



HM Courts &
Tribunals Service

The Business and Property Courts

The Circuit Commercial Court Guide

Edited by the Judges of the Circuit Commercial Courts

2022 Edition



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The Circuit Commercial Court Guide

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A. Preliminary

A.1 The procedural framework

- A1.1** This Guide is published with the approval of the Lord Chief Justice and applies to all work issued in or transferred to:
- (a) Any Circuit Commercial Court established in any District Registry of the High Court (Practice Direction 59, Paragraph 1.2(1)); or
 - (b) The London Circuit Commercial Court (Practice Direction 59, Paragraph 1.2(2)).
- A1.2** Proceedings in the Circuit Commercial Courts are governed by the Civil Procedure Rules (“CPR”) and Practice Directions. CPR Part 59 (“Part 59”) and Practice Direction 59 (“PD59”) deal specifically with the Circuit Commercial Courts. Capitalised words and expressions used in this Guide have the meanings attributed to them in CPR Part 59, PD59 or as defined elsewhere in this Guide.
- A1.3** The practice of the Circuit Commercial Courts follows that of the Commercial Court save where Part 59 or PD 59 otherwise requires. In consequence,
- (a) practitioners and unrepresented parties should follow the requirements of the Commercial Court Guide (“CCG”) save as varied by this Guide;
 - (b) this Guide follows the layout of the Commercial Court Guide and provides additional guidance only to the extent that the practice in the Circuit Commercial Court differs from that of the Commercial Court;
 - (c) In order to assist cross referencing, the Title and Sub-Title headings [shown in blue] in this Guide follow those [shown in blue] adopted in the CCG (although title and sub-title numbering may be different); and
 - (d) Where Title and Sub-Title headings used in the CCG do not appear below, the CCG practice set out under such headings is to be followed.
- A1.4** Circuit Commercial Judges determine all pre-trial applications and all post judgment applications other than those referred to in paragraph A1.5 below, not Masters or District Judges.
- A1.5** Unless a Circuit Commercial Judge otherwise orders:
- (a) All proceedings for the enforcement of any judgment or order for the payment of money given or made in the London Circuit Commercial Court will be referred to the Admiralty Registrar or another of the Queens Bench Masters.
 - (b) All proceedings for the enforcement of any judgment or order for the payment of money given or made in a Circuit Commercial Court other than the London Circuit Commercial Court will be referred to a District Judge sitting at the District Registry in which that Circuit Commercial Court is established.

A.2 Listing and Administration

A2.1 The administrative office for the London Circuit Commercial Court is the Admiralty and Commercial Registry (“the Registry”), which is located at 7 Rolls Building, Fetter Lane, London EC4A 1NL. The London Circuit Commercial Court Listing Office is located at the same address.

A2.2 The location of the administrative and listing offices of each of the Circuit Commercial Courts other than the London Circuit Commercial Court are to be found at:

- (a) **Bristol:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-bpc-in-bristol/>
- (b) **Birmingham:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-in-birmingham/judges-of-the-business-and-property-courts-judges-in-birmingham/>
- (c) **Cardiff:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-in-wales-y-llys-busnes-ac-eiddo-yng-nghymru/contact-information-for-the-bpcs-in-wales-gwybodaeth-gyswllt-ar-gyfer-y-llysoedd-busnes-ac-eiddo-yng-nghymru/>
- (d) **Leeds:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-bpcs-in-leeds/>
- (e) **Liverpool:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-bpc-in-liverpool/>
- (f) **Manchester:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-bpcs-in-manchester/>
- (g) **Newcastle:** <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/courts-of-the-chancery-division/the-business-and-property-courts-bpc-in-newcastle/contact-information-for-the-bpcs-in-newcastle/>

A.3 Circuit Commercial Court Users Committees

A3.1 Each Circuit Commercial Court has a Users’ Committee chaired by the Judge in Charge of that Court.

A3.2 The contact details relevant to each Users’ Committee are to be found at the website addresses referred to in Sub Section A2.2 above save for the London Circuit Commercial Court, which can be obtained from the Registry.

A3.3 The Users' Committee for each court will meet usually a minimum of twice a year. The meetings are the primary forum at which constructive suggestions for the efficient conduct of the business of that court from stakeholders can be considered.

A.4 Support For Litigants in Person

A4.1 The Commercial Court and London Circuit Commercial Court, in conjunction with COMBAR and Advocate, operate a scheme to provide assistance and representation free of charge for litigants in person who are parties to applications with a time estimate of one day or less. Full details of the scheme can be found at <https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/queens-bench-division/courts-of-the-queens-bench-division/commercial-court/> and <https://www.combar.com/news/lcc-pro-bono-scheme>. Any request for assistance must be submitted to Advocate no later than 24 hours after service on the litigant of the court application for which assistance is sought. The Application Form by which assistance can be requested is available at: <https://weareadvocate.org.uk/apply-for-help.html>.

A4.2 Litigants in person who are parties to cases in Circuit Commercial Courts other than the London Circuit Commercial Court may be able to obtain assistance either from Advocate or from locally operated schemes. Please refer to the websites for those courts or the Court, Trial or Justice Centre from which those courts operate.

A4.3 All Litigants in person should also refer to Section M of the CCG.

B. Commencement Transfer and removal

B.1 Circuit Commercial Court Cases

B1.1 A claim may be started in a Circuit Commercial Court if it satisfies each of the following criteria:

- (a) It concerns a business dispute, including but not limited to such a dispute relating to:
 - (1) Commercial contracts;
 - (2) The export or import of goods, international carriage of goods by land sea or air;
 - (3) Insurance and reinsurance;
 - (4) Banking and financial services, commercial loan agreements, guarantees and indemnities;
 - (5) The operation of markets and exchanges including those concerned with commodities of all types and financial products of all types including securities and currencies;
 - (6) Share sale agreements;
 - (7) Professional negligence;
 - (8) Business agency and management agreements including those relating to professional sport;
 - (9) Confidential information and the enforcement of post termination restraints in employment contracts
 - (10) Ships or yachts (other than to the extent the claim falls within the exclusive jurisdiction of the Admiralty Court); or
 - (11) Arbitrations including appeals and other challenges concerning arbitrations made under the Arbitration Act 1996 and the enforcement of Arbitral Awards;
- (b) It would be fit for commencement in the Commercial Court by reason of its subject matter but is unsuitable for issue in the Commercial Court by reason of its financial value and/or the nature of the factual, technical or legal issues that arise;
- (c) Its value merits trial in the High Court; and
- (d) The factual, technical or legal issues that arise require or would benefit from the expertise of a Circuit Commercial Judge to resolve.

B.2 Starting a case in a Circuit Commercial Court

- B2.1** Sub-Sections B.2 and B.3 of the CCG apply to proceedings commenced in the Circuit Commercial Courts subject to B2.2 to B2.4 below.
- B2.2** Parties wishing to commence proceedings in a Circuit Commercial Court should ensure that the correct option is selected when issuing the claim electronically. Cases issued inadvertently in the Business List (Ch.D) can only be transferred to a Circuit Commercial Court thereafter with the consent of the Chancellor of the High Court (in respect of cases started in London) or the Chancery Supervising Judge (in respect of cases started otherwise than in London).
- B2.3** Parties commencing proceedings in the London Circuit Commercial Court should use the forms identified in the Annex to Practice Direction 4 – Court Forms (“PD4”) for use in the London Circuit Commercial Court. Those forms all have the suffix “LCC”. They can be accessed at <https://www.gov.uk/government/collections/commercial-court-forms>
- B2.4** All documents filed and served in proceedings in the London Circuit Commercial Court (other than those using the forms referred to in B2.3 above) must be marked in the top left hand corner:
- In the High Court of Justice
Business and Property Courts of England and Wales;
London Circuit Commercial Court (QBD)
- B2.5** Parties commencing proceedings in Circuit Commercial Courts other than the London Circuit Commercial Court should use the forms identified in the Annex to PD4 for use in any Circuit Commercial Court other than the London Circuit Commercial Court. Those forms all have the suffix “RCC”. They can be accessed at <https://www.gov.uk/government/collections/commercial-court-forms>. Parties should complete the box in the top right hand corner of the form with the correct location of the Circuit Commercial Court in which proceedings are being or have been issued¹.
- B2.6** All documents filed and served in proceedings in a Circuit Commercial Court other than the London Circuit Commercial Court (other than those using the forms referred to in B2.5 above) must be marked in the top left hand corner:
- In the High Court of Justice
Business and Property Courts in [*]²;
Circuit Commercial Court (QBD)
- B2.7** Failure to mark documents accurately causes administrative confusion and delay. It is likely that documents that are incorrectly marked will be rejected for filing.

¹ Currently Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle Upon Tyne and Wales – see A2.2 above

² See Footnote 1 above.

B.3 Part 7 Claims

- B3.1** Sub-Section B.4 of the CCG applies to proceedings in the Circuit Commercial Courts save for Paragraph B4.1 which does not apply. Sub-Section B9 of the CCG applies to Part 7 Claims proceedings in the Circuit Commercial Courts save as provided in B.3.3 and B.3.4 below.
- B3.2** Claims begun in the London Circuit Commercial Court under CPR Part 7 must be begun using Form N1(LCC); and Acknowledgments of Service must be on Form N9(LCC).
- B3.3** Claims begun in any Circuit Commercial Court other than the London Circuit Commercial Court must be commenced using Form N1(RCC); and Acknowledgments of Service must be on Form N9(RCC).
- B3.4** **Acknowledgments of Service (“AoS”) must be filed by Defendants in every case³** within 14 days after service of the Claim Form⁴ unless CPR r.59.5(3) applies. Failure by Defendants to file an AoS is likely to result in applications by Claimants for judgment to be entered in default.

B.4 Part 8 Claims

- B4.1** Sub-Section B.5 of the CCG applies to proceedings in the Circuit Commercial Courts save for Paragraph B5.1, other than in relation to Arbitration Claims (as to which see Section L below). Sub-Section B9 of the CCG applies to Part 8 proceedings in the Circuit Commercial Courts save as set out below.
- B4.2** Claims begun in the London Circuit Commercial Court under CPR Part 8 must be begun using Form N208(LCC); and Acknowledgments of Service must be in form N210(LCC).
- B4.3** Claims begun in any Circuit Commercial Court other than the London Circuit Commercial Court must be commenced using Form N208(RCC); and Acknowledgments of Service must be in form N210(RCC).
- B4.4** **Acknowledgments of Service (“AoS”) must be filed by Defendants in every case⁵**. The time for filing an acknowledgment of service is calculated from the service of the claim form.

³ see CPR r.59.5(1)

⁴ see CPR r.59.5(2)

⁵ see CPR r.59.5(1)

B.5 Part 20 Claims

- B5.1** Additional claims begun in the London Circuit Commercial Court under CPR Part 20 must be begun using Form N211(LCC); and Acknowledgments of Service must be on Form N213(LCC).
- B5.2** Additional claims begun in a Circuit Commercial Court other than the London Circuit Commercial Court under CPR Part 20 must be begun using Form N211(RCC); and Acknowledgments of Service must be on Form N213(RCC).
- B5.3** **Acknowledgments of Service (“AoS”) must be filed by Defendants in every case⁶** within 14 days after service of the Claim Form⁷ unless CPR r.59.5(3) applies. Failure by Defendants to file an AoS is likely to result in applications by Claimants for judgment to be entered in default.

B.6 Transfer of Cases into and Out of a Circuit Commercial Court

- B6.1** The practice set out in Sub-Section B13 of the CCG shall apply to the transfer of cases into and out of Circuit Commercial Court save as provided below.
- B6.2** The procedure for the transfer of cases into and out of Circuit Commercial Courts is set out in PD 59.3.
- B6.3** Circuit Commercial Courts are a “*specialist list*” and for that reason by CPR r.30.5(3) any application to transfer proceedings from a Court other than the Commercial Court to a Circuit Commercial Court must be made to the Circuit Commercial Judge in charge of the court to which transfer is sought. Transfer orders cannot be made by Judges sitting in the Court where such proceedings have been issued, even by consent save that:
- (a) A Circuit Commercial Judge may transfer a Circuit Commercial claim to another Circuit Commercial Court - see CPR r.59.3(a).and
 - (b) A Commercial Court Judge may transfer claims from the Commercial Court to a Circuit Commercial Court – see CPR r.59.3(b).

B.7 London Circuit Commercial Court Triaging

- (a) Practitioners should be aware that all cases started in the London Circuit Commercial Court are triaged by the Judge in Charge of that Court following issue.
- (b) Subject to paragraph (c) below, it is the current practice of the London Circuit Commercial Court to transfer claims with a financial value of less than £500,000 or the foreign currency equivalent (exclusive of interest and costs) to an appropriate County Court unless retention is justified by reason of the factors set out in CPR r. 30.3(2). No case will be transferred without giving

⁶ See PD 20, Para 3 and CPR r.59.5(1)

⁷ see PD 20, Para 3 and CPR r.59.5(2)

the issuing party (and all other parties if they have been served) an opportunity to make representations.

- (c) All international road, sea and air cargo claims (“Cargo Claims”) that would otherwise be started in the Commercial Court but are not suitable for commencement in the Commercial Court by reason of their financial value and/or the nature of the factual, technical or legal issues that arise should be commenced in the London Circuit Commercial Court. All Cargo Claims started in or transferred to the London Circuit Commercial Court will be retained in that court regardless of financial value and the nature of the factual, technical or legal issues that arise unless transferred (i) to the Commercial Court or Admiralty Court or (ii) by order of the London Circuit Commercial Court to another Circuit Commercial Court on an application by one or more of the parties.

B.8 Location of Hearings

B8.1 Paragraph B14 of the CCG is of no application to Circuit Commercial Court cases.

B8.2 Subject to B8.3 below:

- (a) cases in the London Circuit Commercial Court will be heard at the Rolls Building in London; and
- (b) Cases in a Circuit Commercial Court other than the London Circuit Commercial Court will be heard at the court or justice centre for the District Registry at which that court is established.

B8.3 Circuit Commercial Judges will consider applications for a trial or hearing to take place at locations other than those set out above where special circumstances justify such an approach but consideration will always be given to directing either a fully remote or hybrid trial hearing before considering a physical relocation of the trial to another court, justice or trial centre.

B8.4 An application for an order directing a trial or hearing to take place at a location other than as set out above must be heard only by the Judge in Charge of the Circuit Commercial Court concerned. It is the responsibility of the Applicant to draw this requirement to the attention of the Circuit Commercial Court administrative officials concerned when issuing such an application. Such application should be made on notice but as a paper application. The Judge to whom the Application is sent may direct an oral hearing having considered the application on paper.

C. Particulars of Claim, Defence and Reply

- C1.1** The practice set out in Section C of the CCG should be followed in the Circuit Commercial Courts except as provided below. Paragraphs C2.1 of the CCG applies with equal force to Proceedings in the Circuit Commercial Court – see CPR r. 59.4(c).
- C1.2** Statements of case generally **should not exceed 20 pages in length** (font minimum 12 point with 1.5 line spacing) **and must never exceed 30 pages in length** (font minimum 12 point with 1.5 line spacing) unless the Circuit Commercial Court in which the claim concerned is proceeding has given permission to the party concerned to serve a longer document. Any application should be made without notice on paper and supported by evidence but **should not** attach the proposed draft pleading. Where permission is given, the document served must not be longer than the increased length for which permission has been given.
- C1.3** No pleading following a Reply may served without the prior permission of the Court – see CPR r. 15.9. Such pleadings will not be regarded as appropriate other than in the most exceptional cases. Any application for permission should be made without notice on paper supported by evidence but **should not** attach the proposed draft pleading. It should usually be made prior to the First Case Management Conference, since at the first Case Management Conference the Court will wish to make cost management orders, set directions and give guidance on disclosure based on the final pleaded position of the parties.

D. Case Management

D.1 Generally

- D1.1** Paragraphs D.1.1-1.3 of the CCG apply with equal force to proceedings in the Circuit Commercial Courts – see CPR r. 59.11.
- D1.2** Paragraphs D1.4 – 1.7 of the CCG do not apply to cases in a Circuit Commercial Court. Most Case management of Circuit Commercial Cases is carried out by the Judge in Charge of the Court in which the case is proceeding. Where a party considers that a case should be managed by a single judge through to trial and tried by that Judge (“Designated Judge Order”), the party concerned should apply for a direction to that effect at the first Case Management Conference (“FCMC”) and, where such an application is to be made, request that the FCMC be listed before the Judge in Charge of the Court in which the claim is proceeding.
- D1.3** Where a Designated Judge Order is made, the Designated Judge will usually be the trial judge. All Case Management Conferences, Disclosure Guidance Hearings and Part 23 applications in the case, will be determined by the Designated Judge (unless he or she is not available) other than an application for an interim payment or other application, the hearing of which would require the Judge deciding the application not to be the trial Judge.
- D1.4** Where a Designated Judge Order has been made and an application is to be issued that the trial judge ought not to hear, the party issuing the application should write to the Designated Judge describing the nature of the application in uncontroversial general terms and ask that the Judge direct that the application be referred to another judge for determination.

D.2 Key Features of Case Management in Circuit Commercial Cases

- D2.1** Case management in the Circuit Commercial Courts is governed by PD59, paragraph 7, which is in substantially similar terms to PD58, paragraph 10.
- D2.2** Attention is drawn to PD 59, paragraph 7.3, which requires that a claimant in proceedings transferred to a Circuit Commercial Court apply for a Case Management Conference within 14 days of receiving an Acknowledgment of the transfer from the receiving court, unless the Circuit Commercial Judge directing transfer gave directions for a CMC when directing transfer.
- D2.3** Generally, there will be a single combined Costs and Case Management Conference in each case at which all issues concerning the future conduct of the proceedings will be determined, cost management orders will be made and any necessary directions concerning Extended Disclosure in accordance with Practice Direction 51U – Disclosure Pilot for the Business and Property Courts (“PD51U”) (if sought) will be given.
- D2.4** In most Circuit Commercial Court Part 7 claims, it will be disproportionate to hold more than one Costs and Case Management Conference. In consequence, Paragraph E2.6 of the CCG applies to proceedings in the Circuit Commercial Court but Paragraph E2.7 does not and the parties are under an obligation to

cooperate with each other to ensure that the Costs and Case Management Conference is fully effective. Where it is necessary to adjourn a case management conference because a party has not complied with its obligations under CPR Part 59, PD 59, PD51U or this Guide, it is likely that the Court will make an adverse costs order against the party responsible or disallow costs where more than one party is responsible.

- D2.5** Experience suggests that in cases of moderate value which are to be tried within a trial length of 5 days or less, pre-trial reviews are a disproportionate and avoidable expense. It is likely therefore that judges hearing the Costs and Case Management Conference in such cases will give directions down to trial and not direct a Pre Trial Review. The Specimen Directions at Appendix B to the Guide contain such directions.
- D2.6** Section H of the CCG applies to trials in the Circuit Commercial Courts – see below. Particular attention is drawn to H4 – Evidence by Remote Means. It is likely to be disproportionate for witnesses to travel substantial distances, particularly from overseas to give evidence in trials in the Circuit Commercial Courts.
- D2.7** Generally, where a party contends that a witness should give evidence from overseas by video link that should be considered at the CMC, particularly in a case where there is to be no pre trial Review and any directions for the giving of such evidence should be contained in the directions given at the CMC.
- D2.8** Where an application for permission to adduce expert evidence is made at the case management conference, the guidance set out in H.2 of the CCG should be followed save as varied by G.2 below.

D.3 Shorter Trials and Flexible Trials Schemes

- D3.1** It is likely that significant costs savings will result where cases are started in the Shorter Trials Scheme or where the Flexible Trials Scheme is adopted. That being so:
- (a) Prior to commencing claims in the Circuit Commercial Court, a claimant should always consider whether the claim is suitable for commencement in the Shorter Trials Scheme or for adoption of the Flexible Trials Scheme; and
 - (b) Parties to claims started in the Circuit Commercial Court should consider whether the claim is suitable for transfer into the Shorter Trials Scheme or adoption of the Flexible Trials Scheme prior to the CMC

D.4 Fixing a Case Management Conference

- D4.1** The Claimant must apply for the Case Management Conference (“CMC”) to be listed on the first available date after the later of either
- (a) 14 days after the expiry of the date by which all defendants who intend to file and serve a defence have done so; or
 - (b) 14 days after service of the Defendant’s evidence in a Part 8 claim, or

- (c) 14 days of receiving an Acknowledgment of the transfer from the receiving court, unless the Circuit Commercial Judge directing transfer gave directions for a CMC when directing transfer (see D2.2 above); or
- (d) Where PD51U applies, 7 days after either:
 - (1) All parties have stated in writing that they will not be seeking Extended Disclosure; or
 - (2) Where one or more of the parties has indicated it is likely to request search based Extended Disclosure, the first date by which the parties should have complied with the requirements concerning Extended Disclosure. The relevant time limits are set out in PD51U, paragraphs 7.1, 7.2, 7.5, 10.5 and 10.7. However, see E1.2 below.

D4.2 If the Claimant fails to apply for a CMC to be listed as set out above, any other party may apply for a CMC to be listed or the Court may list a CMC of its own motion. A costs sanction may be imposed on a claimant who has failed to comply with its obligations as set out in D4.1 above.

D.5 The Case Management Conference Bundle

- D5.1** The documentation required to be filed prior to the CMC and included in the Case Management Bundle (“CMCB”) is set out in PD59, paragraph 7.7. In addition, the parties must include the documents referred to below.
- D5.2** The Case Management Information Sheet must be in the form set out in Appendix A below.
- D5.3** Where PD51U applies, the parties must include within the CMCB the final single joint Disclosure Review Document (“DRD”) with all issues between the parties that remain to be resolved being clearly identified. Any disputes not resolved by agreement will normally be resolved by the court at the CMC.
- D5.4** Where the Costs Management section of CPR Part 3, with Practice Direction 3E- Costs Management (“PD3E”), applies (as to which see CPR r. 3.12(1)) the parties should include within the CMCB their respective budgets and budget discussion documents. In most cases the court will wish to make a Cost Management Order (“CMO”) that covers the whole of the proceedings. The Court has power to limit a CMO to certain phases in the first instance. The Court is likely to do so only exceptionally. Where such an order is made the court is likely to direct that no further work in the phases that have not been the subject of budgeting can be undertaken until budgeting for that phase has been completed since incurred costs are excluded from the budgeting exercise and the incurring of significant costs in relation to unbudgeted phases is likely to defeat in part the purpose of costs budgeting.
- D5.5** Although not referred to in terms in PD59, the parties should prepare and include within the CMCB a Case Memorandum prepared in accordance with Sub Section D4 of the CCG and a List of Common Ground and Issues prepared in accordance with Sub Section D5 of the CCG.

- D5.6** The CMCB must be provided to the Court at least 7 days before the CMC is to take place and kept up to date in accordance with Sub Section D6.6 of the CCG.
- D5.7** The parties must provide an accurate time estimate for the CMC when applying for it to be fixed. This must necessarily be based on the degree to which in particular there are disagreements concerning budgeting and Extended Disclosure that will have to be resolved as at the date when the application to fix is made. The parties are expected to narrow the scope of such issues by negotiation after as well as before the date when the CMC is fixed. The court will not be critical of CMCs that take less time than estimated but is likely to impose adverse costs orders where CMCs have to be adjourned because the time estimate supplied on fixing was too short.
- D5.8** The expectation is that the Judge will use soft copy CMC and authorities bundles for all CMCs. Such bundles must be prepared as set out in Appendix C to this Guide. Particular attention is drawn to Paragraph 1, compliance with which is necessary if the Judge is to be able to mark pages of the bundle electronically.

D.6 Case Management Conference

- D6.1** D.7 of the CCG Applies to CMCs in the Circuit Commercial Court subject to the following provisions of this Guide.
- D6.2** Sub paragraph D.7.2 (c)-(f) of the CCG does not apply to Circuit Commercial Court cases. If the parties are able to reach agreement on all the issues that would otherwise be resolved at the CMC including directions down to trial, budgeting and Extended Disclosure then a consent order should be submitted for approval. The Court may not accept what has been agreed between the parties and thus the parties should proceed on the basis that the CMC remains effective until informed by the Court by email that the proposed consent order has been approved and the CMC hearing vacated.
- D6.3** Where a Judge has concerns about any of the provisions within a CMC draft Consent Order he or she will attempt to resolve them by email prior to the hearing but if the draft Order is provided after 10.00 on the working day before the CMC is due to take place it is unlikely that will be possible and those issues (which may be minor) will have to be resolved at the hearing. For that reason, if the issues that arise on the CMC can be resolved by agreement it is in the parties' interest for agreement to be reached and a draft Consent Order provided to the Judge by no later than 10.00 on the working day before the CMC.
- D6.4** D7.4 of the CCG applies to CMCs in the Circuit Commercial Court save that the Case Management Information Sheet applicable to Circuit Commercial Court cases is that at Appendix A of this Guide.
- D6.5** D7.9 of the CCG applies to CMCs in the Circuit Commercial Court save that the Court's power to give directions is contained in Part 59, paragraph 11(4). In Circuit Commercial Courts other than the London Circuit Commercial Court, the judge may fix the date for trial or a window within which the trial is to take place at the CMC rather than giving a fixture direction as referred to in D7.9(d), D7.12(b) and D15 of the CCG.

- D6.6** D7.13 of the CCG applies to Circuit Commercial Court cases. In addition, where the court is asked to approve a consent order varying the time periods set out in the directions given at the CMC, the draft consent order should contain the following statement above the signatures of the parties or their solicitors:

“We are agreed that the variations set out above will not jeopardise the trial date, does not relate to the progress monitoring date or provide for the completion after the progress monitoring date of any step that was previously scheduled to have been completed by that date”

D.7 Pre-trial checklist

- D7.1** Sub Section D13 of the CCG does NOT apply to cases in the Circuit Commercial Court.
- D7.2** Where a Pre Trial Review (“PTR”) has been ordered (see D2.5 above), each party must send to the Listing Office of the Circuit Commercial Court concerned (and the Judge’s clerk if known) a pre-trial check list in the form set out in Appendix 2 to the CCG not less than 7 days prior to the date when the PTR is to take place.

D.8 Pre Trial Review

- D8.1** Where a PTR has been ordered, it will be conducted by the trial judge (unless unavailable) and should be attended by the advocates who will appear at the trial and will be listed usually not less than 6 weeks before the trial is due to commence.
- D8.2** Paragraph D17.4 of the CCG applies to PTRs in the Circuit Commercial Courts unless directions have been given concerning trial timetables at the CMC, when the directions given at the CMC will apply. Paragraph F7.2, as varied by Paragraph D5.2 above, applies to a Pre Trial Review in the Circuit Commercial Court.
- D8.3** Where all parties are agreed that no useful purpose will be served by a PTR, the parties must inform the court of that fact no less than 3 working days before the hearing is to take place. The parties advocates retained for the trial are to discuss the need for a PTR in sufficient time to enable this requirement to be complied with.

D.9 Orders

- D9.1** Except for orders made by the Court on its own initiative, and unless the Court otherwise orders, every judgment or order will be drawn up by the parties and rule 40.3 is modified accordingly – see PD59, paragraph 59.12.
- D9.2** Consent Orders submitted for approval by the Court should comply with the requirements of Sub Section F9.1 and F9.3 of the CCG. Paragraph F9.2 of the CCG does not apply to Circuit Commercial Court cases. Consent orders varying the time periods set out in the directions given at the CMC or any subsequent order varying such time limits must comply with paragraph D6.6 above.

- D9.3** All orders should be correctly marked with the name of the Court concerned in the form referred to in B2.2 and B2.3 above. The name of the Judge making the order should appear below “London Circuit Commercial Court (QBD)” or “Circuit Commercial Court (QBD)” as applicable.
- D9.4** Save as set out above, Sub-Section D18 of the CCG applies in the Circuit Commercial Courts.

E. Disclosure

E.1 Cases where PD51U applies

- E1.1** Sub Section E.2 of the CCG applies to proceedings in the Circuit Commercial Court save for Paragraph E2.6, which does not – see D2.3 – D2.4 above.
- E1.2** With effect from 1 November 2021, PD51U has been amended so as to include (at Appendix 5) a simplified procedure for claims described as “Less Complex Claims”. Appendix 5 provides that if a claim has a value of less than £500,000 then it should be treated as a Less Complex Claim unless its nature, complexity and the likely volume of Extended Disclosure means that it will benefit from the full PD51U procedure. Importantly however, any case may be treated as a Less Complex Claim either by agreement between the parties either before or after proceedings have been commenced or by Court Order. Where the simplified procedure applies, disclosure will be given using only Models A, B and D. Models C and E will not be available. Parties to cases in the Circuit Commercial Courts to which PD51U otherwise applies should consider whether that case should be designated a Less Complex Claim for disclosure purposes prior to the CMC.

E.2 Ongoing Review of Evidence

- E2.1** Section E.5 of the CCG applies to proceedings in the Circuit Commercial Courts save as modified below.
- E2.2** Sub paragraph E5.1 of the CCG will apply to proceedings in the Circuit Commercial Courts save for the final sentence of that sub paragraph, which will apply only where either both parties agree at or prior to the CMC that to obtain such advice is likely to be a proportionate step or where the court concludes at the CMC that obtaining such advice is likely to be a proportionate step having regard to the value at risk in the proceedings and the nature of the factual, technical or legal issues that are in dispute between the parties.
- E2.3** Where either the parties agree, or the court concludes, that is likely to be proportionate to obtain such advice, then sub paragraph E5.3 will apply.

F. Applications

F.1 Generally

- F1.1** Section F of the CCG applies to proceedings in the Circuit Commercial Courts save as modified below.
- F1.2** Sub Paragraph F1.2 of the CCG applies to proceedings in the Circuit Commercial Courts because generally every judgment or order will be drawn up by the parties – see Paragraph D9.1 above.

F.2 Time for service of evidence

- F2.1** The time allowed for the service of evidence in relation to applications is governed by PD59, paragraph 9.1-9.4. In relation to summary judgment applications, rule 24.5 does not apply in the Circuit Commercial Court and PD24 §2(5) should therefore be read as requiring an applicant for summary judgment to draw the attention of the respondent to PD59, paragraph 9.1-9.4.
- F2.2** The timetable for heavy applications (those estimated to last longer than 2½ hours) is set out in PD59, paragraph 9.2. The timetable for applications other than heavy applications is set out in PD59, paragraph 9.1.

F.3 Hearings

- F3.1** Generally hearings with an estimated length of hearing of ½ day or less will be heard remotely.
- F3.2** Hearings with an estimated length of longer than ½ day will generally be heard at an attended hearing in court but may be heard remotely.
- F3.3** If a party wishes either:
- (a) A hearing with an estimated length of ½ day or less to be heard at an attended hearing in court; or
 - (b) a hearing of longer than ½ day to be heard remotely

that party must apply to the court for a direction to that effect. Any such application should be on notice to all other parties and will generally be determined without a hearing. Remote hearings will take place using video conferencing facilities. Telephone hearings will generally no longer be appropriate.

- F3.4** The expectation is that the Judge will use soft copy hearing and authorities bundles for all applications. Such bundles must be prepared as set out in Appendix C to this Guide. Particular attention is drawn to Paragraph 1, compliance with which is necessary if the Judge is to be able to mark pages of the bundle electronically.

G. Evidence for Trial

G.1 Generally

G1.1 Section H of the CCG applies to trials in the Circuit Commercial Courts save as provided for below.

G1.2 Particular attention is drawn to H4 – Evidence by Remote Means. It is likely to be disproportionate for witnesses to travel substantial distances, particularly from overseas to give evidence in trials in the Circuit Commercial Courts. Where a witness is to give evidence from overseas by video link, particular attention is drawn to Sub Paragraph H4.2 of the CCG, which must be complied with in all such cases.

G.2 Expert witnesses

G2.1 In Circuit Commercial Court cases consideration should always be given to the use of a single joint expert, particularly in lower value cases where it may be disproportionate for each party to adduce expert evidence on the same point from different experts.

G2.2 Even if a single joint expert is not appropriate, consideration should always be given to the possibility of a single expert being retained on behalf of all parties whose interests are sufficiently aligned in relation to the issue or issues to be considered by the expert. It may be possible for example for all defendants to retain a single valuation expert with all claimants retaining another valuation expert.

G2.3 Judges considering applications for permission to adduce expert evidence will expect the parties to have considered this issue actively prior the hearing of the CMC or any application for permission to adduce expert evidence if made after the CMC.

H. Trial

H.1 Generally

- H1.1** Section J of the CCG applies to all trials taking place in the Circuit Commercial Courts save as varied below.
- H1.2** Subject to any direction to contrary effect given at the CMC or PTR (where there is one) the expectation is that the Judge will use soft copy trial and authorities bundles in all trials. Such bundles must be prepared in accordance with Appendix C to this Guide. Particular attention is drawn to Paragraph 1, compliance with which is necessary if the Judge is to be able to mark pages of the bundle electronically. Soft copy trial Bundles should contain witness statements in a separate bundle capable of being opened simultaneously with any other bundle within the trial bundle on separate screens.
- H1.3** It is unlikely that the use of Information Technology at trial other than the use of electronic bundles will be proportionate for most Circuit Commercial Court trials. That being so, the court will not normally require the explanation referred to in sub paragraph J2.2 of the CCG. However, where, exceptionally, a case may benefit from the use of such Information Technology at trial, it should be considered at the CMC or Pre trial Review if there is to be one.
- H1.4** Where a transcript is to be used at trial it may be used only if it has been made available to (a) all parties and (b) the trial judge at the same time.

H.2 Reading lists, authorities and trial timetable

- H2.1** J5.1 – 5.2 of the CCG applies save as varied below.
- H2.2** It will not generally be proportionate for the parties to be required to prepare a single reading list.
- H2.3** Unless a direction to prepare a single reading list has been given, each party must identify in its written opening submissions for the trial the documents that party wishes the judge to read. Each document included within a party's reading list should be cross referenced to the trial bundle. The party should include an accurate summary of the time required to read the material required to be pre read, estimated on the assumption that the trial judge has had no prior involvement with the case.
- H2.4** Unless a direction to prepare a single reading list has been given (in which case J5.2 of the CCG applies), if any party objects to the Judge reading any document included within the trial bundle then that fact should be noted in clear terms at the head of the index to the bundle together with the bundle and page reference to the document or documents concerned and the reasons why it is contended the judge should not read the document should be set out in the written opening submissions of the parties.

H2.5 Paragraph J5.4 of the CCG applies only if no directions have been given concerning the provision of a trial timetable. The specimen directions set out in Appendix [*] to this Guide contain such directions.

H.3 Skeleton arguments etc. at trial

H3.1 J.6 of the CCG applies save as varied below.

H3.2 The time limits referred to in J6.2 do not apply to Circuit Commercial Court cases. In most cases express directions will have been given either at the CMC or at a PTR as to when and in what order written opening submissions are to be served. The specimen directions set out in Appendix B contain such directions.

H3.3 Subject to any express directions as to when and what order written opening submissions are to be served, the written opening submissions should be served on all other parties and provided to the Court:

- (a) by the claimant, not later than 4 pm 14 clear days before the start of the trial; and
- (b) by each defendant, not later than 4 pm 7 clear days before the start of the trial.

All documents referred to in such written openings should be cross referenced to the trial bundle.

H3.4 Sub-paragraph J6.4 of the CCG does not apply to Circuit Commercial Court cases. In most cases express directions will have been given either at the CMC or at a PTR concerning the provision of a chronology and cast list. The specimen directions set out in Appendix B contain such directions. Where this is not so then the following default directions will apply:

- (a) The Claimant is to provide with its written opening submissions, a cast list in electronic format and a chronology in electronic format, cross-referenced to the trial bundle; and
- (b) Each defendant is to provide with its written opening submissions electronically amended versions of the Claimant's cast list and chronology cross-referenced to the trial bundle, unless the Claimant's cast list and chronology are agreed. The amendment should be shown either coloured or underlined in red.

H3.5 J6.5 of the CCG does not apply to Circuit Commercial Court cases. Trial written opening submissions should generally not exceed 20 pages in length (font minimum 12 point with 1.5 line spacing) and must never exceed 30 pages in length (font minimum 12 point with 1.5 line spacing) unless the prior permission of the Judge in Charge of the relevant Circuit Commercial Court or of the trial judge has been obtained. Permission should be sought at the PTR if there is one or otherwise by the advocate concerned by email (with copies to all other advocates or parties if acting in person) prior to service of the skeleton argument.

H3.6 Sub-paragraph J6.5 of the CCG does not apply to Circuit Commercial Court cases unless a direction to the effect that it should do so is given (“H3.5 Direction”). Generally giving such a direction will involve disproportionate expense and will be unnecessary in most Circuit Commercial Court cases. An H3.5 direction should be applied for either at the CMC or (where there is to be a PTR) at the PTR.

H3.7 Where a H3.5 direction is given, it will generally be most appropriate for it to be directed that the narrative document be agreed, filed and served not less than 7 days before the claimant’s skeleton argument is to be filed and served and Sub-paragraph J6.5 of the CCG will otherwise apply to the preparation of the narrative document.

H.4 Oral opening statements at trial

H4.1 Sub-section J.8 of the CCG applies to Circuit Commercial Court trials save for sub-paragraph J8.4.

H.5 Written closing submissions at trial

H5.1 Sub Paragraph J10 of the CCG does not apply to trials in the Circuit Commercial Courts.

H5.2 Written closing submissions will generally not be required following trials in the Circuit Commercial Court that have lasted 5 days or less. Where trials are estimated to last longer than 5 days then the time for preparing written closing submissions and for the court to read them should be incorporated into the trial timetable and reviewed with the trial judge at the start of the trial, together with the form scope and length of the written closing submissions to be provided.

I. Not used

J. After Trial

J.1 Generally

J1.1 Section K of the CCG applies following trials in the Circuit Commercial Court save as set out below.

J.2 Accounts and enquiries

J2.1 Paragraph K2.1 of the CCG applies following trials in the London Circuit Commercial Court.

J2.2 Paragraph K2.1 of the CCG applies following trials in Circuit Commercial Courts other than the London Circuit Commercial Court, save that court may order that accounts and inquiries be retained by the Court, referred to the Judge of another Court, or referred to a District Judge sitting in the District Registry in which that Circuit Commercial Court is established.

J.3 Enforcement

J3.1 K3.1 of the CCG does not apply following trials in the Circuit Commercial Courts. Sub Paragraph A1.5 sets out the applicable procedure for the enforcement of any judgment or order for the payment of money given or made in the Circuit Commercial Courts.

J.4 Assessment of damages or interest after a default judgment

J4.1 Sub Paragraph K4.1 of the CCG does not apply to cases in the Circuit Commercial Courts unless a direction to the effect that it is to apply is given when judgment for damages or interest to be assessed is entered. Unless such a direction is given, all such assessments will be referred to a Circuit Commercial Judge.

K. Admiralty

- K1.1** Section N of the CCG is of no application to the Circuit Commercial Court. It applies only to the Admiralty Court. The Circuit Commercial Court does not have jurisdiction in relation any of the cases referred to in N3.1 or N3.2. All such cases should be commenced in the Admiralty Court.

L. Arbitration

- L1.1** The Circuit Commercial Courts have jurisdiction (together with the TCC and the Commercial Court) in relation to Arbitration Claims – see CPR r.62(3).
- L1.2** The forms for use in connection with the commencement of such claims are those identified in Annex A to CPR Practice Direction 4, under the heading “Arbitration Forms”.
- L1.3** Forms used in connection with Arbitration Claims commenced in a Circuit Commercial Court must be marked as set out in B2.2 and 3.3 above.
- L1.4** An arbitration claim form issued in a Circuit Commercial Court must be served by the claimant.
- L1.5** The practice set out in Section O of the CCG applies to Arbitration Claims started in the Circuit Commercial Courts

M. Miscellaneous

- M1.1** Sub Section P1 of the CCG is of no application to Circuit Commercial Courts. All Circuit Commercial Courts (including the London Circuit Commercial Court) are open for business throughout the year other than public holidays.
- M1.2** Sub-section P2 applies to Circuit Commercial Courts as it does to the Commercial Court. **Particular attention is drawn to paragraph P2.2.**
- M1.3** When an urgent application is made to the Queen's Bench duty Judge out of hours under P2.1, that Judge may (i) dispose of the application as if sitting as a Judge of the Circuit Commercial Court or (ii) make an order, on such terms including as to interim relief in the meantime as may be judged appropriate, for the matter to come before a Judge of the Circuit Commercial Court in which the proceedings have been or are to be started at the first available opportunity.

Appendices

Appendix A: Case Management Information Sheet – Circuit Commercial Courts

Case Management Information Sheet

The information supplied should be printed in bold characters

Party filing information sheet:

Name of solicitors:

Name(s) of advocates for trial:

[Note: This Sheet should normally be completed with the involvement of the advocate(s) instructed for trial. If the claimant is a litigant in person this fact should be noted at the foot of the sheet and proposals made as to which party is to have responsibility for the preparation and upkeep of the case management bundle.]

Preliminary:

- (1)
 - (a) Is the case suitable for retention in the Circuit Commercial Court or should it be transferred to a different Court or List?
 - (b) If the case is retained in the Circuit Commercial Court, is it suitable for the Shorter Trials Scheme or the Flexible Trials Scheme in the interest of reducing the length and cost of trial?
 - (c) Are there, or are there likely in due course to be, any related proceedings between some or all of the parties to this Claim (e.g. a Part 20 claim)? Please give brief details.
 - (d) Are there, or are there likely to be, other cases in this or any other Circuit Commercial Court or in any different Court or List in this jurisdiction raising the same or similar issues during the currency of this case?
- (2) Do you propose that IT is used (a) during the course of the proceedings prior to trial, (b) at trial? If so, what proposals do you make and are they agreed? If not, why not?
- (3) Please indicate whether it is considered that the case should be allocated to a designated Judge. If so please comply with Section D of the Circuit Commercial Guide and give reasons for this view below.

Issues:

- (4) Are amendments to or is information about any statement of case required? If yes, please give brief details of what is required.

-
- (5) Can you make any additional admissions? If yes, please give brief details of the additional admissions.
- (6) Are any of the issues in the case suitable for trial as preliminary issues, or should the trial of the case be split into separate parts?

Disclosure:

- (7) Are you satisfied that proper Initial Disclosure has been given by all parties? If not, what are the concerns and what directions are sought from the Court?
- (8) (a) Please state whether you consider this claim should proceed as a “Less Complex Claim” within the meaning of Appendix 5 to PD51U and if so why
- (b) Subject to (a) above, do you, or does any other party, propose that there should be search-based Extended Disclosure (that is, Extended Disclosure using Model C, Model D or Model E) by one or more of the parties for one of more of the Issues for Disclosure? If so, has the Disclosure Review Document been completed and agreed, and, if not, why not?
- (9) By what date can you give (a) Model B Extended Disclosure, if ordered, and/or (c) search-based Extended Disclosure, if ordered?
- (10) What timing and method is appropriate for the production of documents? Is this agreed?

Evidence:

- (11) (a) On the evidence of how many witnesses of fact do you intend to rely at trial (subject to the directions of the Court)? Please give their names, or explain why this is not being done.
- (b) By what date can you serve signed witness statements?
- (c) How many of these witnesses of fact do you intend to call to give oral evidence at trial (subject to the directions of the Court)? Please give their names, or explain why this is not being done.
- (d) Will interpreters be required for any witness? What arrangements may be necessary for the translation of witness statements?
- (e) Do you wish any witness to give oral evidence remotely? Please give their name, or explain why this is not being done. Please state the country and city from which the witness will be asked to give evidence by remote means.
- (12) (a) On what issues may expert evidence be required? Please identify both (i) the issue or issues in the case to resolve which will reasonably require there to be expert evidence (see [rule 35.1](#)) and (ii) for each proposed expert, the issue or issues within their field of expertise it is proposed they should be instructed to address.
- (b) What is the estimated cost of the proposed expert evidence?

-
- (c) Is this a case in which the use of a single joint expert might be suitable (see Section G2 of the Circuit Commercial Court Guide), or in which consideration should be given to what type of directions should be made in relation to proof of foreign law (see section H3 of the Commercial Court Guide and Section G of the Circuit Commercial Court Guide)?
 - (d) On the evidence of how many expert witnesses do you intend to rely at trial (subject to the directions of the Court)? Please give their names, or explain why this is not being done. Please identify each expert's field of expertise.
 - (e) By what date can you serve signed expert reports? Is this a case for sequential exchange of expert reports?
 - (f) When will the experts be available for a meeting or meetings of experts? Is this a case for the experts to meet before reports?
 - (g) How many of these expert witnesses do you intend to call to give oral evidence at trial (subject to the directions of the Court)? Please give their names, or explain why this is not being done.
 - (h) Will interpreters be required for any expert witness? What arrangements may be necessary for the translation of reports?
 - (i) Do you wish any expert witness to give oral evidence by remote means? Please give his or her name, or explain why this is not being done. Please state the country and city from which the witness will be asked to give evidence by remote means.
 - (j) Might this be a case for any expert evidence to be taken concurrently at trial?
 - (k) Is this a case where obtaining on going advice on evidence will be proportionate?⁸ Is this agreed?

Trial:

- (13) What are the advocates' present estimates of the minimum and maximum lengths of the trial, including reading time?
- (14) What is the earliest date by which you believe you can be ready for trial?
- (15) Is this a case in which a pre-trial review is likely to be useful?
- (16) Please indicate whether it is considered that the case is unsuitable for trial by a Circuit Commercial Judge or fee paid deputy rather than a High Court Judge and if so why.

⁸ See Section E5 of the Commercial Court Guide and Section E2 of the Circuit Commercial Courts Guide.

Resolution without trial:

- (17) Is there any way in which the Court can assist the parties to resolve their dispute or particular issues in it without the need for a trial or a full trial?
- (18) (a) Might some form of Negotiated Dispute Resolution (“NDR”)⁹ procedure assist to resolve or narrow the dispute or particular issues in it?
- (b) Has the question at (a) been considered between the client and legal representatives (including the advocate(s) retained)?
- (c) Has the question at (a) been explored with the other parties in the case?
- (d) Do you request that the case is adjourned while the parties try to settle the case by NDR or other means?
- (e) Would an NDR order in the form of Appendix 3 to the Commercial Court Guide be appropriate?
- (f) Are any other special directions needed to allow for NDR?
- (19) Has Early Neutral Evaluation been considered?

Other matters:

- (20) What other applications will you wish to make at the CMC?
- (21) Should provision be made in the pre-trial timetable for any application or procedural step not otherwise dealt with above? If yes, please specify the application or procedural step. An application issued later that should have been, but was not, anticipated and mentioned here may be refused on that ground.

[Signature of solicitors]

⁹ See Section G of the CCG

Appendix B: Specimen Directions

[Heading as in Claim]

Statements of Case

1. The Claimant has permission to amend the Particulars of Claim in the form produced to the Court. Any such Amended Particulars of Claim shall be filed and served by [*].
2. The Defendant has permission to serve an Amended Defence [and Counterclaim] in the form produced to the Court [consequential upon the Amended Particulars of Claim]. Any such Amended Defence [and Counterclaim] shall be filed and served by [*].
3. [The Claimant has permission to file and serve an Amended Reply [and Defence to Counterclaim] in the form produced to the Court [consequential upon the Amended Defence] [and Counterclaim]. Any such Amended Reply [and Defence to Counterclaim] shall be filed and served by [*].]
4. The costs of, and occasioned by, the amendments to the [*] shall be paid by [*] in any event, such costs to be assessed on the standard basis by way of detailed assessment if not agreed.
5. The [*] shall file and serve Replies to the Request for Further Information or Clarification made by the [*] on [date] in relation to the [statement of case] by [*].

Consolidation/Joint management and trial of cases

6. This action is to be consolidated/managed and tried with action number []. The lead action shall be []. From the date of this Order all directions in the lead action shall apply to both actions, unless otherwise stated.

Disclosure

7. The parties shall comply with Practice Direction 51U – Disclosure Pilot for the Business and Property Courts (“PD51U”).
- [7a. This case shall be treated as a Less Complex Claim within the meaning of Appendix 5 to PD51U.]
8. The Disclosure Review Document is approved in the form annexed to this Order and Extended Disclosure is ordered as set out therein.
9. The List of Issues for Disclosure and the Models of Extended Disclosure may be revised and/or supplemented by agreement between all parties following the CMC. Any such modification shall, within 7 days of agreement between the parties, be recorded in a consent order for approval by the Court. A revised Disclosure Review Document reflecting the modification shall be provided with the Consent Order for the Court’s approval.

10. By 4pm on [*], each party shall exchange by way of service: (i) a Disclosure Certificate substantially in the form set out in Appendix 4 to PD51U (pursuant to paragraph 12 of PD51U); and (ii) an Extended Disclosure List of Documents upon which it relies.

[10A. Each party shall produce the documents it has disclosed in its Extended Disclosure List of Documents (which it does not claim to be entitled to withhold or does not have) to any other party requesting them by no later than 4pm 7 days after such request has been received.]

[Ongoing Review of Evidence

10B The parties will obtain advice as necessary as provided for in sub paragraph E5.1 in Section E.5 of the Commercial Court Guide.]

Witnesses

11. Signed statements of witnesses of fact and hearsay notices when required by [CPR 33.2](#), shall be exchanged not later than [*]. [A summary of the evidence of the following witness, namely [*] shall be served by [*].]

12. Unless otherwise ordered, the witness statements shall stand as the evidence in chief of the witnesses at trial.

13. [The evidence of [*] shall be given by video link at [*] [date or period]. [The Claimant/Defendant shall be responsible for making the necessary arrangements; but the costs thereof will be in the discretion of the Court.]

Experts

Experts called by each party

14 Each party shall have permission to adduce expert evidence as follows:

- (1) [Number]
- (2) [Expertise]
- (3) [Issue(s) to be covered]

15. Signed reports of experts shall be exchanged [sequentially as follows: by the Claimant's expert by [*] and by the Defendant's expert by [*]] [simultaneously by [*].]

16. Experts of like disciplines shall by [_____]:

- (1) Hold discussions pursuant to [CPR 35.12\(3\)](#) for the purposes of identifying the issues, if any, between them and, where possible, reaching agreement on those issues (or at least narrowing them); and
- (2) Prepare a joint written statement pursuant to [CPR 35.12\(3\)](#), by [*] stating:
 - (a) That they have met and discussed the expert issues;
 - (b) The issue(s) on which they agree;
 - (c) The issues on which they disagree; and
 - (d) A brief summary of the reasons for their disagreement.

-
17. [The parties may serve short supplemental experts' reports, to be exchanged [sequentially] [simultaneously] by not later than [*]
 18. If the experts' reports cannot be agreed, the parties shall be at liberty to call expert witnesses at the trial, limited to those experts whose reports have been exchanged under this order.
 19. [The experts referred to above shall give their evidence concurrently in accordance with para. 11 of CPD35 In order to assist the Court, both parties shall file with the Court and provide to the experts not later than [] clear days before the trial, an agreed agenda consisting of a list of the issues still in dispute between the experts, in a logical order. Such an agenda will be subject to revision by the Court.]

[or

Single Joint Expert

20. The parties shall have permission to adduce expert evidence in the following field(s) of expertise in the form of a written report by a single joint expert pursuant to [CPR 35.7](#):
 - (1) [Expertise]
 - (2) [Issue(s) to be covered].
21. The parties shall identify and shall if possible give joint instruction to the single joint expert by [*]. In the case of difficulty or disagreement, the matter shall be referred to the Court for directions at the earliest practicable date.
22. The report of the single joint expert shall be produced by [*].
23. Any questions to the expert shall be put to him by [*] and answered by [*].
24. Any party may apply not later than [*] for an order that the expert witness shall give oral evidence at the trial.]

NDR¹⁰

25. The parties shall engage in NDR procedures as follows:
 - (1) On or before [*] the parties shall exchange lists of 3 neutral individuals who are available to conduct NDR procedures in this case prior to [*]. Each party may [in addition] [in the alternative] provide a list identifying the constitution of one or more panels of neutral individuals who are available to conduct NDR procedures in this case prior to [*].
 - (2) On or before [*] the parties shall in good faith endeavour to agree a neutral individual or panel from the lists so exchanged and provided.
 - (3) Failing such agreement by [*] the parties shall either agree a short list of 3, or shall send to the Court their own lists (limited to 3), so as to enable the Court

¹⁰ See Section G of the CCG

to select a neutral individual or panel; and all parties shall be bound by that selection.

- (4) The parties shall take such serious steps as they may be advised to resolve their disputes by NDR procedures before the neutral individual or panel so chosen by no later than [*].
- (5) If the case is not finally settled, the parties shall inform the Court by letter prior to [disclosure of documents/exchange of witness statements/exchange of experts' reports] what steps towards NDR have been taken and (without prejudice to matters of privilege) why such steps have failed. If the parties have failed to initiate NDR procedures the Case Management Conference shall be restored for further consideration of the case.

[or

“In the period [] to [] the parties shall take such steps as they may be advised to try to settle the dispute by NDR or other means.”

or

The case shall be stayed from [*] until [*] so as to enable the parties try to settle the dispute by NDR or by other means.]

26. The Claimant/Defendant shall notify the court of the outcome of NDR (i.e. whether or not the case has settled) as soon it is known but in any event by no later than 7 days after [the conclusion of the NDR] [date by reference to end of ADR window].

Trial

27. The trial of this action shall commence on [_____], with a time estimate [] days [inclusive/exclusive of judicial pre reading which shall be [] days. By no later than [6] weeks before trial the parties shall consider with the pre reading time estimate requires revision and if so supply the court with a revised time estimate or (if agreement cannot be reached) each party's revised time estimate.

Or

[Each party] [The Claimant] shall by [*] apply to the Court for a trial date in a window opening not before [] and closing not after [] (“Window”). By no later than [*] days prior to the date by when the application for a trial date is to be made, all parties shall supply to the Claimant its dates to avoid within the Window and the Claimant shall supply with its application for a trial date a single document setting out all parties' dates to avoid.

28. [The date fixed shall be provisional until payment of the trial fee. The trial fee shall be paid no later than [].]
29. The progress monitoring date is [*]¹¹. Not less than 3 clear days before the progress monitoring date each party shall send to the Court (with a copy to all other parties) a

¹¹ Normally the First convenient date AFTER exchange of witness statements and expert reports.

progress monitoring information sheet in the form specified in Section D11 of the Commercial Court Guide.

30. Where a party wishes to adduce evidence by video link or other remote means from a location outside England & Wales, that party must obtain any permission required from the local court or other authority in the jurisdiction concerned by no later than the date fixed for the filing of the pre-trial check list and must record therein either that no such permission is required or that any permission required has been obtained.
31. [There will be a pre-trial review on [*]¹².
32. [Pre-Trial Checklists are to be filed no later than 7 days before the date fixed for the PTR]
33. [If the parties consider that the PTR is not necessary they shall inform the Court not less than [3] clear days in advance stating why it is not necessary and enclosing any agreed further directions in relation to the trial. The Judge dealing with the PTR will consider this and inform the parties as soon as practicable thereafter whether the PTR is to go ahead or not and/or make any further appropriate directions in writing.]
34. The following pre trial directions will apply unless varied at a Pre trial Review:
 - (a) [Electronic (“soft copy”) trial and authorities bundles are to be prepared in accordance with the relevant Practice Directions Protocols and Guides and filed and served in PDF format.]
 - (b) The Claimant is to serve a trial bundle on the Defendant [prepared in accordance with Paragraph (a) above] no later than 4pm [28] days before trial.
 - (c) The parties are to use best endeavours to agree and file by no later than 4 pm [21] days before trial:
 - (i) a [soft copy] trial timetable.
 - (ii) a [soft copy] chronology cross-referenced to the trial bundle; and
 - (iii) a [soft copy] cast list.
 - (d) The Claimant is to file and serve by no later than 4pm [14] days before trial:
 - (i) a [soft copy] written opening and pre-reading list, both cross-referenced to the trial bundle.
 - (ii) a [soft copy] chronology, cross-referenced to the trial bundle (if not agreed pursuant to paragraph 4).
 - (iii) a [soft copy] proposed trial time table and a cast list (if not agreed pursuant to paragraph 4).

¹² Normally this should be after the progress monitoring date but not less than 4 weeks before trial in order to enable effective pre trial directions to be given if the default directions are not to apply.

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- (e) The Defendant is to file and serve by no later than 4pm [7] days before trial:
- (i) a [soft copy] written opening and pre-reading list, both cross-referenced to the trial bundle.
 - (ii) a [soft copy electronically] amended version of the Claimant's chronology referred to in paragraph 5(ii) above, cross-referenced to the trial bundle, unless the Claimant's chronology is agreed;
 - (iii) [soft copy electronically] amended versions of the Claimant's proposed trial time table and cast list referred to in paragraph 5(i) and (iii) unless the Claimant's proposed trial time table and cast list are agreed.
- (f) By no later than 4 pm [5] days before trial, the Claimant shall file with the Court Listing Office or Judge's clerk
- (i) a [soft copy] trial bundle and agreed [soft copy] authorities bundle, each prepared in accordance with paragraph (a) above [and (if requested to do so by either the Court Listing Office or the Judge's clerk) a hard copy trial bundle and authorities bundle for use by the Trial Judge. If either party considers that any document in the trial bundle may be impractical to use in soft copy by reason of its page size being other than A4, it being oriented otherwise than in portrait format or its print format being less than 10 point then a hard copy should be filed at the same time as the soft copy trial and authorities bundles; and]
 - (ii) Unless otherwise directed at the CMC or at a PTR (if one takes place) a hard copy trial bundle for use by witnesses at the trial.

Costs

35. Costs in the case [or otherwise].

36. [The Court has made a Costs Management Order in this case, [and has approved the parties' costs budgets as revised by the Court. The parties shall file and exchange their revised budgets with 7 days of this Order] [and records the parties' agreement to each other's budget]

]

DATED

Appendix C: Preparation of Electronic Bundles

Bundling of electronic hearing trial and authorities bundles should follow the following principles:

1. E-bundles must be provided in pdf format.
2. All pages in an e-bundle must be numbered by computer-generated numbering, not by hand. The numbering should start at page 1 for the first page of the bundle (whether or not that is part of an index) and the numbering must follow sequentially to the last page of the bundle, so that the pagination matches the pdf numbering. If a hard copy of the bundle is produced, the pagination must match the e-bundle.
3. Each entry in the index must be hyperlinked to the indexed document. All significant documents and all sections in bundles must be bookmarked for ease of navigation, with a short description as the bookmark. The bookmark should contain the page number of the document.
4. All pages in an e-bundle that contain typed text must be subject to OCR (optical character recognition) if they have not been created directly as electronic text documents. This makes it easier to search for text, to highlight parts of a page, and to copy text from the bundle.
5. Any page that has been created in landscape orientation should appear in that orientation so that it can be read from left to right. No page should appear upside down.
6. The default view for all pages should be 100%.
7. If a core bundle is required, then a PDF core bundle should be produced complying with the same requirements as a paper bundle.
8. Thought should be given to the number of bundles required. It is usually better to have a single hearing e-bundle and (where appropriate) a separate single authorities e-bundle (compiled in accordance with these requirements), rather than multiple bundles (and follow any applicable court specific guidance – see e.g. [CPR PD52C Section VII](#)).
9. The resolution of the bundle should not be greater than 300 dpi, in order to avoid slow scrolling or rendering. The bundle should be electronically optimised so as to ensure that the file size is not larger than necessary.
10. If a bundle is to be added to after it has been transmitted to the judge, then new pages should be added at the end of the bundle (and paginated accordingly). An enquiry should be made of the court as to the best way of providing the additional material. Subject to any different direction, the judge should be provided with both (a) the new section and, separately, (b) the revised bundle. This is because the judge may have already marked up the original bundle.

Delivering e-bundles

Filename: The filename for a bundle must contain the case reference and a short version of the name of the case and an indication of the content of the bundle – e.g. “CO12342021 Carpenters v Adventurers Hearing Bundle” or “CO12342021 Carpenters v Adventurers Authorities Bundle”.

Email: If the bundle is to be sent by email, please ensure the file size is not too large. For justice.gov e-mail addresses the maximum size of email and attachments is 36Mb in aggregate. Anything larger will be rejected. The subject line of the email should contain the case number, short form case name, hearing date and name of judge (if known).

Uploading bundles: Bundles should be sent to the court in accordance with the court’s directions. Where the bundle would otherwise be sent by email (rather than being uploaded to a portal) but is too large to be sent under cover of a single email then it may be sent to the Document Upload Centre by prior arrangement with the court – for instructions see the [Professional Users Guide](#).

Unrepresented litigants

Ordinarily the applicant is responsible for preparing the court bundles. If the applicant is unrepresented then the bundles must still if at all possible, comply with the above requirements. If it is not possible for an unrepresented litigant to comply with the requirements then a brief explanation of the reasons for this should be provided to the court as far in advance of the hearing as possible. Where possible the litigant in person should suggest a practical way of overcoming the problem. If the other party is represented then that party should consider offering to prepare the bundle.