – the Claim Form
Practice Direction 16 – Statements of Case
Practice Direction 27 – The Small Claims Track
Practice Direction 27B – Claims Under the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents – Court Procedure
Practice Direction 35 – Experts and Assessors
Schedule: Practice Direction 27B – Claims Under the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents – Court Procedure

The Right Honourable Sir Geoffrey Vos
Master of the Rolls and Head of Civil Justice:

Signed by authority of the Lord Chancellor:

Lord Wolfson of Tredegar QC

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 24th February 2021

PRACTICE DIRECTION 7A – HOW TO START PROCEEDINGS – THE CLAIM FORM

1) In paragraph 3.8, for “If a claim”, substitute “Subject to paragraph 3.8A, if a claim”.

2) After paragraph 3.8, insert—

“3.8A

(1) Subject to sub-paragraph (2), if a claim for damages for personal injuries arising from a road traffic accident which occurs on or after 31 May 2021 is started in the County Court, the claim form must state whether or not the claimant expects to recover more than £5,000 in respect of pain, suffering and loss of amenity.

(2) Paragraph (1) does not apply to a claim where the following rules apply—

(a) rule 26.5A, which provides that a claim started under Practice Direction 27B shall be treated as allocated to the small claims track; or

(b) rule 26.6A, which, pursuant to rule 26.6(1)(a), sets out the circumstances where, in a claim for personal injuries arising from a road traffic accident, the small claims track will be the normal track for any claim for personal injuries where the total value of the claim is not more than £10,000 and the value of the claim for personal injuries is not more than £1,000.

(3) Where paragraph (2) applies, the claim form must state whether or not the claimant expects to recover more than £1000 in respect of pain, suffering and loss of amenity.

(4) ‘Road traffic accident’ means an accident resulting in bodily injury to any person caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales unless the injury was caused wholly or in part by a breach by the defendant of one or more of the relevant statutory provisions as defined by section 53 of the Health and Safety at Work etc. Act 1974.”.

PRACTICE DIRECTION 16 – STATEMENTS OF CASE

1) In paragraph 4.3A(2), for “RTA Protocol”, substitute “Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents”.

2) After paragraph 4.3A, insert—

“4.3B

(1) In a claim for a whiplash injury, whether or not it is part of a claim for other injuries—

(a) the claimant may not proceed in respect of the claim for the whiplash injury unless the medical report is a fixed cost medical report;

(b) where the claimant files more than one medical report, the first report obtained in respect of the whiplash injury must be a fixed cost medical report from an accredited medical expert selected via the MedCo Portal;

(c) where the claimant lives outside England and Wales, but chooses to be examined for the purposes of a medical report in England or Wales, paragraphs (a) and (b) apply; and

(d) any further report in respect of the claim for the whiplash injury only must also be a fixed cost medical report from an expert in any of the following disciplines—

(i) Consultant Orthopaedic Surgeon;

(ii) Consultant in Accident and Emergency Medicine;

(iii) General Practitioner registered with the General Medical Council;

(iv) Physiotherapist registered with the Health and Care Professions Council.

(2) Where the claimant obtains a medical report in respect of a more serious injury suffered on the same occasion as the whiplash injury, the claimant may use that report instead of a fixed costs medical report under paragraph (1) provided that—

(a) the report is from a doctor who is listed on the General Medical Council's Specialist Register; and

(b) the report provides evidence of the whiplash injury.

(3) Unless paragraph (1)(c) applies, in any other case where the claimant lives outside England and Wales, the medical report in respect of the claim for the whiplash injury (or, if there is more than one report, the first report) must be from a person who is recognised by the country in which they practise as—

(i) being a medical expert; and

(ii) having the required qualifications for the purposes of diagnosis and prognosis of a whiplash injury.

(4) The cost of obtaining a further report from an expert not listed in paragraph (4)(a) to (d) is not subject to rule 45.29I(2A)(b), but the use of that expert and the cost must be justified.

(5) In this paragraph, ‘fixed cost medical report’, ‘accredited medical expert’, ‘MedCo, and ‘whiplash injury’ have the same meaning as in paragraph 1.2(1), (17), (19) and (38), respectively, of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.

PRACTICE DIRECTION 27 – THE SMALL CLAIMS TRACK

- 1) Re-number Practice Direction 27, Practice Direction 27A.

PRACTICE DIRECTION 27B – CLAIMS UNDER THE PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW THE SMALL CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS – COURT PROCEDURE

- 1) After the newly renumbered Practice Direction 27A, insert Practice Direction 27B as set out in the Schedule to this Update.

PRACTICE DIRECTION 35 – EXPERTS AND ASSESSORS

- 1) In paragraph 2.6—
 - a) after sub-paragraph (1), insert—

“(1A) In a claim for a whiplash injury, whether or not it is part of a claim for other injuries—

(a) where in respect of the claim for a whiplash injury, permission is given for a fixed cost medical report, the first report must be obtained from an accredited medical expert selected via the MedCo Portal;

(b) where the claimant lives outside England and Wales, but chooses to be examined for the purposes of a medical report in England or Wales, paragraph (a) applies;

(c) where the claimant obtains a medical report in respect of a more serious injury suffered on the same occasion as the whiplash injury, where permission is given, the claimant may use that report instead of a fixed costs medical report under paragraph (a) provided that—

(i) the report is from a doctor who is listed on the General Medical Council's Specialist Register; and

(ii) the report provides evidence of the whiplash injury; and

(d) unless paragraph (b) applies, in any other case where the claimant lives outside England and Wales, the medical report in respect of the claim for the whiplash injury (or, if there is more than one report, the first report) must be from a person who is recognised by the country in which they practise as—

(i) being a medical expert; and

(ii) having the required qualifications for the purposes of diagnosis and prognosis of a whiplash injury.”;

b) in paragraph (2), after “rule 35.4(3C)(a) to (d)”, insert “or (3C)(b)(i) to (iv)”;

c) for paragraph (3) substitute—

“(3) In this paragraph—

(a) in respect of a soft tissue injury claim, ‘accredited medical expert’, ‘fixed cost medical report’, ‘MedCo’, and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (10A), (12A) and (16A), respectively, of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents; and.

(b) in respect of a claim for a whiplash injury, ‘fixed cost medical report’, ‘accredited medical expert’, ‘MedCo, and ‘whiplash injury’ have the same meaning as in paragraph 1.2(1), (17), (19) and (38) of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.”.

SCHEDULE

“PRACTICE DIRECTION 27B

CLAIMS UNDER THE PRE-ACTION PROTOCOL FOR PERSONAL INJURY CLAIMS BELOW

THE SMALL CLAIMS LIMIT IN ROAD TRAFFIC ACCIDENTS - COURT PROCEDURE

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SECTION 1: GENERAL PROVISIONS AND COSTS

Application of this Practice Direction

1.1 This Practice Direction applies to those claims where the parties have followed the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents (“the **RTA Small Claims Protocol**”).

Appendices to this Practice Direction

1.2

(1) Appendix A sets out definitions of terms used in this Practice Direction, shown in bold where used.

(2) Appendix B sets out standard directions for use in claims under this Practice Direction.

(3) Appendix C sets out in Tables A to G the documents required in the **Court Pack** for each section of this Practice Direction.

How to read this Practice Direction

1.3 Section 1 of this Practice Direction is of general application. Sections 2 to 11 relate to specific types of application as set out in the following Table:

Table 27.1

Type of case	Section of Practice Direction which applies
Liability dispute only – liability denied in full	Section 2
Assessing the value of the claim: liability not in dispute, no claim for non-protocol vehicle costs or uplift	Section 3
Assessing the value of the claim: liability admitted in part but	Section 4

remains in dispute (including where non-protocol vehicle costs and/or an uplift are claimed in such cases)	
Assessing the value of the claim: liability not in dispute and the claim includes non-protocol vehicle costs (and an uplift where claimed in such cases)	Section 5
Assessing the value of the claim: liability not in dispute and the claimant applies for an uplift (no claim for non-protocol vehicle costs)	Section 6
Application for interim payment	Section 7
Non-payment of agreed interim payment	Section 8
Starting proceedings due to limitation	Section 9
Dispute over fees for medical reports or other disbursements	Section 10
Non-payment of agreed settlement sum	Section 11

How to start proceedings

1.4

(1) In this paragraph “the appropriate court form” refers to form RTASC L, RTASC Q, RTASC D or RTASC O as specified in sections 2 to 11.

(2) In any claim started or continued under this Practice Direction, the appropriate court form must be sent to County Court Money Claims Centre, PO Box 527, M5 0BY.

- (3) The claimant must specify on the court form the preferred hearing centre.
- (4) The claim will be sent to the preferred hearing centre—
- (a) where the claim is made under section 2, 3, 4, 5 or 6—
- (i) when the defendant has or, if there is more than one, all defendants have filed an acknowledgment of service; or
- (ii) when the period for filing the last acknowledgment of service has expired, whichever is the sooner; or
- (b) in any other case, where the court directs.
- (5) If at any time a court officer considers that the claim should be referred to a judge for directions, the court officer may send the proceedings to the preferred hearing centre.

Allocation to small claims track and costs

1.5

- (1) Part 27 applies to all claims under sections 2 to 11 below, save as modified or disapplied in each section or in sub-paragraph (2) below.
- (2) Any claim started under this Practice Direction—
- (a) will be treated as allocated to the small claims track when the claim is started; and
- (b) save as modified in paragraphs 1.13 to 1.14 below, will be subject to the limits on the amount of costs that can be recovered in respect of a claim which has been allocated to the small claims track.
- (Rule 27.14 deals with the costs that a party might recover from another party on the small claims track.)

MIB as defendant

1.6

- (1) Where the defendant is uninsured and the **MIB** or its agents have consented in the **Compensator's Response** to the **MIB** being joined (i.e. included) as a defendant, the claimant must—

(a) include the **MIB** as the second defendant to the claim, by naming them on the court form; and

(b) provide to the court a copy of the **Compensator's Response** completed by or on behalf of the **MIB** (this will be included in the **Court Pack**).

(2) Where in a case to which sub-paragraph (1) applies, this Practice Direction requires—

(a) a procedural step to be taken by the defendant, it will be sufficient for this step to be taken by the **MIB** or its agents;

(b) written or oral evidence from the defendant, the **MIB** or its agents may not provide that evidence unless the court directs.

RTA Insurers

1.7

(1) Where an **RTA Insurer** has consented in the **Compensator's Response** to being joined as a defendant, the claimant must—

(a) include the **RTA Insurer** as the second defendant to the claim, by naming them on the court form; and

(b) provide to the court a copy of the **Compensator's Response** completed by or on behalf of the **RTA Insurer** (this will be included in the **Court Pack**).

(2) On receipt of—

(a) a claim in which an **RTA Insurer** has been named as second defendant; and

(b) an acknowledgment of service from the **RTA Insurer** confirming their intention to be a party, the court will make directions as to the rights of the **RTA Insurer** to take further steps in the proceedings.

Exit from this Practice Direction

1.8

(1) This Practice Direction will continue to apply to any claim started under the procedures in sections 2 to 11, unless sub-paragraph (2) applies.

(2) The court may determine that the claim should no longer continue under this Practice Direction because—

(a) the claim is valued at more than £10,000 or the claim for **damages for injury** is valued at more than £5,000;

(b) the claim involves complex issues of fact or law;

(c) the defendant has made an allegation of fraud or fundamental dishonesty against the claimant;

(d) the defendant disputes or continues to dispute that the **accident** caused any injury to the claimant following service by the claimant of a medical report in support of the injuries;

(e) the parties agree the procedure under this Practice Direction is not suitable for these or any other reasons; or

(f) the court has any other good reason so to direct.

(3) Where any of the reasons in sub-paragraphs (1)(a) to (e) apply, the court must allocate the claim to a different track and will give directions.

(4) Where sub-paragraph (1)(f) applies, the court may allocate the claim to a different track and will give directions.

(5) Where the court orders that the claim must be joined to or heard together with other proceedings to which this Practice Direction does not apply, the court will automatically allocate the claim to the same track as those other proceedings.

Admissions made under the RTA Small Claims Protocol

1.9

(1) An admission of liability made in the **RTA Small Claims Protocol** is binding to the extent of all claims made by the claimant in proceedings under this Practice Direction.

(2) Where a claim by another party or a counterclaim is added to proceedings under this Practice Direction, the admission of liability is not binding in respect of that other claim or counterclaim (but the court may give evidence of the admission such weight as the court considers fit).

(3) On the making of an application by either party to the court to withdraw a pre-action admission in accordance with rule 14.1B and Part 23, the claim will no longer proceed under this Practice Direction. The court must on receipt of the application allocate the claim to a different track.

(4) A claimant who is a litigant in person should consider obtaining legal advice in respect of any such application.

Statements of truth

1.10 Rule 22.1(1)(g) applies to any court form used by the claimant to start or continue proceedings and any acknowledgment of service form used under this Practice Direction.

First medical reports

1.11

(1) Where the claimant wishes to start proceedings under this Practice Direction to assess the value of the claim, they may not do so unless the medical report relied upon (or, if there is more than one report, the first report) is a **fixed cost medical report** from an **accredited medical expert** selected via **MedCo** (website at: www.MedCo.org.uk).

(2) Where the claimant lives outside England and Wales but chooses to be examined for the purposes of a medical report in England and Wales, sub-paragraph (1) above applies.

(3) Otherwise where the claimant lives outside England and Wales, the medical report relied upon (or, if there is more than one report, the first report) must—

(a) in a claim which includes a whiplash injury, be from a person who is recognised by the country in which they practise as—

(i) being a medical expert; and

(ii) having the required qualifications for the purposes of diagnosis and prognosis of a whiplash injury;

(b) in a claim which does not include a whiplash injury, be from a person who is recognised by the country in which they practise as being a medical expert.

Further medical reports

1.12

(1) Where the claimant seeks to rely on a further medical report, whether from the first expert instructed or from an expert in another discipline, permission may only be given where the use of that report is justified as set out in sub-paragraph (2) below.

(2) A further medical report will be justified where—

(a) it is recommended in the first expert's report;

(b) the first medical report recommends that further time is required before a prognosis of the claimant's injuries can be determined;

(c) the claimant is receiving continuing treatment; or

(d) the claimant has not recovered as expected in the original prognosis.

(3) Any further report from an expert in any of the following disciplines must also be a **fixed cost medical report**—

(a) Consultant Orthopaedic Surgeon;

(b) Consultant in Accident and Emergency Medicine;

(c) General Practitioner registered with the General Medical Council;

(d) Physiotherapist registered with the Health and Care Professions Council.

(4) Paragraph 1.14 below sets out the fees applicable to fixed cost medical reports.

Limited costs recovery

1.13 Rule 27.14 applies to a claim under this Practice Direction with the following modifications—

(a) the court may order under rule 27.14(2) that the defendant pay the cost of any police accident report incurred by the claimant;

(b) without prejudice to the generality of rule 27.14(2)(g), when a **compensator** is required under the **RTA Small Claims Protocol** to arrange a further medical report when requested by the claimant and justified under paragraph 1.12 above and—

(i) fails to do so in time or at all; or

(ii) raises an objection to doing so which is not reasonable,
the court is likely to consider that such conduct amounts to unreasonable behaviour and to order payment of any legal costs incurred by the claimant as a result.

Costs - Experts' fees

1.14

(1) Rule 27.14(2)(f) will apply to experts' fees, including those of non-medical experts, to limit such fees to a sum not exceeding the amount specified in Practice Direction 27A paragraph 7.3(2) for the fees of each expert except where sub-paragraph (2) applies.

(2) The only sums that are recoverable in respect of the fees for a **fixed cost medical report** or medical records are as follows—

(a) the first report from an **accredited medical expert** selected via **MedCo**: £180;

(b) a further report where justified from an expert from one of the following disciplines—

(i) Consultant Orthopaedic Surgeon (inclusive of a review of medical records where applicable): £420;

(ii) Consultant in Accident and Emergency Medicine: £360;

(iii) General Practitioner registered with the General Medical Council: £180; or

(iv) Physiotherapist registered with the Health and Care Professions Council: £180;

(c) obtaining medical records: no more than £30 plus the direct cost from the holder of the records, and limited to £80 in total for each set of records required. Where relevant records are required from more than one holder of records, the fixed fee applies to each set of records required;

(d) addendum report on medical records (except by Consultant Orthopaedic Surgeon): £50.

(3) Save in exceptional circumstances, no fee may be allowed for a report to which sub-paragraph (2) applies where the **medical expert**—

(a) has provided treatment to the claimant;

(b) is associated with any person who has provided treatment; or

(c) proposes or recommends treatment that they or an associate then provide.

(4) The fee for a further report from an expert not listed in sub-paragraph (2)(b) is not fixed, but—

(a) is limited by rule 27.14(2)(f); and

(b) the use of that expert must be justified.

(5) Where appropriate, VAT may be recovered in addition to the fees for a **fixed cost medical report** or medical records.

Free text fields – character limits

1.15

(1) Where a free text field is provided on the **Portal** in order to complete the relevant court form, the content is limited to 500 characters (including spaces). The number of characters available is displayed immediately below the field.

(2) A party can if they wish provide more information separately by taking the following steps—

(a) include a brief summary in the field;

(b) include in the field an indication that more information is provided in a named separate document;

(c) upload that named document onto the **Portal** as soon as possible after completing the field.

SECTION 2: LIABILITY DISPUTE ONLY – LIABILITY DENIED IN FULL

Use of this section

2.1 This section sets out the procedure to be followed in all claims where the claimant wishes the court to determine the issue of liability alone, where liability has been denied in full.

2.2 Part 27 applies to a claim under this section, save that further provisions are made in this section as to—

- (a) the acknowledgment of service, see paragraph 2.9;
- (b) directions, including evidence and expert evidence, see paragraphs 2.12 and 2.13;
- (c) conduct of the hearing, see paragraph 2.15 onwards.

Starting the claim

2.3

(1) The claimant may use the procedure set out in this section where—

- (a) a claim has already been started under another section of this Practice Direction (see paragraph 2.4); or
- (b) a claim has not yet been started (see paragraph 2.5).

(2) To use the procedure set out in this section the claimant must—

- (a) comply with the requirements set out in paragraphs 2.4 to 2.16; and
- (b) file form RTASC L with the court.

Where a claim has already been started

2.4

(1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC L—

- (a) that a claim has already been started;
- (b) the number of that claim;

(c) that a determination on liability is sought in order to comply with the **RTA Small Claims Protocol**; and

(d) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on liability. Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 2.7 below.

(2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC L.

Where a claim has not already been started

2.5 Where a claim has not already been started under another section of this Practice Direction, the claimant must state in form RTASC L—

(a) that no other claim has been started;

(b) that a determination on liability is sought in order to comply with the **RTA Small Claims Protocol**; and

(c) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on liability. Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 2.7 below.

The Court Pack

2.6

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC L.

The **Court Pack** must contain all the documents set out in Table A.

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

(3) The purpose of the **Court Pack** is to provide in one set of documents all the facts and evidence on which both parties intend to rely. Paragraphs 2.7 and 2.11(1) deal with cases where either party wishes to ask the court for permission to rely on further evidence not provided to the

other party under the **RTA Small Claims Protocol**.

Asking the court for permission to rely on evidence not contained in the relevant Court Pack

2.7

(1) Where the claimant seeks to rely on evidence not contained in the relevant **Court Pack**, the claimant must send the evidence to the court with form RTASC L or explain why this is not possible.

(2) Form RTASC L must include the following—

(a) a summary and description of the evidence the claimant would like to rely on; and

(b) an explanation setting out why the evidence was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

Service of form RTASC L

2.8 The court will serve form RTASC L, the relevant **Court Pack** and any evidence filed in accordance with paragraph 2.7 on the defendant at the address given in the form.

Acknowledgment of Service

2.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASL, not more than 14 days after service of form RTASC L.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 2.4 (where a claim has already been started) or under paragraph 2.5 (where a claim has not already been started).

(3) Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired—

(a) the defendant is not permitted to rely on any of the evidence provided by the defendant contained in the relevant **Court Pack**; and

(b) the defendant may attend the hearing of the claim, but may not take part in the hearing

unless the court gives permission.

2.10

(1) The acknowledgment of service in this section must state whether the defendant disputes liability.

(2) The defendant must also indicate in the acknowledgment of service the names of the witnesses (including the defendant) the defendant intends should give evidence at a hearing. Where the evidence of any witness is not included in the relevant **Court Pack** the defendant must comply with the requirements of paragraph 2.11 below.

2.11

(1) Where the defendant seeks to rely on evidence not contained in the relevant **Court Pack** the defendant must send the evidence to the court with form RTAASL or explain why this is not possible and must include the following in form RTAASL—

(a) a summary and description of the evidence the defendant would like to rely on; and

(b) the reasons why it was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

(2) Paragraphs 2.12 and 2.13 contain further provisions as to directions and evidence in cases where the defendant fails to acknowledge service.

Directions including evidence and expert evidence

2.12

(1) Rules 27.4 and 27.5 apply, save as modified in this paragraph and in paragraph 2.13.

(2) The court will give directions after the time for filing the acknowledgment of service has expired having regard to the acknowledgment of service if filed.

(3) The provisions of rule 27.4(3) do not apply. Standard directions will be in one of the forms set out in Appendix B and are likely to apply where the court considers that the dispute between the parties and the evidence required at a hearing are adequately set out in the relevant **Court Pack**.

(4) The court may give directions other than standard directions.

2.13 Unless the court makes a different order, the parties are permitted to rely on the evidence contained in the relevant **Court Pack** including any written evidence from a non-medical expert.

(Rule 27.5 provides that no expert may give evidence, whether written or oral, at a hearing without the permission of the court.)

Other claims

2.14

(1) Where either party identifies in form RTASC L or form RTAASL that there is another claim arising out of the same **accident** where liability is disputed, the court will consider whether to direct that—

(a) the other claim (including a claim currently within the **RTA Small Claims Protocol**) be joined to or heard together with the claim under this section of the Practice Direction; or

(b) if the other claim is proceeding outside this Practice Direction, this claim shall no longer continue under this Practice Direction and shall be joined to or heard together with that other claim.

(2) Sub-paragraph (1) above may apply to a claim made by another party or a counterclaim by the defendant.

(3) Where the court considers it appropriate to make an order under sub-paragraph (1)(a) above in respect of a claim currently within the **RTA Small Claims Protocol**, it may either order that—

(a) the claim under that Protocol (being a claim by the defendant against the claimant) must exit that Protocol and be joined to or heard together with the claim under this section as a counterclaim; or

(b) the claim under this section be stayed for a period to permit proceedings to be started in the claim in that Protocol and joined to or heard together with the claim under this section.

Conduct of the hearing

2.15 Rules 27.8 to 27.11 apply save that any hearing at which the issues under this section are being determined will be an oral hearing attended by both parties or their representatives.

2.16

(1) The court will when determining liability under this section make an order in the following format—

(a) liability found in full against the defendant;

(b) liability found in part against the defendant, specifying the percentage liability of the defendant;

or

(c) liability not found against the defendant.

(2) Where the court finds that the defendant was either liable in full or in part and does not reallocate the claim under sub-paragraph (3) below, the court—

(a) will stay the proceedings and direct that the parties use the procedure set out in sections 7, 8 and 9 of the **RTA Small Claims Protocol** to progress the claim; and

(b) should normally order the defendant to pay the court fee incurred when the claim was started or continued for determination of liability.

(3) The court may give other directions and may reallocate the claim to a different track where it considers that the value of the claim is likely to exceed the limit for the small claims track.

SECTION 3: ASSESSING THE VALUE OF THE CLAIM: NO LIABILITY DISPUTE, NO CLAIM FOR NON-PROTOCOL VEHICLE COSTS OR UPLIFT REQUEST

Use of this section

3.1

(1) This section sets out the procedure to be followed where the claimant wishes the court to assess the value of the claim, where—

- (a) the parties have been unable to agree settlement under the **RTA Small Claims Protocol**;
- (b) liability is not in dispute (as to which, see paragraph 3.2 below);
- (c) there is no claim brought for **non-protocol vehicle costs**; and
- (d) there is no application for an **uplift** in exceptional circumstances pursuant to regulation 3 of the Whiplash Injury Regulations 2021 (referred to in this paragraph as an “**uplift application**”).

(2) For the purposes of this section, “liability is not in dispute” means that either—

- (a) there has been an **admission of liability in full**;
- (b) there has been an **admission of liability in part** and the claimant has accepted that part admission; or
- (c) liability has already been found against the defendant (either in full or part) by the court in a claim under section 2 of this Practice Direction.

3.2 Part 27 applies to a claim under this section, save that further provisions are made in this section as to—

- (a) the acknowledgment of service, see paragraph 3.10;
- (b) directions, see paragraphs 3.12 and 3.17;
- (c) evidence generally, see paragraphs 3.15 to 3.17;
- (d) conduct of the hearing, see paragraph 3.19.

Starting the claim

3.3

- (1) The claimant may use the procedure set out in this section where—
- (a) a claim has already been started under another section of this Practice Direction (see paragraph 3.4); or
 - (b) a claim has not already been started (see paragraph 3.5).
- (2) To use the procedure set out in this section the claimant must—
- (a) comply with the requirements set out in paragraphs 3.4 to 3.19; and
 - (b) file form RTASC Q with the court.

Where a claim has already been started

3.4

- (1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC Q—
- (a) that a claim has already been started;
 - (b) the number of that claim;
 - (c) that the parties have been unable to agree the amount of **damages for injury and other protocol damages** payable at the end of the **RTA Small Claims Protocol**;
 - (d) that liability has either been determined by the court or is not in dispute;
 - (e) that there is no claim to be included for **non-protocol vehicle costs**;
 - (f) that there is no **uplift** application; and
 - (g) that the claimant wishes the court to decide on the value of the claim.
- (2) The claimant must also include the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing under this section. Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 3.8 below.
- (3) The claim will continue under the procedure set out in this section adopting the same claim number.

(4) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC Q.

Where a claim has not already been started

3.5

(1) Where a claim has not already been started under another section of this Practice Direction, the claimant must state in form RTASC Q that—

(a) no other claim has been started;

(b) the parties have been unable to agree the amount of **damages for injury** and **other protocol damages** payable at the end of the **RTA Small Claims Protocol**;

(c) liability has either been determined by the court in favour of the claimant (either in full or in part) or is not in dispute;

(d) there is no claim to be included for **non-protocol vehicle costs**;

(e) there is no **uplift** application;

(f) the claimant wishes the court to decide on the value of the claim.

(2) The claimant must also include the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing under this section. Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 3.8 below.

Option of Determination without a hearing

3.6

(1) The procedure in sub-paragraph (2) applies in any claim brought under paragraph 3.4 or paragraph 3.5.

(2) The claimant may request a determination of the value of their claim without a hearing in form RTASC Q.

(Paragraph 3.15 explains that the court may direct a determination without a hearing where the claimant requests this and the defendant does not disagree.)

The Court Pack

3.7

(1) The claimant must send the relevant **Court Pack** to the court when filing RTASC Q. The **Court Pack** must contain all the documents set out in Table C.

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

(3) The purpose of the **Court Pack** is to provide in one set of documents all the facts and evidence on which both parties intend to rely. Paragraphs 3.8 and 3.13 deal with cases where either party wishes to ask the court for permission to rely on further evidence not provided to the other party under the **RTA Small Claims Protocol**.

Asking the court for permission to rely on evidence not contained in the Court Pack

3.8

(1) Where the claimant seeks to rely on evidence not contained in the relevant **Court Pack**, the claimant must send the evidence to the court with form RTASC Q or explain why this is not possible.

(2) Form RTASC Q must include the following—

(a) a summary and description of the evidence the claimant would like to rely on; and

(b) an explanation setting out why the evidence was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

(3) Paragraph 3.17 sets out the basis on which the court may give the claimant permission to rely on further evidence.

Service of form RTASC Q

3.9 The Court will serve form RTASC Q and the **Court Pack** on the defendant at the address given in the form.

Acknowledgment of Service

3.10

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASQ, not more than 14 days after service of form RTASC Q.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 3.4 (where a claim has already been started) or under paragraph 3.5 (where a claim has not already been started).

(3) Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired—

(a) the defendant is not permitted to rely on any of the evidence provided by the defendant contained in the relevant **Court Pack**; and

(b) the defendant may attend any hearing of the claim, but may not take part in the hearing unless the court gives permission.

3.11

(1) The acknowledgment of service in this section must state whether the defendant—

(a) disputes the amount of damages claimed; or

(b) contends that the procedure in this section should not be used.

(2) The defendant must also indicate in the acknowledgment of service the names of the witnesses (including the defendant) the defendant intends should give evidence at a hearing under this section. Where the evidence of any witness is not included in the relevant **Court Pack** the defendant must comply with the requirements of paragraph 3.13 below.

(3) Where the claimant has indicated a preference for the value of the claim to be determined without a hearing, the defendant must also indicate in form RTAASQ whether they agree or object to this request.

3.12

(1) The defendant may only contend under paragraph 3.11 that the procedure under this section should not be used on the grounds that the claimant—

(a) has started or continued a claim without following the procedure set out in the **RTA Small Claims Protocol** for producing the **Court Pack**;

(b) has left out material evidence that was provided under that Protocol which the defendant or their representative had requested be included in the **Court Pack**; or

(c) has filed and served additional or new evidence with form RTASC Q that was not provided under that Protocol.

(2) The defendant must state the reasons why they contend the procedure should not be used in form RTAASQ.

(3) Where the court receives an acknowledgment of service in form RTAASQ which includes reasons under sub-paragraph (2), the court will give case management directions.

3.13 Where the defendant seeks to rely on evidence not contained in the relevant **Court Pack** the defendant must send the evidence to the court with form RTAASQ or explain why this is not possible and must include the following in form RTAASQ—

(a) a summary and description of the evidence the defendant would like to rely on; and

(b) the reasons why it was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

3.14 The acknowledgment of service or response may be signed and filed by the defendant's insurer who may give their address as the address for service.

Hearings and evidence

3.15

(1) On receipt of the acknowledgment of service, the court will allocate a date for an oral hearing.

(2) Where the claimant requests a determination without a hearing in form RTASC Q, and the defendant agrees in the acknowledgment of service or fails to file an acknowledgment of service, the court may allocate a date for determination without a hearing.

(3) The court will give the parties at least 21 days' notice of the date of the oral hearing or the determination without a hearing.

3.16

(1) The claim will proceed to a hearing or a determination without a hearing on the basis of the evidence in the **Court Pack**, unless paragraph 3.17(1)(e) applies.

(2) This may include oral evidence at a hearing from the claimant and from any witnesses of fact on value whose evidence has been included in the **Court Pack**.

3.17

(1) The parties may not rely upon evidence unless—

(a) it has been included in the **Court Pack** sent to the court in accordance with paragraph 3.7;

(b) the defendant contends in form RTAASQ that it should have been included in the **Court Pack**, in accordance with paragraph 3.12(1)(a) or (b) above;

(c) it is oral evidence permitted under paragraph 3.16(2) above;

(d) it is a **certificate of recoverable benefits** which has been filed and served on the claimant in accordance with paragraph 3.19; or

(e) it is evidence, which may include oral evidence, which the court considers is necessary to determine the claim.

(2) Where either party makes a request to use further evidence not contained in the **Court Pack** under paragraph 3.8 or 3.13 above, the court will consider whether sub-paragraph (1)(e) above applies and will give directions.

(Paragraph 1.8(2) provides that where the evidence raises complex issues of fact or law, the court must allocate the claim to a different track and give directions.)

3.18 The defendant must file and serve an up to date **certificate of recoverable benefits** at least 5 days before the date of the hearing or the determination without a hearing.

Conduct of the hearing

3.19 Rule 27.9 is disapplied in hearings conducted under this section.

SECTION 4: ASSESSING THE VALUE OF THE CLAIM: LIABILITY ADMITTED IN PART BUT REMAINS IN DISPUTE (INCLUDING WHERE NON-PROTOCOL VEHICLE COSTS AND/OR AN UPLIFT ARE CLAIMED IN SUCH CASES)

Use of this section

4.1

(1) This section sets out the procedure to be followed where the claimant wishes the court to assess the value of the claim, where—

- (a) the parties have been unable to agree settlement; and
- (b) liability has been admitted in part but remains in dispute.

(2) This includes cases where there is also—

- (a) a claim for **non-protocol vehicle costs**; and/or
- (b) the claimant makes an application for an **uplift** in exceptional circumstances pursuant to regulation 3 of the Whiplash Injury Regulations 2021 (referred to in this section as an “**uplift application**”).

4.2 Part 27 applies to a claim under this section, save that further provisions are made in this section as to—

- (a) the acknowledgment of service, see paragraph 4.9;
- (b) directions, including evidence and expert evidence, see paragraphs 4.12 and 4.13;
- (c) conduct of the hearing, see paragraph 4.15 onwards.

Starting the claim

4.3

(1) The claimant may use the procedure set out in this section where—

- (a) a claim has already been started under another section of this Practice Direction (see paragraph 4.4);

(b) a claim has not yet been started (see paragraph 4.5).

(2) To use the procedure set out in this section the claimant must—

(a) comply with the requirements set out in paragraphs 4.4 to 4.16; and

(b) file form RTASC D with the court.

Where a claim has already been started

4.4

(1) Where a claim has already been started under another section of this Practice Direction the claimant must state in form RTASC D—

(a) that a claim has already been started;

(b) the number of that claim;

(c) that the parties have been unable to agree the amount of damages payable at the end of the

RTA Small Claims Protocol;

(d) that the defendant has admitted liability in part only and the claimant does not accept that part admission;

(e) where appropriate, that the claim includes a claim for **non-protocol vehicle costs** and/or an **uplift** application;

(f) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on liability or on any issue as to the value of the claim (including on any claim for **non-protocol vehicle costs** or **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 4.7 below.

(2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC D.

Where a claim has not already been started

4.5 Where a claim has not already been started under another section of this Practice Direction, the claimant must state in form RTASC D—

(a) that no other claim has been started;

(b) that the parties have been unable to agree the amount of damages payable at the end of the

RTA Small Claims Protocol;

(c) that the defendant has admitted liability in part only and the claimant does not accept that part admission;

(d) where appropriate, that the claim includes a claim for **non-protocol vehicle costs** and/or an **uplift** application;

(e) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on liability or on any issue as to the value of the claim (including on any claim for **non-protocol vehicle costs** or **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 4.7 below.

The Court Pack

4.6

(1) The claimant must send the relevant **Court Pack** to the court when filing RTASC D. The **Court Pack** must contain—

(a) those documents set out in Table B (1); and

(b) any other documents from Table A not otherwise included in Table B (1).

(2) If the claim also includes a claim for **non-protocol vehicle costs**, the **Court Pack** must include the **non-protocol vehicle costs** documents from Table B (2).

(3) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

(4) The purpose of the **Court Pack** is to provide in one set of documents all the facts and evidence on which both parties intend to rely. Paragraphs 4.7, and 4.11(1) deal with cases where

either party wishes to ask the court for permission to rely on further evidence not provided to the other party under the **RTA Small Claims Protocol**.

Asking the court for permission to rely on evidence not contained in the relevant Court Pack

4.7 Where the claimant seeks to rely on evidence not contained in the relevant **Court Pack** (including on any claim for **non-protocol vehicle costs** or **uplift** application), the claimant must send the evidence to the court with form RTASC D or explain why this is not possible. Form RTASC D must include the following—

- (a) a summary and description of the evidence the claimant would like to rely on; and
- (b) an explanation setting out why the evidence was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

Service of form RTASC D

4.8 The court will serve form RTASC D, the relevant **Court Pack** and any evidence filed in accordance with paragraph 4.7 on the defendant at the address given in the form.

Acknowledgment of Service

4.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASD, not more than 14 days after service of form RTASC D.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 4.4 (where a claim has already been started) or under paragraph 4.5 (where a claim has not already been started).

(3) Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired—

- (a) the defendant is not permitted to rely on any of the evidence provided by the defendant contained in the relevant **Court Pack**; and

(b) the defendant may attend the hearing of the claim, but may not take part in the hearing unless the court gives permission.

4.10

(1) The acknowledgment of service in this section must state whether the defendant—

- (a) disputes liability;
- (b) disputes the amount of damages claimed;
- (c) opposes any **uplift** application.

(2) The defendant must also indicate in the acknowledgment of service the names of the witnesses (including the defendant) the defendant intends should give evidence at a hearing.

Where the evidence of any witness is not included in the relevant **Court Pack** the defendant must comply with the requirements of paragraph 4.11 below.

4.11

(1) Where the defendant seeks to rely on evidence not contained in the relevant **Court Pack** the defendant must send the evidence to the court with form RTAASD or explain why this is not possible and must include the following in form RTAASD—

- (a) a summary and description of the evidence the defendant would like to rely on; and
- (b) the reasons why it was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

(2) Paragraphs 4.12 and 4.13 contain further provisions as to directions and evidence in cases where the defendant fails to acknowledge service.

Directions including evidence and expert evidence

4.12

(1) Rules 27.4 and 27.5 apply, save as modified in this paragraph and in paragraph 4.13.

(2) The court will give directions after the time for filing the acknowledgment of service has expired having regard to the acknowledgment of service if filed.

(3) The provisions of rule 27.4(3) do not apply. Standard directions will be in one of the forms set out in Appendix B and are likely to apply where the court considers that the dispute between the parties and the evidence required at a hearing are adequately set out in the relevant **Court Pack**.

(4) Appendix B provides separate standard directions for claims where liability is in dispute and claims where there is a claim for **non-protocol vehicle costs** or an **uplift** application. The court may give directions other than standard directions.

4.13 Unless the court makes a different order, the parties are permitted to rely on the evidence contained in the relevant **Court Pack** including any written evidence from a medical or non-medical expert.

(Rule 27.5 provides that no expert may give evidence, whether written or oral, at a hearing without the permission of the court.)

Other claims

4.14

(1) Where either party identifies in form RTASC D or form RTAASD that there is another claim arising out of the same **accident** where liability is disputed, the court will consider whether to direct that—

(a) the other claim (including a claim currently within the **RTA Small Claims Protocol**) be joined to or heard together with the claim under this section of the Practice Direction; or

(b) if the other claim is proceeding outside this Practice Direction, this claim shall no longer continue under this Practice Direction and shall be joined to or heard together with that other claim.

(2) Sub-paragraph (1) above may apply to a claim made by another party or a counterclaim by the defendant.

(3) Where the court considers it appropriate to make an order under sub-paragraph (1)(a) above in respect of a claim currently within the **RTA Small Claims Protocol**, it may either order that—

(a) the claim under that Protocol (being a claim by the defendant against the claimant) must exit

that Protocol and be joined to or heard together with the claim under this section as a counterclaim; or

(b) the claim under this section be stayed for a period to permit proceedings to be started in the claim in that Protocol and joined to or heard together with the claim under this section.

Conduct of the hearing

4.15

(1) Rules 27.8 to 27.11 apply save that any hearing at which the issues under this section are being determined will be an oral hearing attended by both parties or their representatives.

(2) The defendant must file an up to date **certificate of recoverable benefits** at least 5 days before the date of the hearing.

Determination of liability

4.16 The court will when determining liability under this section make an order in the following format—

(a) liability found in full against the defendant;

(b) liability found in part against the defendant, specifying the percentage liability of the defendant;

or

(c) liability not found against the defendant.

SECTION 5: ASSESSING THE VALUE OF THE CLAIM: LIABILITY NOT IN DISPUTE AND THE CLAIM INCLUDES NON-PROTOCOL VEHICLE COSTS (AND AN UPLIFT WHERE CLAIMED IN SUCH CASES)

Use of this section

5.1

(1) This section sets out the procedure to be followed where the claimant wishes the court to assess the value of the claim, where—

- (a) liability is not in dispute;
- (b) the parties have been unable to agree settlement; and
- (c) there is a claim for **non-protocol vehicle costs**.

(2) This includes cases where the claimant also makes an application for an **uplift** in exceptional circumstances pursuant to regulation 3 of the Whiplash Injury Regulations 2021 (referred to in this section as an “**uplift** application”).

(3) For the purposes of this section, “liability is not in dispute” means that either—

- (a) there has been an **admission of liability in full**;
- (b) there has been an **admission of liability in part** and the claimant has accepted that part admission; or
- (c) liability has already been found against the defendant (either in full or part) by the court in a claim under section 2 of this Practice Direction.

5.2 Part 27 applies to a claim under this section, save that further provisions are made in this section as to—

- (a) the acknowledgment of service, see paragraph 5.9;
- (b) directions, including evidence and expert evidence, see paragraphs 5.13 and 5.14;
- (c) conduct of the hearing, see paragraph 5.15.

Starting the claim

5.3

- (1) The claimant may use the procedure set out in this section where—
- (a) a claim has already been started under another section of this Practice Direction (see paragraph 5.4);
 - (b) a claim has not yet been started (see paragraph 5.5).
- (2) to use the procedure set out in this section the claimant must—
- (a) comply with the requirements set out in paragraphs 5.4 to 5.15; and
 - (b) file form RTASC D with the court.

Where a claim has already started

5.4

- (1) Where a claim has already been started under another section of this Practice Direction the claimant must state in form RTASC D—
- (a) that a claim has already been started;
 - (b) the number of that claim;
 - (c) that the parties have been unable to agree the amount of damages payable at the end of the **RTA Small Claims Protocol**;
 - (d) that liability is not in dispute;
 - (e) that the claim includes a claim for **non-protocol vehicle costs** and, where appropriate, an **uplift** application;
 - (f) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on any issue as to the value of the claim (including on the claim for **non-protocol vehicle costs** and any **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 5.7 below.
- (2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC D.

Where a claim has not already been started

5.5 Where a claim has not already been started under another section of this Practice Direction, the claimant must state in form RTASC D—

(a) that no other claim has been started;

(b) that the parties have been unable to agree the amount of damages payable at the end of the **RTA Small Claims Protocol**;

(c) that liability is not in dispute;

(d) that the claim includes a claim for **non-protocol vehicle costs** and, where appropriate, an **uplift** application;

(e) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on any issue as to the value of the claim (including on the claim for **non-protocol vehicle costs** and any **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 5.7 below.

The Court Pack

5.6

(1) The claimant must send the relevant **Court Pack** to the court when filing RTASC D. The **Court Pack** must contain those documents set out in Table B (1) and the **non-protocol vehicle costs** documents from Table B (2).

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

(3) The purpose of the **Court Pack** is to provide in one set of documents all the facts and evidence on which both parties intend to rely. Paragraphs 5.7, and 5.11(1) deal with cases where either party wishes to ask the court for permission to rely on further evidence not provided to the other party under the **RTA Small Claims Protocol**.

Applying to use further evidence

5.7 Where the claimant seeks to rely on evidence not contained in the relevant **Court Pack** (including on the claim for **non-protocol vehicle costs** and any **uplift** application), the claimant must send the evidence to the court with form RTASC D or explain why this is not possible. Form RTASC D must include the following—

- (a) a summary and description of the evidence the claimant would like to rely on; and
- (b) an explanation setting out why the evidence was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

Service of form RTASC D

5.8 The court will serve form RTASC D, the relevant **Court Pack** and any evidence filed in accordance with paragraph 5.6 on the defendant at the address given in the form.

Acknowledgment of Service

5.9

- (1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASD, not more than 14 days after service of form RTASC D.
- (2) Sub-paragraph (1) applies where the claim is made under paragraph 5.4 (where a claim has already started) or under paragraph 5.5 (where a claim has not already started).
- (3) Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired—
 - (a) the defendant is not permitted to rely on any of the evidence provided by the defendant contained in the relevant **Court Pack**; and
 - (b) the defendant may attend the hearing of the claim, but may not take part in the hearing unless the court gives permission.

5.10

(1) The acknowledgment of service in this section must state whether the defendant—

- (a) disputes the amount of damages claimed;
- (b) opposes any **uplift** application.

(2) The defendant must also indicate in the acknowledgment of service the names of the witnesses (including the defendant) the defendant intends should give evidence at a hearing.

Where the evidence of any witness is not included in the relevant **Court Pack** the defendant must comply with the requirements of paragraph 5.11 below.

5.11

(1) Where the defendant seeks to rely on evidence not contained in the relevant **Court Pack** the defendant must send the evidence to the court with form RTAASD or explain why this is not possible and must include the following in form RTAASD—

- (a) a summary and description of the evidence the defendant would like to rely on; and
- (b) the reasons why it was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

(2) Paragraphs 5.13 and 5.14 contain further provisions as to directions and evidence in cases where the defendant fails to acknowledge service.

5.12 The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

Directions including evidence and expert evidence

5.13

(1) Rules 27.4 and 27.5 apply, save as modified in this paragraph and in paragraph 5.14.

(2) The court will give directions after the time for filing the acknowledgment of service has expired having regard to the acknowledgment of service if filed.

(3) The provisions of rule 27.4(3) do not apply. Standard directions will be in one of the forms set out in Appendix B and are likely to apply where the court considers that the dispute between the parties and the evidence required at a hearing are adequately set out in the relevant **Court Pack**.

(4) Appendix B provides separate standard directions for claims where there is a claim for **non-protocol vehicle costs** and any **uplift** application. The court may give directions other than standard directions.

5.14 Unless the court makes a different order, the parties are permitted to rely on the evidence contained in the relevant **Court Pack** including any written evidence from a medical or non-medical expert.

(Rule 27.5 provides that no expert may give evidence, whether written or oral, at a hearing without the permission of the court.)

Conduct of the hearing

5.15

(1) Rules 27.8 to 27.11 apply save that any hearing at which the issues under this section are being determined will be an oral hearing attended by both parties or their representatives.

(2) The defendant must file an up to date **certificate of recoverable benefits** at least 5 days before the date of the hearing.

SECTION 6: ASSESSING THE VALUE OF THE CLAIM: LIABILITY NOT IN DISPUTE AND THE CLAIMANT APPLIES FOR AN UPLIFT (NO CLAIM FOR NON-PROTOCOL VEHICLE COSTS)

Use of this section

6.1

(1) This section sets out the procedure to be followed where the claimant wishes the court assess the value of the claim, where—

- (a) liability is not in dispute;
- (b) the parties have been unable to agree settlement;
- (c) there is no claim brought for **non-protocol vehicle costs**; and
- (d) the claimant makes an application for an **uplift** in exceptional circumstances pursuant to regulation 3 of the Whiplash Injury Regulations 2021 (referred to in this section as an “**uplift application**”).

(2) For the purposes of this section, “liability is not in dispute” means that either—

- (a) there has been an **admission of liability in full**;
- (b) there has been an **admission of liability in part** and the claimant has accepted that part admission; or
- (c) liability has already been found against the defendant (either in full or part) by the court in a claim under section 2 of this Practice Direction.

6.2 Part 27 applies to a claim under this section, save that further provisions are made in this section as to—

- (a) the acknowledgment of service, see paragraph 6.9;
- (b) directions, including evidence and expert evidence, see paragraphs 6.13 and 6.14;
- (c) conduct of the hearing, see paragraph 6.15.

Starting the claim

6.3

- (1) The claimant may use the procedure set out in this section where—
- (a) a claim has already been started under another section of this Practice Direction (see paragraph 6.4);
 - (b) a claim has not yet been started (see paragraph 6.5).
- (2) to use the procedure set out in this section the claimant must—
- (a) comply with the requirements set out in paragraphs 6.4 to 6.15; and
 - (b) file form RTASC D with the court.

Where a claim has already been started

6.4

- (1) Where a claim has already been started under another section of this Practice Direction the claimant must state in form RTASC D—
- (a) that a claim has already been started;
 - (b) the number of that claim;
 - (c) that liability is not in dispute;
 - (d) that the parties have been unable to agree the amount of **damages for injury** and **other protocol damages** payable at the end of the **RTA Small Claims Protocol**;
 - (e) that the claimant makes an **uplift** application which remains in dispute;
 - (f) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on any issue as to the value of the claim (including on the **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 6.7 below.
- (2) The claim will continue under the procedure set out in this section adopting the same claim number.
- (3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC D.

Where a claim has not already been started

6.5 Where a claim has not already been started under another section of this Practice Direction, the claimant must state in form RTASC D—

- (a) that no other claim has been started;
- (b) that liability is not in dispute;
- (c) that the parties have been unable to agree the amount of **damages for injury** and **other protocol damages** payable at the end of the **RTA Small Claims Protocol**;
- (d) that the claimant makes an **uplift** application which remains in dispute;
- (e) the names of the witnesses (including the claimant) who the claimant intends should give evidence at a hearing on any issue as to the value of the claim (including on the **uplift** application). Where the evidence of any witness is not included in the relevant **Court Pack** the claimant must comply with the requirements of paragraph 6.7 below.

The Court Pack

6.6

- (1) The claimant must send the relevant **Court Pack** to the court when filing RTASC D. The **Court Pack** must contain those documents set out in Table B (1).
- (2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.
- (3) The purpose of the **Court Pack** is to provide in one set of documents all the facts and evidence on which both parties intend to rely. Paragraphs 6.7 and 6.11(1) deal with cases where either party wishes to ask the court for permission to rely on further evidence not provided to the other party under the **RTA Small Claims Protocol**.

Asking the court for permission to rely on evidence not contained in the relevant Court Pack

6.7

(1) Where the claimant seeks to rely on evidence not contained in the relevant **Court Pack** (including on the **uplift** application), the claimant must send the evidence to the court with form RTASC D or explain why this is not possible.

(2) Form RTASC D must include the following—

(a) a summary and description of the evidence the claimant would like to rely on; and

(b) an explanation setting out why the evidence was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

Service of form RTASC D

6.8 The court will serve form RTASC D, the relevant **Court Pack** and any evidence filed in accordance with paragraph 6.7 on the defendant at the address given in the form.

Acknowledgment of Service

6.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASD, not more than 14 days after service of form RTASC D.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 6.4 (where a claim has already started) or under paragraph 6.5 (where a claim has not already started).

(3) Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired—

(a) the defendant is not permitted to rely on any of the evidence provided by the defendant contained in the relevant **Court Pack**; and

(b) the defendant may attend the hearing of the claim, but may not take part in the hearing unless the court gives permission.

6.10

(1) The acknowledgment of service in this section must state whether the defendant—

- (a) disputes the amount of damages claimed;
- (b) opposes the **uplift** application.

(2) The defendant must also indicate in the acknowledgment of service the names of the witnesses (including the defendant) the defendant intends should give evidence at a hearing.

Where the evidence of any witness is not included in the relevant **Court Pack** the defendant must comply with the requirements of paragraph 6.11 below.

6.11

(1) Where the defendant seeks to rely on evidence not contained in the relevant **Court Pack** the defendant must send the evidence to the court with form RTAASD or explain why this is not possible and must include the following in form RTAASD—

- (a) a summary and description of the evidence the defendant would like to rely on; and
- (b) the reasons why it was not produced as part of the steps taken under the **RTA Small Claims Protocol**.

(2) Paragraphs 6.13 and 6.14 contain further provisions as to directions and evidence in cases where the defendant fails to acknowledge service.

6.12 The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

Directions including evidence and expert evidence

6.13

(1) Rules 27.4 and 27.5 apply, save as modified in this paragraph and in paragraph 6.14.

(2) The court will give directions after the time for filing the acknowledgment of service has expired having regard to the acknowledgment of service if filed.

(3) The provisions of rule 27.4(3) do not apply. Standard directions will be in one of the forms set out in Appendix B and are likely to apply where the court considers that the dispute between the parties and the evidence required at a hearing are adequately set out in the relevant **Court Pack**.

(4) Appendix B provides separate standard directions for claims where there is an **uplift** application. The court may give directions other than standard directions.

6.14 Unless the court makes a different order, the parties are permitted to rely on the evidence contained in the relevant **Court Pack** including any written evidence from a medical or non-medical expert.

(Rule 27.5 provides that no expert may give evidence, whether written or oral, at a hearing without the permission of the court.)

Conduct of the hearing

6.15

(1) Rules 27.8 to 27.11 apply save that any hearing at which the issues under this section are being determined will be an oral hearing attended by both parties or their representatives.

(2) The defendant must file an up to date **certificate of recoverable benefits** at least 5 days before the date of the hearing.

SECTION 7: APPLICATION FOR INTERIM PAYMENT

Use of this section

7.1

(1) This section sets out the procedure to be followed where the claimant wishes to claim for an interim payment previously requested.

(2) The claimant may only apply for an interim payment where one of the following conditions is met—

(a) there has been an **admission of liability in full** or and **admission of liability in part**;

(b) the defendant is taken to have admitted liability under the Protocol;

(c) the defendant has admitted fault in full or in part for the **accident**, but has disputed that the **accident** caused any injury to the claimant; or

(d) the court has found against the defendant on liability (in full or in part) and stayed proceedings under paragraph 2.16.

7.2 Part 27 applies to a claim under this section, save that—

(a) further provisions are made in this section as to—

(i) acknowledgment of service, see paragraph 7.9;

(ii) conduct of any hearing, see paragraphs 7.12 to 7.13;

(b) a claim under this section will be determined on paper without directions, unless the court orders otherwise.

Starting the claim

7.3

(1) Subject to sub-paragraph (2) below, the claimant may use the procedure set out in this section where the claimant has requested an interim payment for **other protocol damages** under the **RTA Small Claims Protocol** and the defendant has either—

(a) disputed the entitlement to an interim payment; or

(b) failed to agree to pay the sum requested.

(2) The claimant may not use the procedure set out in this section until the time for a response to the request for interim payment under the **RTA Small Claims Protocol** has expired.

7.4

(1) The claimant may use the procedure set out in this section where—

(a) a claim has already been started under another section of this Practice Direction (see paragraph 7.5); or

(b) a claim has not yet been started (see paragraph 7.6).

(2) To use the procedure set out in this section the claimant must—

(a) comply with the requirements set out in paragraphs 7.5 to 7.15; and

(b) file form RTASC O with the court.

Where a claim has already been started

7.5

(1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC O—

(a) that a claim has already been started;

(b) the number of that claim;

(c) that the claim is for damages;

(d) which of the conditions in paragraph 7.1(2)(a) to (d) is met; and

(e) that an interim payment in respect of **other protocol damages** has been requested under the **RTA Small Claims Protocol**, but the defendant has either disputed the entitlement to an interim payment or has failed to agree to pay the sum claimed.

(2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC O.

Where a claim has not already been started

7.6 Where a claim has not already been started under this Practice Direction, the claimant must state in form RTASC O—

- (a) that no other claim has been started;
- (b) that the claim is for damages;
- (c) which of the conditions in paragraph 7.1(2)(a) to (d) is met; and
- (d) that an interim payment in respect of **other protocol damages** has been requested under the **RTA Small Claims Protocol**, but the defendant has either disputed the entitlement to an interim payment or has failed to agree to pay the sum claimed.

The Court Pack

7.7

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC O.

The **Court Pack** must contain all the documents set out in Table E.

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

Service of form RTASC O

7.8 The court will serve form RTASC O and the relevant **Court Pack** on the defendant at the address given in the form.

Acknowledgment of Service

7.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASO, not more than 14 days after service of form RTASC O.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 7.5 (where a claim has already started) or under paragraph 7.6 (where a claim has not already started).

(3) The defendant must state in the form whether—

(a) they continue to dispute entitlement to an interim payment; or

(b) they agree to pay the sum requested.

(4) The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

7.10

(1) Where the defendant objects to the use of the procedure set out in this section, the defendant must indicate this in form RTAASO and set out the reason why they object.

(2) The defendant may only object as set out in sub-paragraph (1) above on the grounds that the claimant—

(a) has started or continued a claim without following the procedure set out in the **RTA Small Claims Protocol** for producing the **Court Pack**; or

(b) has left out material evidence that was provided under that Protocol which the defendant or their representative had requested be included in the **Court Pack**.

(3) Where the defendant objects as set out in sub-paragraph (1) above, the court—

(a) may either dismiss the claim under this section or give directions; and

(b) if a claim had already been started under another section of this Practice Direction, may stay the proceedings.

Claim for an interim payment previously requested

7.11

(1) The court will give the parties at least 21 days' notice of the date of any hearing or determination.

(2) On considering the claim the court may make an order for interim payment for any items of **other protocol damages** claimed and is not restricted to the sums requested.

(3) Where the court makes an order for an interim payment and except where sub-paragraph (4) applies, the court may order at the same time that the defendant pay the court fee incurred when the claim was started or continued under this section.

(4) The court will not normally order payment of the court fee by the defendant under subparagraph (3) if the claimant has failed to obtain an interim payment greater than any offer made by the defendant before the claim was started or continued under this section.

(5) Where the court considers that the claim under this section must be determined at a hearing, it must give directions as appropriate.

Conduct of the hearing

7.12

(1) Rules 27.8 to 27.11 apply to any determination or hearing under this section.

(2) A determination without a hearing under paragraph 7.11 is to be treated as a disposal without a hearing under rule 27.10.

Stay of the claim following order for interim payment

7.13 Where a claimant starts a claim for an interim payment—

(a) the claimant and the **compensator** must continue to follow the steps under the **RTA Small Claims Protocol**;

(b) Following determination of the claim under this section, the court must stay the proceedings for the parties to complete the steps required under sections 7 and 8 of the **RTA Small Claims Protocol**.

Interim payments – further provisions

7.14

(1) The court may only make an order for an interim payment where one of the conditions in paragraph 7.1(2)(a) to (d) is met and it is satisfied that if the claim went to a final hearing, the claimant would be awarded **other protocol damages** for at least the amount for which an interim payment is sought.

(2) The court must take into account any claim or acceptance that the claimant was partly liable for the **accident**.

7.15

(1) Unless sub-paragraph (2) below applies, where the defendant has made an interim payment either by agreement or by court order, the court is entitled to make an order that all or part of the interim payment be repaid to the defendant.

(2) Where the defendant has made or agreed to make an interim payment to cover a specific item or items of damage, each of those items of damage is regarded as satisfied and the court may not make an order in the claim for damages that the sum be repaid.

(3) Any interim payment made by the defendant either by agreement or court order will be taken into account once the court has made a final assessment of damages.

SECTION 8: NON-PAYMENT OF AGREED INTERIM PAYMENT

Use of this section

8.1 This section sets out the procedure to be followed where the claimant wishes the court to deal with non-payment of an agreed interim payment.

8.2 Part 27 applies to a claim under this section, save that—

(a) further provisions are made in this section as to—

(i) acknowledgment of service, see paragraph 8.9;

(ii) conduct of any hearing, see paragraph 8.11 onwards;

(b) a claim under this section will be determined on paper without directions, unless the court orders otherwise.

Starting the claim

8.3

(1) The claimant may use the procedure set out in this section where—

(a) the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on the amount of an interim payment for **other protocol damages**; but

(b) the defendant has failed to pay within the relevant period specified in that Protocol.

(2) The claimant may not start a claim until the time for payment under the **RTA Small Claims Protocol** has expired.

8.4

(1) The claimant may use the procedure set out in this section where—

(a) a claim has already been started under another section of this Practice Direction (see paragraph 8.5); or

(b) a claim has not yet been started (see paragraph 8.6).

(2) To use the procedure set out in this section the claimant must—

- (a) comply with the requirements set out in paragraphs 8.5 to 8.14; and
- (b) file form RTASC O with the court.

Where a claim has already been started

8.5

- (1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC O—
- (a) that a claim has already been started;
 - (b) the number of that claim;
 - (c) that the claim is for damages;
 - (d) that the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on an interim payment for **other protocol damages**;
 - (e) that the defendant has failed to pay within the relevant period specified in that Protocol; and
 - (f) the sum payable by the defendant.
- (2) The claim will continue under the procedure set out in this section adopting the same claim number.
- (3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC O.

Where a claim has not already been started

- 8.6** Where a claim has not already been started under this Practice Direction, the claimant must state in form RTASC O—
- (a) that no other claim has been started;
 - (b) that the claim is for damages;
 - (c) that the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on an interim payment for **other protocol damages**;
 - (d) that the defendant has failed to pay within the relevant period specified in that Protocol;
and
 - (e) the sum payable by the defendant.

The Court Pack

8.7

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC O.

The **Court Pack** must contain all the documents set out in Table G (1).

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

Service of Form RTASC O

8.8 The court will serve form RTASC O and the relevant **Court Pack** on the defendant at the address given in the form.

Acknowledgment of Service

8.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASO, not more than 14 days after service of form RTASC O.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 8.5 (where a claim has already started) or under paragraph 8.6 (where a claim has not already started).

(3) The defendant must state in the form whether—

(a) they continue to dispute entitlement to an interim payment; or

(b) they agree to pay the sum requested.

(4) The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

8.10

(1) Where the defendant objects to the use of the procedure set out in this section, the defendant must indicate this in form RTAASO and set out the reason why they object.

(2) The defendant may only object as set out in sub-paragraph (1) above on the grounds that the claimant—

(a) has started or continued a claim without following the procedure set out in the **RTA Small Claims Protocol** for producing the **Court Pack**; or

(b) has left out material evidence that was provided under that Protocol which the defendant or their representative had requested be included in the **Court Pack**.

(3) Where the defendant objects as set out in sub-paragraph (1) above the court—

(a) may either dismiss the claim under this section or give directions; and

(b) if a claim had already been started under another section of this Practice Direction, may stay the proceedings.

Determining the claim

8.11

(1) The court may determine the claim under this section once the period within which the defendant must file and serve an acknowledgment of service has expired, without having to set a date for determination.

(2) Where an order is made to pay an interim payment, the court will normally order at the same time that the defendant pay the court fee incurred when the claim under this section was started either under paragraph 8.5 or 8.6.

(3) Where the court considers that the claim under this section must be determined at a hearing, it must give directions as appropriate.

8.12

(1) Rules 27.8 to 27.11 apply to any determination or hearing under this section.

(2) A determination without a hearing under paragraph 8.11(1) is to be treated as a disposal without a hearing under rule 27.10.

Stay of a claim following order to pay an agreed interim payment

8.13

(1) Where a claimant makes an application under this section, the claimant and the **compensator**

must continue to follow the steps under the **RTA Small Claims Protocol**.

(2) Following determination of the claim under this section, the court must stay the proceedings for the parties to complete the steps required under sections 7 and 8 of the **RTA Small Claims Protocol**, unless these have already been completed.

Interim payments – further provisions

8.14

(1) Unless sub-paragraph (2) below applies, where the defendant has made an interim payment, either by agreement or by court order, the court is entitled to make an order that all or part of the interim payment be repaid to the defendant.

(2) Where the defendant has made or agreed to make an interim payment to cover a specific item or items of damage, each of those items of damage is regarded as satisfied and the court may not make an order in the claim for damages that the sum be repaid.

(3) Any interim payment made by the defendant, either by agreement or court order, will be taken into account once the court has made a final assessment of damages.

SECTION 9: STARTING DUE TO LIMITATION

Use of this section

9.1 This section sets out the procedure to be followed where the claimant wishes to start a claim due to limitation.

Starting the claim

9.2

(1) Where the claimant believes it is not possible to comply with the **RTA Small Claims Protocol** before the expiry of the limitation period, the claimant may use the procedure set out in this section.

(2) Where a claim has already been started for a determination on liability or to apply for an interim payment, those will count as court proceedings for limitation purposes and the claimant does not need to start a further claim.

(3) To use the procedure set out in this section the claimant must—

- (a) comply with the requirements set out in paragraphs 9.3 to 9.7; and
- (b) file form RTASC O with the court.

9.3 Where a claimant wishes to start a claim under this Practice Direction, the claimant must state in form RTASC O that—

- (a) no other claim has been started under this Practice Direction;
- (b) the claim is for damages;
- (c) the claimant has submitted the **Small Claim Notification Form**; and
- (d) a stay of proceedings is sought in order to comply with that Protocol.

The Court Pack

9.4

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC O.

The **Court Pack** must contain the documents set out in Table D.

(2) The claimant must send the **Court Pack** to the **compensator** no later than when they send form RTASC O and the **Court Pack** to the court, in accordance with section 12 of the **RTA Small Claims Protocol**.

Stay of proceedings and service

9.5

(1) Form RTASC O includes the application for a stay of proceedings. On receipt of the form, the court must order that the claim be stayed in order for the parties to comply with steps required under the **RTA Small Claims Protocol**.

(2) On making the order under sub-paragraph (1) above, the court will serve form RTASC O and the order imposing the stay on the defendant.

9.6 Where a stay is ordered under paragraph 9.5 above and the claimant wishes to bring a claim under another section of this Practice Direction, the stay will be automatically lifted on receipt of the relevant form for that section.

9.7 Where a stay is ordered under paragraph 9.5 above and the claimant has not sought to bring a claim under another section of this Practice Direction, the defendant may at any time apply to the court to lift the stay and give further directions.

SECTION 10: DISPUTE OVER FEES FOR MEDICAL REPORTS OR OTHER DISBURSEMENTS

Use of this section

10.1

(1) This section sets out the procedure to be followed where the claimant wishes the court to resolve a dispute over fees for medical reports or other disbursements, following settlement of the damages claim.

(2) Where the court assesses the value of the claim under sections 3 to 6 of this Practice Direction, any dispute over fees will be considered by the court at the same time and no claim is required under this section.

10.2 Part 27 applies to a claim under this section, save that—

(a) further provisions are made in this section as to—

- (i) acknowledgment of service, see paragraph 10.9;
- (ii) conduct of any hearing, see paragraph 10.10 onwards;

(b) a claim under this section will be determined without a hearing, unless the court orders otherwise.

Starting the claim

10.3 The claimant may use the procedure set out in this section where the parties have reached an agreement, in writing, to settle the claim under the **RTA Small Claims Protocol**, but they have failed to agree either—

(a) the amount that the defendant should pay for one or more of the medical reports the claimant has obtained or for any other disbursement; or

(b) whether the defendant should pay—

(i) the fee for one or more medical reports obtained by the claimant; or

(ii) any other disbursement claimed.

10.4

(1) The claimant may use the procedure set out in this section where—

(a) a claim has already been started under another section of this Practice Direction (see paragraph 10.5); or

(b) a claim has not yet been started (see paragraph 10.6).

(2) To use the procedure set out in this section the claimant must—

(a) comply with the requirements set out in paragraphs 10.5 to 10.14; and

(b) file form RTASC O with the court.

Where a claim has already been started

10.5

(1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC O—

(a) that a claim has already been started;

(b) the number of that claim;

(c) that the parties have reached agreement, in writing, to settle the claim under the **RTA Small Claims Protocol**;

(d) that the parties have failed to agree the amount to be paid (if any) by the defendant for one or more of the medical reports obtained by the claimant or for any other disbursement; and

(e) the fees or disbursements that are in dispute.

(2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC O.

Where a claim has not already been started

10.6 Where a claim has not already been started under this Practice Direction, the claimant must state in form RTASC O—

- (a) that no other claim has been started;
- (b) that the parties have reached agreement, in writing, to settle the claim under the **RTA Small Claims Protocol**;
- (c) that the parties have failed to agree the amount to be paid (if any) by the defendant for one or more of the medical reports obtained by the claimant or for any other disbursement; and
- (d) the fees or disbursements that are in dispute.

The Court Pack

10.7

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC O.

The **Court Pack** must contain all the documents set out in Table F.

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

Service of the application

10.8 The court will serve form RTASC O and the relevant **Court Pack** on the defendant at the address given in the form.

Acknowledgment of Service

10.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASO, not more than 14 days after service of form RTASC O.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 10.5 (where a claim has already started) or under paragraph 10.6 (where a claim has not already started).

(3) The defendant must state in the form the reasons why they should not pay the fees or other disbursements claimed.

(4) The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

10.10

(1) Where the defendant objects to the use of the procedure set out in this section, the defendant must indicate this in form RTAASO and set out the reason why they object.

(2) The defendant may only object as set out in sub-paragraph (1) above on the grounds that the claimant—

(a) has started or continued a claim without following the procedure set out in the **RTA Small Claims Protocol** for producing the **Court Pack**; or

(b) has left out material evidence that was provided under that Protocol which the defendant or their representative had requested be included in the **Court Pack**.

(3) Where the defendant objects as set out in sub-paragraph (1) above, the court—

(a) may either dismiss the claim under this section or give directions; and

(b) if a claim had already been started under another section of this Practice Direction, may stay the proceedings.

10.11

(1) The court may set a date to determine the claim under this section once the period within which the defendant must file and serve an acknowledgment of service has expired.

(2) Where the court considers that the claim under this section must be determined at a hearing, it must give directions as appropriate.

(3) The court will give the parties at least 21 days' notice of the date of a hearing or determination.

(3) Rule 44.5 (amount of costs where costs are payable pursuant to a contract) does not apply to claims determined under this section.

10.12

(1) Rules 27.8 to 27.11 apply to any determination or hearing under this section.

(2) A determination without a hearing under paragraph 10.11(1) is to be treated as a disposal without a hearing under rule 27.10.

SECTION 11: NON-PAYMENT OF AGREED SETTLEMENT SUM

Use of this section

11.1 This section sets out the procedure to be followed where the claimant wishes the court to deal with non-payment of an agreed settlement sum for damages or for any fees or disbursements.

11.2 Part 27 applies to a claim under this section, save that—

(a) further provisions are made in this section as to—

(i) acknowledgment of service, see paragraph 11.9;

(ii) conduct of any hearing, see paragraph 11.11 onwards;

(b) a claim under this section will be determined without a hearing unless the court orders otherwise.

Starting the claim

11.3

(1) The claimant may use the procedure set out in this section where—

(a) the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on the amount of damages payable to settle the claim under that Protocol; but

(b) the defendant has failed to pay within the relevant period specified in that Protocol.

(2) The claimant may also use this section where the sum agreed and not paid is for fees or other disbursements, whether or not the damages remain unpaid.

(3) References in this section to “the amount payable to settle the claim” include sums payable for damages and for fees or other disbursements.

(4) The claimant may not start a claim until the time for payment under that Protocol has expired.

11.4

(1) The claimant may use the procedure set out in this section where—

(a) a claim has already been started under another section of this Practice Direction (see paragraph 11.5); or

(b) a claim has not yet been started (see paragraph 11.6).

(2) To use the procedure set out in this section the claimant must—

(a) comply with the requirements set out in paragraphs 11.5 to 11.12; and

(b) file form RTASC O with the court.

Where a claim has already been started

11.5

(1) Where a claim has already been started under another section of this Practice Direction, the claimant must state in form RTASC O—

(a) that a claim has already been started;

(b) the number of that claim;

(c) that the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on the amount payable to settle the claim under that Protocol;

(d) that the defendant has failed to pay within the relevant period specified in that Protocol;

and

(e) the sum payable by the defendant.

(2) The claim will continue under the procedure set out in this section adopting the same claim number.

(3) If the claim has been stayed, the stay will be automatically lifted on the filing of form RTASC O.

Where a claim has not already been started

11.6 Where a claim has not already been started under this Practice Direction, the claimant must state in form RTASC O—

(a) that no other claim has been started;

(b) that the parties have reached an agreement under the **RTA Small Claims Protocol**, in writing, on the amount payable to settle the claim under that Protocol;

(c) that the defendant has failed to pay within the relevant period specified in that Protocol;
and

(d) the sum payable by the defendant.

The Court Pack

11.7

(1) The claimant must send the relevant **Court Pack** to the court when filing form RTASC O.

The **Court Pack** must contain all the documents set out in Table G (2).

(2) The relevant **Court Pack** is the **Court Pack** as agreed by the **compensator** in accordance with section 12 of the **RTA Small Claims Protocol**.

Service of form RTASC O

11.8 The court will serve form RTASC O and the relevant **Court Pack** on the defendant at the address in the form.

Acknowledgment of Service

11.9

(1) The defendant must file and serve an acknowledgment of service to a claim under this section, using form RTAASO, not more than 14 days after service of form RTASC O.

(2) Sub-paragraph (1) applies where the claim is made under paragraph 11.5 (where a claim has already started) or under paragraph 11.6 (where a claim has not already started).

(3) The defendant must state in the form the reasons why an order should not be made.

(4) The acknowledgment of service may be signed and filed by the defendant's insurer who may give their address as the address for service.

11.10

(1) Where the defendant objects to the use of the procedure set out in this section, the defendant must indicate this in form RTAASO and set out the reason why they object.

(2) The defendant may only object as set out in sub-paragraph (1) above on the grounds that the claimant—

(a) has started or continued a claim without following the procedure set out in the **RTA Small Claims Protocol** for producing the **Court Pack**; or

(b) has left out material evidence that was provided under that Protocol which the defendant or their representative had requested be included in the **Court Pack**.

(3) Where the defendant objects as set out in sub-paragraph (1) above, the court—

(a) may either dismiss the claim under this section or give directions; and

(b) if a claim had already been started under another section of this Practice Direction, may stay the proceedings.

11.11

(1) The court may determine the claim under this section once the period within which the defendant must file and serve an acknowledgment of service has expired without having to set a date for determination.

(2) Where the court considers that the claim under this section must be determined at a hearing, it must give directions as appropriate.

11.12

(1) Rules 27.8 to 27.11 apply to any determination or hearing under this section.

(2) A determination without a hearing under paragraph 11.11(1) is to be treated as a disposal without a hearing under rule 27.10.

APPENDIX A: LIST OF TERMS

In this Practice Direction:

1.

(1) References to the “**Small Claim Notification Form**” are references to the online form used in the **RTA Small Claims Protocol**. References to the “**Compensator’s Response**” are to the online response to that form.

(2) References to the “**Court Valuation Form**”, the “**List of Losses**”, the “**Interim Request Form**”, the “**Record of Offer and Acceptance Interim Payment**” and “**Record of Offer and Acceptance**” are references to the forms under the **RTA Small Claims Protocol**.

2. References to the “**Court Pack**” are references to the packs of documents produced under section 12 of the **RTA Small Claims Protocol** for specific types of claim, which sets out the documents required in a series of Tables. A reference to a Table is a reference to that series which is reproduced in a slightly edited form in Appendix C to this Practice Direction.

3.

(“**accident**” – see (16) under **road traffic accident**)

(1) “**accredited medical expert**” means a **medical expert** who, on the date that they are instructed, is accredited by **MedCo** to provide **fixed cost medical reports**;

(2) “**admission of liability in full**” means that the defendant/**compensator**—

(a) accepts the **accident** happened;

(b) accepts fault in full for the **accident**;

(c) accepts that the claimant suffered some loss including injury which was caused by the **accident**, but not the type and amount of any loss or injury; and

(d) accepts that the 3 year time limit for bringing the claim has not expired;

(3) “**admission of liability in part**” means that the defendant/**compensator**—

(a) accepts the **accident** happened;

(b) accepts fault in part for the **accident**;

(c) accepts that the claimant suffered some loss including injury which was caused by the **accident**, but not the type and amount of any loss or injury; and

(d) accepts that the 3 year time limit for bringing the claim has not expired;

(4) “**certificate of recoverable benefits**” means the certificate issued by the Compensation Recovery Unit to specify the benefits to be deducted from any damages and repaid under social security legislation;

(5) “**compensator**” means—

(a) the defendant’s insurer whose details appear on the Motor Insurance Database;

(b) the defendant themselves if they are handling the claim;

(c) if the defendant is not insured, an **RTA Insurer**, the **MIB** or their agents; or

(d) a legal representative of the defendant, insurer, **RTA Insurer** or the **MIB**;

(6) “**damages for injury**” means compensation for the pain, suffering and loss of amenity suffered by the claimant because of a **road traffic accident**;

(7) “**fixed cost medical report**” means a report from a **medical expert** who, unless there are exceptional circumstances—

(a) has not provided treatment to the claimant;

(b) is not associated with any person who has provided treatment; and

(c) does not propose or recommend treatment that they or an associate then provide;

(8) “**MedCo**” means **MedCo** Registration Solutions: **MedCo** is the online service used to produce a randomised selection of providers for **fixed cost medical reports**;

(9) “**medical expert**” means a person who is—

(a) registered with the General Medical Council;

(b) registered with the General Dental Council; or

(c) a Psychologist or Physiotherapist registered with the Health Care Professions Council;

(d) in the case of persons outside England and Wales, a person who is recognised by the country in which they practise as being a medical expert;

(10) “**MIB**” means The Motor Insurers’ Bureau;

(11) “**non-protocol vehicle costs**” are dealt with in 4. below;

(12) **“other protocol damages”** means the claimant’s losses, costs and expenses (other than **damages for injury**) relating to the **accident**. These will consist of **other damages – injury related** and **other damages – property**, defined below. Any liability for the claimant to repay another person or business is included in this definition;

(13) **“other damages – injury related”** means the claimant’s losses, costs and expenses relating to the injury, but not the damages for the injury itself. Examples would be costs of treatment or prescriptions, loss of earnings because of time off work, clothing damaged because of the injury;

(14) **“other damages – property”** means compensation for damage to the claimant’s property as a result of the **accident**, but not linked to the injury. An example would be shopping or other personal items in the car which are damaged in the **accident**. This definition also includes **protocol vehicle costs**, but not **non-protocol vehicle costs**.

(15) **“protocol vehicle costs”** are dealt with in 4. below;

(16) **“road traffic accident”** means an accident resulting in bodily injury to any person caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales unless the injury was caused wholly or in part by a breach by the defendant of one or more of the relevant statutory provisions¹ as defined by section 53 of the Health and Safety at Work etc Act 1974

(and **“accident”** where used in this protocol has the same meaning);

(17) **“RTA Insurer”** means an insurer with a duty under section 151 of the Road Traffic Act 1988 to satisfy a judgment against the defendant;

(18) **“RTA Small Claims Protocol”** means the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents;

(19) **“tariff”** and **“tariff amount”** means any tariff of damages for **whiplash injuries** and, if

¹ See-
Control of Substances Hazardous to Health Regulations 2002 (S.I. 2002/2677)
Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307)
Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242)
Manual Handling Operations Regulations 1992 (S.I. 1992/2793)
Personal Protective Equipment at Work Regulations 1992 (S.I. 1992/2966)
Provision and Use of Work Equipment Regulations 1998 (S.I. 1998/2306)
Work at Height Regulations 2005 (S.I. 2005/735)
Workplace (Health, Safety and Welfare) Regulations 1992 (S.I. 1992/3004)
The Construction (Design and Management) Regulations 2007 (S.I. 2007/320)

relevant, minor psychological injuries suffered on the same occasion as the **whiplash injuries**, set by the Whiplash Injury Regulations 2021;

(20) “**uplift**” means the amount greater than the **tariff amount** which the claimant may claim in defined exceptional circumstances as set out in the Whiplash Injury Regulations 2021;

(21) “**whiplash injury**” or “**whiplash injuries**” means an injury or injuries of soft tissue in the neck, back or shoulder suffered because of driver negligence as defined in section 1 of the Civil Liability Act 2018 and as further applied by section 3 of that Act to claims where the duration of the **whiplash injury** or any of the **whiplash injuries**—

(i) does not exceed, or is not likely to exceed, two years, or

(ii) would not have exceeded, or would not be likely to exceed, two years but for the claimant’s failure to take reasonable steps to mitigate its effect.

4.

“**Vehicle costs**” are divided into “**protocol vehicle costs**” and “**non-protocol vehicle costs**”.

(1) **Vehicle costs** (whether “**protocol vehicle costs**” or “**non-protocol vehicle costs**”) are any one or more of the following costs or claims—

(a) the pre-accident value of the vehicle, which means, where the vehicle was damaged as a result of the **accident**, the difference in the value of the vehicle immediately before the **accident** occurred and its value because of the damage caused by the **accident**;

(b) the cost of repairing the vehicle;

(c) vehicle insurance excess;

(d) the cost of hiring a vehicle;

(e) vehicle recovery and storage charges;

(2) “**protocol vehicle costs**” are:

(a) **vehicle costs** (other than the pre-accident value of the vehicle) which at the time the claim is made, have been paid by the claimant personally or by an individual on the behalf of the claimant, including any vehicle insurance excess;

(b) in the case of the pre-accident value of the vehicle, are claimed by the claimant personally and

not payable by the claimant to the claimant's insurers; or

(c) in the case of repair costs, are the subject of an estimate of the costs the claimant (or an individual on their behalf) intends to pay personally.

(3) "**non-protocol vehicle costs**" means **vehicle costs** which—

(a) are not **protocol vehicle costs**; and

(b) would be payable by the **claimant** to one or more third party organisations or businesses out of any damages recovered.

APPENDIX B: STANDARD DIRECTIONS

(It is anticipated that these directions will be updated before this Practice Direction comes into force on 31st May 2021.)

THE COURT DIRECTS:

Having considered the contents of the Court Pack provided with the Form [RTASC L/D/Q] it is Ordered that:

[Liability directions]

The [party] must serve and file a signed witness statement of no more than X pages dealing with [issue] within X days of the date of this Order.

The [party] must serve and file with the court [document] within X days of the date of this Order.

Notice of hearing date and time allowed

Further evidence as to [issue] is required and the claimant must serve [document/ witness evidence] on the defendant and file a copy at court within X days of the date of this Order.

The [party] must ensure that they have the dashcam footage (any other footage uploaded that cannot be printed) available at the court hearing in a format that can be shown to the court.

[Quantum directions]

The claimant must serve on the defendant and file with the court [document / witness evidence] in support of their claim for [losses] and send to the defendant and court within X days of the date of this Order.

The claimant has permission to rely on the medical report(s) of [expert name(s)] contained in the Court Pack.

The [party] has permission to rely on the report(s) of the following non-medical expert(s) contained in the Court Pack:

[name] [discipline e.g. engineer, accountant]

[Non-protocol vehicle costs directions]

The claimant is reminded that [credit hire company/credit repairer/AMC/insurer] has no standing as a party in this claim and cannot appear itself at the hearing to conduct the claim or present arguments, except via the claimant's representative [if any].

The claimant must serve on the defendant and file with the court [document] in support of their claim for cost of repairs / write off value of their vehicle within X days of the date of this Order.

The claimant must serve on the defendant and file with the court [document] in support of their claim for recovery charges / storage charges within X days of the date of this Order.

The defendant must serve on the claimant and file with the court [document / witness evidence] within X days of the date of this Order.

In respect of the claimant's claim for credit hire the claimant must serve a witness statement setting out (insofar as the points are disputed) the evidence on which he intends to rely at a hearing in respect of the following matters:

(a) Why the claimant needed to

- a. hire a vehicle
- b. hire the particular type of vehicle hired

(b) Why the vehicle was hired for the period it was hired. If the claimant relies on the time taken to repair or examine his own motor vehicle he should include in his witness statement an account of any efforts he made to speed up the process and to monitor progress.

(c) His impecuniosity (that is, his inability to pay for or fund the hire of a motor vehicle without making unreasonable sacrifices) for the period beginning 3 months before the relevant RTA and ending with the ending of the period of hire.

If impecuniosity has been claimed and not admitted by the Defendant, the claimant must give disclosure comprising details of income and outgoings, including the following:

a) Income:

Copies of the claimant's wage slips or equivalent documentation evidencing the approximate level of available income to the claimant for the period of three months pre-accident and covering the period of hire; and

b) Credit:

Credit Card statements for a period of three months pre-accident and covering the period of hire; and

c) Capital:

- (i) Copy Bank and Building Society statements for a period of three months pre-accident and covering the period of hire.
- (ii) Details of all investments held at the time of the accident

The parties must liaise and use reasonable endeavours to agree the basic hire rate subject to liability and/or other issues no later than 4pm on [xxx days from date of order].

If the parties fail to agree hire rates subject to liability, each party may instruct a single witness to provide relevant evidence of basic hire rates available within the claimant's geographical location, from a mainstream or, (if none is available) a local reputable supplier, for the model of the vehicle hired, or equivalent, or of a similar class to the claimant's damaged vehicle if a better vehicle class was hired. Those factual witness statements and any associated surveys must be served by 4.00pm on [DATE].

The witness statement must include the following facts:

- a. who conducted the survey; and
- b. when and in what way the survey was conducted; and

whether the survey established that equivalent vehicles were available for hire and the cost of the hire (to be set out in a concise schedule and to include the daily and weekly rates of hire, the cost of collision damage waiver or third party insurance, and to be accompanied by the full terms and conditions applicable); and

Any application by the claimant for permission to adduce further factual evidence to rebut that relied upon by the Defendant must be made by 4.00pm on [x weeks] with a copy of the statement to be relied upon.

[Uplift directions]

The claimant must serve on the defendant and file with the court [document / witness evidence] in support of their claim for [uplift in exceptional circumstances] and send to the defendant and court within X days of the date of this Order.

[General directions]

Notice of hearing date and time allowed

APPENDIX C: TABLES FOR COURT PACK REQUIREMENTS

Table A (liability) – sections 2 and 4

Documents and Evidence	Notes
The Small Claim Notification Form including the claimant’s version of events	
Any witness statements uploaded to the Portal	
Any police report uploaded to the Portal	
Any photographs uploaded to the Portal	
Any sketch plans uploaded to the Portal	
Any dashcam, or video clips uploaded to the Portal	The claimant must tick the appropriate box on the court form to indicate to the court that such footage is available, but it need not be sent to the court with the Court Pack
Any other documents or data uploaded to the Portal in support of the claimant’s claim	
The Compensator’s Response	including summary of facts or witness summary if applicable
The defendant’s version of events supported by a statement of truth	
Any other documents uploaded to the Portal by the compensator , including witness statements, photos, sketch plan, dashcam or video clips	

Table B (quantum plus other issues)

Documents and evidence	Notes
B (1) (quantum, general)	Sections 4, 5, 6
The Small Claim Notification Form	
The Compensator’s Response	
The Court Valuation Form	
The claimant’s List of Losses	
All documents in support of the List of Losses uploaded to the Portal	
The fixed cost medical report uploaded to the Portal	
Any other medical report uploaded to the Portal	
Any medical records or photographs of the injury uploaded to the Portal	
Details of any challenge to a medical report and the response	
Invoices for any medical report and for any other disbursement, which the compensator has not already paid for	
Record of Offer and Acceptance Interim Payment	
	<u>DO NOT include details of any offers made by the compensator or the claimant that have not been accepted</u>
B (2) (non-protocol vehicle costs)	Section 4 or 5
<ul style="list-style-type: none"> • Any non-protocol vehicle costs claim document 	
<ul style="list-style-type: none"> • Any evidence uploaded to the Portal in support of the claim for non-protocol vehicle costs 	
<ul style="list-style-type: none"> • Any non-protocol vehicle costs 	

response document	
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Table C (quantum only) – section 3

Documents and evidence	Notes
The Small Claim Notification Form	
The Compensator’s Response	including summary of facts or witness summary if applicable
The defendant’s version of events (if provided) supported by a statement of truth	
The Court Valuation Form	
The claimant’s List of Losses	
All documents in support of the List of Losses uploaded to the Portal	
Any fixed cost medical report uploaded to the Portal	
Any other medical report uploaded to the Portal	
Any medical records or photographs of the injury uploaded to the Portal	
Details of any challenge to a medical report and the response	
Invoices for any medical report and for any other disbursement, which the compensator has not already paid for	
Record of Offer and Acceptance Interim Payment	
	<u>DO NOT</u> include details of any offers made by the compensator or the claimant that <u>have not been accepted</u>

Table D (limitation) – section 9

Documents and Evidence	Notes
The Small Claim Notification Form	

Table E (interim payment) – section 7

Documents and Evidence	Notes
The Small Claim Notification Form	
The Compensator’s Response	
The date stamped Interim Request Form	
Details of the items of other protocol damages claimed to date	
All documents uploaded to the Portal in support of the other protocol damages	
Medical report if relevant	The medical report would only be relevant where it demonstrates that treatment has been recommended and/or sets out the cost and those costs form part of the interim payment request.

Table F (dispute over fees or other disbursements) – section 10

Documents and Evidence	Notes
The Small Claim Notification Form	
The Compensator’s Response	
The Court Valuation Form	
The claimant’s List of Losses	
All documents in support of the List of Losses uploaded to the Portal	

Any fixed cost medical report uploaded to the Portal	
Any other medical report uploaded to the Portal	
Any medical records or photographs of the injury uploaded to the Portal	
Invoices for any medical report and for any other disbursement, which the compensator has not already paid for	
The compensator's reasons for not paying any item of fees or other disbursements	

Table G (failure to pay agreed sums) – sections 8 and 11

Documents and Evidence	Notes
G (1) failure to pay agreed interim	Section 8
The Small Claim Notification Form	
Date stamped Record of Offer and Acceptance Interim Payment	
G (2) failure to pay agreed settlement	Section 11”
The Small Claim Notification Form	
Date stamped Record of Offer and Acceptance	