**Appendix 6 to Practice Direction 57AD**

**Disclosure in the Business and Property Courts**

**Disclosure Review Document for Extended Disclosure in Less Complex Claims**

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|  | **Issues for Disclosure and disclosure Model proposals**  | **Issue for Disclosure**  | **Proposed Disclosure Models** | **Issue agreed?1**  | **Model Agreed? *[[1]](#footnote-2)*** |
| 1. *[Concise description of the issue for disclosure]*

***[Alternative proposed wording of the Claimant(s)/Defendant(s):]***  | *[B / D]*  | *[Y/N]* | *[Y/N]****[Alternative proposed disclosure model of the Claimant(s)/Defendant(s):]***  |
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|  | **Data collection sources to be searched by the parties**Each party should confirm whether there are any data sources or locations, or categories of hard copy or electronic documents (as applicable) which should be included in the collection of documents which are likely to be relevant to the Issues for Disclosure and which the party proposes to search for the disclosure. Please set out details of the data sources, locations and categories which are proposed to be included.  |  |
|  | **Unavailable sources orirretrievable/inaccessible documents** Please identify and briefly set out details for any documents likely to be relevant to Issues for Disclosure which it is known or anticipated may be irretrievable or otherwise unavailable or difficult to access in order to be searched for the purpose of the disclosure (e.g. due to destruction or loss, or the need for bespoke or licenced software to review the data)  |  |
|  | **Search proposals**Please set out any initial search proposals to identify any documents which may need to be disclosed (including any automated searches or techniques other than keyword searches, as applicable). The proposals should indicate any custodians’ files the parties propose to search, any applicable date ranges for the searches, and which particular Issues for Disclosure the custodians or date ranges are relevant to. Parties should also set out proposals to use technology to facilitate the disclosure exercise if the parties consider the use of technology to be appropriate. When considering the use of technology parties should have regard to the following factors: (i) whether it would be efficient and proportionate to use technology, (ii) the number of documents in the potential pool of documents to be searched and potentially reviewed for the proposed disclosure, (iii) the estimated cost of the disclosure (including estimated costs of using technology compared with not using technology), (iv) the value of the claim, (v) the complexity of the claim, (vi) the nature of the claim, and (vii) any other relevant factors.  |  |
|  | **Costs estimates** Where the parties have agreed / sought to agree for searches to be undertaken, please state the estimated cost of collection, processing, search, review and production of each parties’ Extended Disclosure (as applicable)**.** |  |
|  | **Areas of disagreement** Please indicate any areas of disagreement between the parties in respect of any of the matters set out in sections 1 – 5 of this form and briefly set out the reasons for any areas of disagreement and for any alternative wording proposed for Issues for Disclosure or alternative Models proposals.Where any aspect of the approach to Extended Disclosure is not agreed, each party should indicate their estimated costs of collection, processing, search, review and production of their documents based on the Extended Disclosure (Models and scope of any search required) requested: (i) by the claimant(s) and (ii) by the defendant(s). | *[E.g. Description of area of disagreement]* *Claimant’(s’) position:* *Defendant’(s’) position: ]*  |

**Appendix 7 to Practice Direction 57AD**

**Explanatory notes for the Disclosure Review Document for Extended Disclosure in Less Complex Claims**

1. The Less Complex Claims Disclosure Review Document (“**LCCDRD**”) is intended to:
	1. facilitate the exchange of information and provide a framework for discussions about the scope of Extended Disclosure;
	2. help the parties to agree a sensible and cost-effective approach to Extended Disclosure for Models A, B and/or D and identify areas of disagreement; and
	3. provide the court with parties’ proposals on Extended Disclosure for Models A, B and/or D, agreed or otherwise, so that the court can make appropriate case management decisions at the case management conference.
2. These explanatory notes provide guidance. While not all of this guidance will be suitable for every claim, parties are nevertheless encouraged to follow this guidance unless there are good reasons not to do so.
3. Unless stated otherwise below, the explanation and guidance in the Introduction of the Explanatory notes for Disclosure Review Document in Appendix 2 will apply for the completion of this form. If an order for Extended Disclosure is made by the court, the parties may also find it helpful to refer to the “Guidance on process after any order for Extended Disclosure has been made”, which is also in Appendix 2.
4. References to paragraph numbers in the LCCDRD are to the paragraphs in Appendix 5 to Practice Direction 57AD
(the “**Practice Direction**”) unless stated otherwise and if there is a conflict between the LCCDRD and the Practice Direction, the Practice Direction will prevail.
5. The LCCDRD only needs to be completed where one or more of the parties are seeking Extended Disclosure in a Less Complex Claim. Parties do not need to complete a LCCDRD in Less Complex Claims where only Model A or B or no Extended Disclosure is sought by the parties. Where only Model B is requested, if the parties consider that it would nevertheless assist to identify and seek to agree upon a List of Issues for Disclosure or to complete any other sections of the LCCDRD, the parties may agree to do so.
6. Unless agreed by the parties or ordered otherwise by the court, the claimant(s) will be responsible for ensuring that the form is completed and a single agreed version is filed with the court. If the claimant(s) is not seeking any search-based Disclosure (i.e. Model D disclosure) but one or more of the defendants is, the parties may agree that the defendant(s) shall be responsible for producing the LCCDRD and ensuring that the form is filed with the court. If there is more than one defendant, the parties should seek to agree which defendant shall bear this responsibility for the form.
7. The parties must seek to agree and complete a List of Issues for Disclosure. Apart from the List of Issues for Disclosure in section 1, which must be completed in all cases where a LCCDRD is required under paragraph 10.1 of Appendix 5 to the Practice Direction, the parties are not required to complete all of the other sections of the form. They only should complete the sections which are applicable and relevant to the disclosure being requested in the particular case. This should as a minimum include the key information which the parties consider would assist the court in deciding what disclosure to order in the case.
8. If the parties agree that any of the sections in the form are not applicable or relevant at all to the case, they should leave the response box next to those sections blank. If the parties cannot agree on whether a section is not applicable or is irrelevant, or if a section is only not applicable to a particular party or to a particular extent, they should include the wording “Not applicable” next to that section and a brief explanation, in order to assist the court in understanding the parties’ positions and in its review of the form.
9. The parties are encouraged to confer (in person or by phone or video conference) and seek to agree the contents of the LCCDRD as it applies to their disclosure, in advance of the case management conference. Extensive correspondence in relation to the LCCDRD is unlikely to be efficient or helpful.
10. If the parties cannot agree on any aspects of the LCCDRD (including the List of Issues for Disclosure) this should be recorded in summary form in section 6. The parties may also apply if appropriate for guidance from the court under paragraph 11 of the Practice Direction in order to seek to resolve any differences in advance of the case management conference.
11. The fact that a party may propose initial searches (including keyword searches) at the stage of completing the LCCDRD should not be taken as acceptance by that party that those searches should ultimately be used (particularly if, on testing the keyword searches against the available data, it provides false positive results).
12. If it is not practicable to provide a list of keywords for searches prior to the case management conference, the parties should engage and seek to co-operate following the case management conference to identify and agree the key words they propose using and thereafter test those key words against the data to determine whether or not they are appropriate.

Timetable for completing the LCCDRD

1. The timetable for completion of the LCCDRD is set out in paragraphs 7 and 10 of the Practice Direction. The parties may agree a revised timetable for completion of the LCCDRD (including the List of Issues for Disclosure and Models) where appropriate, provided always that any such revision to the timetable does not affect the date set for the Case Management Conference. For convenience the timetable is summarised below as follows:

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|  | **Stage to be completed**  | **Deadline**  |
| **Step 1** | Each party should state, in writing, whether or not it is likely to request Extended Disclosure Models A, B and/or D on one or more issues in the case. At this point it should not particularise the Model(s) or the issue(s) in the case. | Within 28 days of the closure of statements of case |
| **Step 2** | Where one or more of the parties has indicated it is likely to request search-based Extended Disclosure (i.e. Models D), unless the parties agree otherwise, the claimant must prepare and serve on the other parties a draft List of Issues for Disclosure unless the equivalent of such a list has already been agreed between the parties (for example, as part of a fuller list of issues). At the same time, the claimant shall identify for each Issue for Disclosure which Model of Extended Disclosure it proposes for each party.If the claimant fails to take these steps, the defendant may, but is not obliged to, prepare and serve its own draft List of Issues for Disclosure on the other parties. | Within 42 days of the closure of statements of case |
| **Step 3** | A party served with a draft List of Issues for Disclosure and proposals on Models shall indicate within section 1 of the LCCDRD whether it agrees with the proposed Issues for Disclosure and corresponding Model(s) for Extended Disclosure by completing the “Issue Agreed” and “Model Agreed” columns in section 1.If the party does not agree, or wishes to propose alternative or additional Issues for Disclosure or other Models, it should set out its alternative or additional proposals in section 1 of the LCCDRD and briefly explain and set out in section 6 of the LCCDRD the reasons why it disagrees with the Issues for Disclosure or Models proposals of the other party the reasons for the alternative proposals it is proposing. | As soon as practicable but in any event no later than 21 days after service of the draft List of Issues for Disclosure |
| **Step 4** | Having sought to agree the List of Issues for Disclosure and proposals on Model(s) for Extended Disclosure, the parties should prepare and exchange drafts of the LCCDRD (with all applicable sections of the document completed) in accordance with the guidance in Appendix 7. | As soon as reasonably practicable and in any event not later than 14 days before the case management conference |
| **Step 5** | The parties must seek to resolve any disputes over the scope of any Extended Disclosure sought or any other aspect of the completion of the LCCDRD.  | In advance of the first case management conference |
| **Step 6** | Unless otherwise agreed by the parties or ordered by the court, the claimant(s) shall be responsible for ensuring that the form is completed and a single agreed version is filed with the court. Related correspondence and earlier drafts should not ordinarily be filed.  | Not later than 5 days before the first case management conference |
| **Step 7** | The parties must independently file a signed Certificate of Compliance substantially in the form set out in Appendix 3 to the Practice Direction. | Not less than two days before the case management conference |

1. **If the parties cannot agree the wording of any issue and/or any disclosure model proposals, the parties who disagree with the formulation of an issue for disclosure or model proposal should include alternative proposals or wording under the formulation. The parties should also briefly outline the areas of disagreement and state the reasons for the disagreement and for any alternative proposals in section 6 of this form.**  [↑](#footnote-ref-2)