

The logo for the law firm fieldfisher, rendered in a white, lowercase, sans-serif font. The background of the entire slide features a stylized globe with glowing white and blue lines representing latitude and longitude, set against a dark blue and purple gradient.

PD57AD High-Level eDisclosure
Checklist

September 2022

Phase 1 - Initial Preparation

Timeline	Client Disclosure		✓ / x		
Need for Disclosure Arises					
Phase 1 - Initial Preparation					
1 – 2 weeks	1	Brief client on disclosure details and the client's disclosure duties under PD57AD, 3.1.			
		Party's / Parties' Disclosure Duties	Legal Representatives' Disclosure Duties		
		<p><i>A person who knows that it is or may become a party to proceedings that have been commenced or who knows that it may become a party to proceedings that may be commenced is under the following duties (the "Disclosure Duties") to the court:</i></p> <p>(1) to take reasonable steps to preserve documents in its control that may be relevant to any issue in the proceedings;</p> <p>(2) no later than the time(s) set out in paragraphs 9.1 to 9.3 [of PD57AD], <u>to disclose known adverse documents, unless they are privileged</u>. This duty exists regardless of whether or not any order for disclosure is made;</p> <p>(3) to comply with any order for disclosure made by the court;</p> <p>(4) to undertake any search for documents in a responsible and conscientious manner to fulfil the stated purpose of the search;</p> <p>(5) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and</p> <p>(6) to use reasonable efforts to avoid providing documents to another party that have no relevance to the <i>Issues for Disclosure</i> in the proceedings.</p>	<p><i>Legal representatives who have the conduct of litigation on behalf of a party to proceedings that have been commenced, or who are instructed with a view to the conduct of litigation where their client knows it may become a party to proceedings that have been or may be commenced, are under the following duties to the court:</i></p> <p>(1) to take reasonable steps to preserve documents within their control that may be relevant to any issues in the proceedings;</p> <p>(2) to take reasonable steps to advise and assist the party to <u>comply with its Disclosure Duties</u>;</p> <p>(3) to liaise and cooperate with the legal representatives of the other parties to the proceedings (or the other parties where they do not have legal representatives) so as to promote the reliable, efficient and cost-effective conduct of disclosure, <u>including thorough the use of technology</u>;</p> <p>(4) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and</p> <p>(5) to undertake a review to satisfy themselves that <u>any claim by the party to privilege from disclosing a document</u> is properly made and the reason for the claim to privilege is sufficiently explained.</p>		
		2	Liaise and cooperate with the legal representatives of the other parties to the proceedings (or the other parties where they do not have legal representatives) so as to promote reliable, efficient and cost-effective conduct of disclosure, including through the use of technology. ¹		
		3	Assemble team (including external experts & eDisclosure technology service provider).		
		4	Designate responsibilities (e.g. initial data collection, translations, first level review (1LR), second level review (2LR), privilege review, key document review, redaction review, production, quality control teams for each review stream, etc.).		
		5	Create roadmap adhering to timescales / deadlines in line with PD57AD ² .		
		6	Confirm expected data volumes (rough estimates).		
		7	Prioritise custodians / data sources.		
	8	Confirm expected data volumes (rough estimates).			
	9	Schedule recurring disclosure call/meeting for all stakeholders.			

1. PD57AD 3.2 (3): This is a disclosure duty that legal representatives are under to the court.
2. Please see timeline flowchart following this checklist

Phase 2 - Scoping

Timeline	Client Disclosure		✓ / x
Phase 2 - Scoping			
1 – 2 weeks	1	Identify document sources ³ (e.g., hard drives, external media devices, smart phones, cloud repositories, servers, network shares, network home directory, email server, email archive, voicemail, IM data, corporate chat or equivalent, document management systems, backup tapes, etc.).	
	2	Confer with opposing side regarding Disclosure parameters per PD57AD, in accordance to allowed timelines (<i>please see timeline flowchart following this checklist</i>).	
	3	eDisclosure vendor forensic experts to work with client's IT team to identify potential data sources and effective methodologies for collecting data in a forensically sound manner.	

3. PD57AD, 6.7: *It is important that the parties consider what type of documents and sources of documents there are or may be, including what documents an other party is likely to have, in order that throughout a realistic approach may be taken to disclosure.*

Phase 3 - Preservation

Timeline	Client Disclosure	✓ / x	
Phase 3 – Preservation			
Within a reasonable time-period	1	Complete preservation of documents process ⁴ , which includes, in suitable case, making copies of sources of documents and storing them.	
	2	Parties or their legal representatives are obliged to suspend relevant document deletion or destruction processes for the duration of the proceedings. ⁵	
	3	Parties to send written notifications to relevant employees and former employees of the party where there are reasonable grounds for believing that the employee/former employee may be in possession of disclosable documents which are not also in the party's possession. ⁶ The written notification should: (1) Identify the documents or classes of documents to be preserved; and (2) notify the recipient that they should not delete or destroy those documents and should take reasonable steps to preserve them. ⁷	
	4	Parties to take reasonable steps so that agents or third parties who may hold documents on the party's behalf do not delete or destroy documents that may be relevant to an issue in the proceedings. ⁸	
	5	NOTE: <u>Legal representatives</u> who have conduct of litigation on behalf of a party to proceedings that have been commenced, or who are instructed with a view to the conduct of litigation where their client knows it may become a party to proceedings that have been mor may be commenced, must within a reasonable period of being instructed: (1) Notify their client of the need to preserve documents and of the client's disclosure obligations; and (2) obtain written confirmation from their client or an appropriate representative of their client that their client has taken the steps outlined in the rows above. ⁹	
	6	Obtain written confirmation regarding document preservation duties. ¹⁰	
	7	Complete preservation of documents process ¹¹ , which includes, in suitable case, making copies of sources of documents and storing them.	
	8	Provide all parties with a written notice regarding document preservation. ¹²	

4. PD57AD, 4.1: Documents to be preserved in accordance with the duties under paragraphs 3.1(1) [Parties' Disclosure duties] and 3.1 (1) [Legal Representatives' Disclosure duties] above include documents which might otherwise be deleted or destroyed in accordance with a document retention policy or in the ordinary course of business. Preservation includes, in suitable cases, making copies of courses and documents and storing them .
5. PD57AD, 4.2 (1)
6. PD57AD, 4.2 (2)
7. PF57AD, 4.3
8. PD57AD, 4.2 (3)
9. PD57AD, 4.4
10. PD57AD, 4.4 (2) Legal representatives must obtain written confirmation from their client or an appropriate representative within the organisation confirming that steps have been taken to comply with document preservation duties.
11. PD57AD, 4.1: Documents to be preserved in accordance with the duties under paragraphs 3.1(1) [Parties' Disclosure duties] and 3.1 (1) [Legal Representatives' Disclosure duties] above include documents which might otherwise be deleted or destroyed in accordance with a document retention policy or in the ordinary course of business. Preservation includes, in suitable cases, making copies of courses and documents and storing them.
12. PD57AD, 4.5 : Each party must confirm in writing (and may do so by their legal representative) when serving their particulars of claim or defence (as appropriate), that steps have been taken to preserve relevant documents in accordance with duties under paragraph 3.1(1) and 3.2 above, and as required by paragraph 4.1 to 4.4 above.

Phase 4 - Initial Disclosure

Timeline	Client Disclosure		✓/x
Phase 4 - Initial Disclosure			
With Statement of Case	1	Provide Initial Disclosure with the Statement of Case ¹³ and an Initial Disclosure List of Documents unless this has been dispensed with per PD57AD, 5.3 ¹⁴ or where parties have agreed in writing to dispense with, or defer, <i>Initial Disclosure</i> . ¹⁵	
	2	The documents should be provided electronically (unless otherwise ordered or agreed between the parties). ¹⁶	
	3	The Initial Disclosure List should be filed but the documents must not be filed. ¹⁷	

13. PD57AD, 5.1

14. PD51U 5.3: *Initial Disclosure is not required where— (1) the parties have agreed to dispense with it (per para 5.8); (2) the court has ordered that it is not required (per para 5.10); or (3) a party concludes and states in writing, approaching the matter in good faith, that giving Initial Disclosure would involve it or any other party providing (after removing duplicates, and excluding documents referred to at paragraph 5.4(3)(a)) more than (about) whichever is the larger of 1000 pages or 200 documents (or such higher but reasonable figure as the parties may agree), at which point the requirement to give Initial Disclosure ceases for all parties for the purposes of the case. Documents comprising media not in page form are not included in the calculation of the page or document limit at (3) but, where provided pursuant to a requirement to give Initial Disclosure, should be confined strictly to comply with paragraph 5.1 PD57AD.*

15. PD57AD, 5.8: *The parties may agree in writing, before or after the commencement of proceedings, to dispense with or defer, Initial Disclosure. They may also agree to dispense with the requirements to produce an Initial Disclosure List of Documents. Each party should record its respective reasons for any agreement, so that those reasons may be available to the court, on request, at any case management conference. The court may set aside an agreement to dispense with or defer Initial Disclosure if it considers that Initial Disclosure is likely to provide significant benefits and the costs of providing Initial Disclosure are unlikely to be disproportionate to such benefits.*

16. PD57AD, 5.5

17. PD57AD, 5.5

Phase 5 - Prior to CMC

Timeline	Client Disclosure		✓ / x
Phase 5 - Prior to CMC			
Within 28 days from the final statement of case	1	Request in writing whether or not search-based <i>Extended Disclosure</i> ¹⁸ (i.e. Models C, D and/or E) is requested and the specific Disclosure Models for each Issue for Disclosure . ¹⁹ It is for the party requesting Extended Disclosure to show what is sought is appropriate, reasonable and proportionate. Please visit the Fieldfisher eDisclosure website page for further guidance on Disclosure Models (https://res.cloudinary.com/fieldfisher/image/upload/v1662462786/PDFs/PD57AD_Overview_6_September_2022_q9mk1b.pdf)	
	2	A list of Issues for Disclosure is not needed if the parties are agreed that Extended Disclosure is confined to Models A and B.	
Within 42 days of final statement of case ²⁰	1	Note: Claimant to prepare and serve <u>draft List of Issues for Disclosure</u> using section 1A of the DRD (if any party has provided notice that <i>Extended Disclosure</i> will be requested, unless an agreed list of issues for trial already exists and the parties agree that it is suitable (with or without adaptation) to be used for disclosure).	
	2	At the same time as serving a draft List of Issues for Disclosure, claimant to identify for each Issue for Disclosure which Model of Extended Disclosure it proposes for each party . If the claimant proposes Model C Disclosure for any issue of Disclosure it should indicate, using Section 1B of the DRD, how the particular documents or narrow class of documents it proposes should be defined for that purpose. ²¹	
	3	For Defendants Only: If the claimant fails to prepare and serve a List of Issues for Disclosure within 42 days of the final statement of case any defendant may prepare and serve its own draft List of Issues for Disclosure on the other parties together with its proposed Models including any Model C requests.	
	4	In an appropriate case where the claimant is acting in person and the defendant is not, the court may request the legal representatives of the defendant to lead on the preparation of the List of Issues for Disclosure. ²²	
As soon as practicable, no later than 21 days after service of List of Issues for Disclosure	1	Parties served with a draft List of Issues for Disclosure: As soon as practical but no later than 21 days from the service of the draft List of Issues for Disclosure, the party/parties served should indicate using Section 1A (and if applicable, 1B) of the DRD whether it agrees with the proposals (including any proposals as to how Model C Disclosure should be defined). ²³	
	2	Parties served with a draft List of Issues for Disclosure: If the party/parties served with the proposals does not agree , or wishes to propose alternative or additional Issues for Disclosure, other Models and/or other Model C proposals, it should set out its alternative or additional proposals in Section 1A and 1B of the DRD .	

18. PD57AD, 5.9: *The court shall disregard any prior agreement to dispense with Initial Disclosure when considering whether to order Extended Disclosure.*

19. PD57AD, 6.5

20. PD57AD, 7.2: *Where one or more of the parties has indicated it is likely to request search-based Extended Disclosure (i.e. Models C, D and/or E), the claimant must within 42 days of the final statement of case prepare and serve on the other parties a draft List of Issues for Disclosure unless an agreed list of issues for trial already exists and the parties agree that it is suitable (with or without adaptation) to be used for disclosure. The draft List of Issues for Disclosure should be set out in Section 1A of the Disclosure Review Document.*

21. PD57AD, 7.3

22. PD57AD, 7.14

23. PD57AD, 7.9

Phase 5 (continued) - Prior to CMC

Timeline	Client Disclosure		✓ / x
Phase 5 - Prior to CMC			
In advance of the CMC	1	Agreeing the List of Issues for Disclosure and Disclosure Models: Parties must discuss and seek to agree the draft List of Issues for Disclosure, the Models identified for each Issue for Disclosure, and the wording of any Model C proposals. They should consider whether any draft Issue for Disclosure can be removed. ²⁴ If agreement cannot be reached after reasonable and proportionate efforts, the List should be concluded by showing the areas of disagreement - the parties should consider seeking Disclosure Guidance from the court at an early stage as a means to help resolve the differences between them. <i>One situation in which Disclosure Guidance should be considered is where one party believes the other is proposing a list of issues that is far too complex to serve as a List of Issues for Disclosure.</i> ²⁵	
	2	Timetable Revision: Parties may agree a revised timetable for completion of the DRD (including the List of Issues for Disclosure, Models and Model C requests) where appropriate, provided always that any such revision to the timetable does not affect the date set for the CMC. ²⁶	
	3	Resolving Disputes: Parties must seek to resolve any disputes over the scope of any Extended Disclosure sought in advance of the first CMC. Any disputes which have not been resolved will normally be decided by the court at the first CMC. ²⁷	
Preliminary Issues for Determination / Case divided into stages	1	Preliminary Issues requiring determination: If the parties are (subject to the court) agreed that there are preliminary issues suitable for determination before other issues in the case, or that the case should be divided into stages, the parties may apply to the court before any CMC for an order for the trial of those issues or for trial in stages (and related directions), and they may agree in writing to limit the work towards disclosure required by PD57AD until that application has been heard. ²⁸	
As soon as reasonably practicable, no later than 14 days before CMC	1	Final Agreement of List of Issues for Disclosure, Models; DRD Completion: Parties to agree the List of Issues for Disclosure, proposals on Model(s) for Extended Disclosure and the wording of any Model C requests. Parties to prepare and exchange drafts of Section 2 of the DRD (including costs estimates of different proposals and where possible estimates of likely amount of documents involved). <i>(Section 2 of the DRD should be completed only if any party is seeking an order for search-based Extended Disclosure (i.e., Models C, D, and/or E)).</i> ²⁹	

24. PD57AD, 7.10

25. PD57AD, 7.11

26. PD57AD, 7.15

27. PD57AD, 10.6

28. PD57AD, 7.13

29. PD57AD, 10.5

Phase 5 (continued) - Prior to CMC

Timeline	Client Disclosure		✓ / x
Phase 5 - Prior to CMC			
Filing no later than 5 days before CMC	1	Filing DRD <u>Claimant</u> to file a single joint DRD. NOTE: <i>In an appropriate case where the claimant is acting in person and a defendant is not the court may request the legal representatives of the defendant to lead on the preparation and filing of the DRD.</i> ³⁰	
	2	Related DRD correspondence and earlier DRD drafts should not ordinarily be filed.	
	3	If a party fails to co-operate and constructively engage in completing and agreeing the DRD, the other party/parties may apply to the court for an appropriate order at or separately from the CMC – the court may make any appropriate order including the dismissal of any application for Extended Disclosure and/or the adjournment of the CMC with an adverse order for costs. ³¹	
As soon as reasonably practicable after filing of finalised DRD but not less than 2 days before the CMC ³²	1	Parties must each file and serve a signed Certificate of Compliance substantially in the form set out in Appendix 3 of PD57AD , no less than two days before the CMC.	
	2	A Certificate of Compliance is not required for cases where a DRD has been dispensed with under paragraph 10.5 PD57AD (<i>Section 2 of the DRD should be completed only if a party is seeking an order for search-based Extended Disclosure under Models C, D and/or E</i>).	

30 PD57AD, 10.9

31 PD57AD, 10.3

32 PD57AD, 10.8 and Appendix 3 of PD57AD

Phase 6 - CMC

Timeline	Client Disclosure	
Phase 6 - CMC		
Set CMC date	1	CMC – await Court's Order for Disclosure: The Court will make an order for disclosure ³³ , noting that the Court may order different disclosure models for different issues and the use of technology. ³⁴ The court may also provide disclosure guidance in accordance with paragraph 11 PD57AD.
	2	Time Variation: Upon the application of the parties/a party, or on its own motion, the court may vary any period of time for a party/the parties to complete a step in disclosure . If the variation is agreed between the parties and will not affect the date set for the Case Management Conference or trial (as appropriate), court approval is not required. ³⁵
	3	NOTE: <i>Disclosure Guidance Hearings can be requested at any time (prior to, or following the CMC), solicitors for the parties to present.</i>
	4	Order for Extended Disclosure – Court Provisions: In making an order for Extended Disclosure, the court may include any provision that is appropriate including provisions for all or any of the following: ³⁶ <ol style="list-style-type: none"> (1) Requiring the use of specified software or analytical tools; (2) Identifying the methods to be used to identify duplicate or near-duplicate documents and remove or reduce such documents; (3) Requiring the use of data sampling; (4) Specifying the format in which documents are to be disclosed; (5) Identifying the methods that the court regards as sufficient to be used to identify privileged documents and other non-disclosable documents; (6) The use of a staged approach to the disclosure of electronic documents; (7) Excluding certain classes of document from the disclosure ordered.
	5	DRD Guidance: In considering Extended Disclosure as well as when complying with an order for Extended Disclosure the parties should have regard to the guidance set out in Section 3 of the DRD. ³⁷

33 PD57AD, 6.8: *The court will determine whether to order Extended Disclosure at the first case management conference or, if directed by the court, at another hearing convened for that purpose or without a hearing.*

34 PD57AD, 6.9: *The court may determine any point at issue between the parties about disclosure including the application or effect of any provision in this Practice Direction [PD57AD] or an order made by the court and about the scope of searches, the manner in which searches are to be carried out and the use of technology. The parties may, at any time, apply to the court to seek the determination of an issue concerning disclosure by issuing an application notice.*

35 PD57AD, 6.11

36 PD57AD, 9.7

37 PD57AD, 9.8

Phase 7 - Searching

Timeline	Client Disclosure		✓ / x
Phase 7 - Searching³⁸			
Post CMC Estimate: 3 – 4 weeks	1	Searching: Where the Disclosure Model requires searches to be undertaken, the parties must discuss and seek to agree , and the court may give directions, matters listed below with a view to reducing the burden and cost of the disclosure exercise.	
	2	Limit the scope of the searches which the disclosing parties are required to undertake to particular date ranges and custodians of documents. ³⁹	
	3	Limit the scope of the searches which the disclosing parties are required to undertake to particular classes of documents and/or file types . ⁴⁰	
	4	Limit the scope of the searches which the disclosing parties are required to undertake to specific document repositories and/or geographical locations . ⁴¹	
	5	Limit the scope of the searches which the disclosing parties are required to undertake to specific computer systems or electronic storage devices . ⁴²	
	6	Limit the scope of the searches which the disclosing parties are required to undertake to documents responsive to specific keyword searches, or other automated searches (by reference, if appropriate, to individual custodians, creators, repositories, file types and or/date ranges, concepts). ⁴³	
	7	If Narrative Documents are to be excluded , how that is to be achieved in a reasonable and proportionate way. ⁴⁴	
	8	The use of: ⁴⁵ (1) Software or analytical tools , including technology assisted review software and techniques; (2) Coding strategies , including to reduce duplication	
	9	Prioritisation of documents for searching and workflows . ⁴⁶	

38 PF57AD, 9.6

39 PD57AD, 9.6 (1)(a)

40 PD57AD, 9.6 (1)(b)

41 PD57AD, 9.6 (1)©

42 PD57AD, 9.6 (1)(d)

43 PD57AD, 9.6 (1)€

44 PD57AD, 9.6 (2)

45 PD57AD, 9.6 (3)

46 PD57AD, 9.6 (4)

Phase 8 - Collection

Timeline	Client Disclosure		✓ / x
Phase 8 - Collection			
Estimate: 1 – 3 weeks	1	Further to Phase 1 (<i>Initial Preparation</i>) and 2 (<i>Scoping</i>), now decide upon and confirm scope and type of collection (e.g., hard-drives/ backups / cloud / servers/ external drives / external media devices / tablets / laptops/ mobile phones / smart watches / banking transaction sources / structured data sources/ hosted databases / social media / messaging sites / hand held devices, etc.).	
	2	Plan collection logistics (e.g. on-site collection, remote collection, self-collection, guided client collection, external third party collection, foreign collection).	
	3	Confirm collection type (e.g. a forensic image ⁴⁷ or logical copy ⁴⁸).	
	4	Collect and scan hardcopy documents (if and where required).	
	5	Store collected data on encrypted hard drives.	

47 A forensic image is a complete hard drive copy, including slack space. Forensic imaging requires specific tools and is typically conducted by a digital forensics expert.

48 A logical copy provides the content of file directories on a drive and does not include previously deleted data or other information that a forensic image would capture.

Phase 9 - Processing

Timeline	Client Disclosure		✓ / x
Phase 9 – Processing			
Estimate: 1 – 2 weeks	1	eDisclosure vendor to ensure all correct metadata is extracted and loaded to a review platform.	
	2	eDisclosure vendor to identify and remove non-relevant data using file-type filtering, search terms reports, active learning etc.	
	3	eDisclosure vendor to de-duplicate.	
	4	<p>Confirm processing parameters with the eDisclosure service provider:</p> <ul style="list-style-type: none"> • Time zone to be determined on a per-custodian basis, based on custodian's location. Anticipate that most documents will default to UTC. • Process emails to MHT format to provide a secure version of the native and to expedite processing. • Tag documents containing hidden text with a pop-up notification in the chosen document review platform. Where hidden text exists, add it to the start of the extracted text under a text review in the tagging tree/coding layout.⁴⁹ • Consider appropriate deduplication methodologies, i.e. utilising global deduplication.⁵⁰ • Create the following additional fields when globally deduplication: <ul style="list-style-type: none"> • Duplicate Custodian: The remaining Custodian names that have a duplicate of the record. The primary Custodian is not listed. This list is deduped. • Custodian All: The primary Custodian, followed by all other Custodians that have a duplicate of the record. This list is deduped. • TIFF and OCR documents that do not contain extracted text along with all PDF files (since some PDFs contain partial text) 	

49. Request that the hidden text appears at the top of the document in a section marked with <<<START HIDDEN CONTENT>>><<<END HIDDEN CONTENT>>>. Include page numbers within the hidden content area so that anybody reviewing the document can determine the context for the hidden text.

50. There are two different method for conducting deduplication, custodial de-duplication and global de-duplication. Custodial Deduplication removes all duplicate files within a single custodian’s collection. Global Deduplication removes all duplicates across all custodians in a matter (i.e., if Person A and Person B receive the same email, only one copy of this two-way correspondence will be uploaded to the review platform).

It is a judgement call as to which preferred method is utilised, depending on the matter at hand. Typically global de-duplication might suit most eDisclosure projects, as it often results in fewer documents to review – on the other hand, custodial deduplication ensures that a custodian’s full collection is kept intact.

Phase 10 - Processing/Filtering

Timeline	Client Disclosure		✓ / x
Phase 10 – Processing/Filtering			
Estimate: 1 – 2 weeks	1	Further to Phase 1 (<i>Initial Preparation</i>), refine and provide standalone potentially privileged search terms for separate filtering.	
	2	Consider the use of visual analytics to understand a high-level overview of the data to allow strategic upload decisions to be made.	

Phase 11 - Post processing filtering and upload to Document Review Platform

Timeline	Client Disclosure		✓ / x
Phase 11 – Post processing filtering and upload to Document Review Platform			
Estimate: 1 – 2 weeks	1	Discuss with eDisclosure vendor the use of advanced analytics and machine learning techniques to streamline the review process.	
	2	Draft review instructions / Review Protocol for the review team.	

Phase 12 - Review

Timeline	Client Disclosure		✓ / x
Phase 12 – Review			
Estimate: TBC Depending on the nature of the matter, the number of document reviewers, the document volumes, and review methodologies used, i.e. TAR	1	Consider use of technology assisted review, i.e. predictive coding, and appropriate models (e.g., TAR 1, CAL, TAR3).	
	2	Isolate documents that will be withheld from production, i.e. privileged, confidential, irrelevant to any issues in the proceedings, technical issue public interest immunity (<i>see footnote</i>) ⁵¹ (<i>please see more in the production phase section below</i>).	
	3	Isolate confidential documents (<i>please see more in the production phase section below</i>).	
	4	<p>Redaction Review:⁵² apply redactions and check redactions have been properly applied before production.</p> <p>A party may redact part or parts of a document on the grounds that the redacted data comprises data that is:</p> <p>(1) Irrelevant to any issue in the proceedings, and confidential; or</p> <p>(2) Privileged</p> <p>NOTE: Any redaction must be accompanied by an explanation of the basis on which it has been undertaken and confirmation, where a legal representative has conduct of litigation for the redacting party, that the redaction has been reviewed by a legal representative with control of the disclosure process – <i>this is typically included in the cover letter providing the disclosure</i>. A party wishing to challenge the redaction of data must apply to the court by application notice supported where necessary by a witness statement.</p>	
	5	<p>Specific PD57AD Production Requirements</p> <p>Save where otherwise agreed, a party shall produce:</p> <ul style="list-style-type: none"> • Electronic copies of documents in native format, in a manner which preserves metadata;⁵³ • Scanned versions or photocopied hard copies of disclosable hard copy documents.⁵⁴ 	

51 CPR, Rule 31.19: Claim to withhold inspection or disclosure of a document (public interest immunity): (1) A person may apply, without notice, for an order permitting him to withhold disclosure of a document on the ground that disclosure would damage the public interest. (2) unless the court orders otherwise, an order of the court under paragraph (1): (a) must not be served on any other person; and (b) must not be open to inspection by any person..... (8) This Part does not affect any rule of law which permits or requires a document to be withheld from disclosure or inspection on the ground that its disclosure or inspection would damage the public interest.

52 PD57AD, 16

53 PD57AD, 13.1(1)

54 PD57AD, 13.1(2)

Phase 13 - Production

Timeline	Client Disclosure		✓ / x
Phase 13 – Production			
Estimate: 1-2 weeks	1	PD57AD Provision of Documents: Electronic documents should generally be provided in the form which allows the party receiving the documents the same ability to access, search, review and display the documents (including metadata) as the party providing them. ⁵⁵	
	2	PD57AD OCR Requirements: A party should provide any available searchable OCR versions of electronic documents with the original, unless they have been redacted. If OCR versions are provided, they are provided on an "as is" basis, with no assurance to the other party that the OCR version are complete or accurate.	
	3	Disclosure of one copy of each document: A party should not disclose more than one copy of a document unless additional copies contain or bear modifications, obliterations or other markings or features which of themselves cause those additional copies to fall within a party's Initial or Extended Disclosure obligations.	
	4	Disclosure Provision [Multi-Party Cases]: In multi-party cases, the parties should discuss and seek to agree whether it is appropriate for all of the disclosing party's documents to be given to all of the other parties or to some only. In the event of disagreement, the parties may seek Disclosure Guidance from the court [see section above] or apply by application notice to the court for direction.	
	5	Withholding Documents from Production: ⁵⁶ A person who wishes to claim a right or duty (other than on the basis of public interest immunity) to withhold disclosure or production of a document, or part of a document, or class of documents which would otherwise fall within its disclosure obligations of Initial Disclosure or Extended Disclosure may exercise that right or duty without making an application to the court, subject to: (1) Describing the document, part of a document or class of document; and (2) Explaining, in the Disclosure Certificate, the grounds upon which the right or duty is being exercised. A claim to privilege may (unless the court otherwise orders) be made in a form that treats privileged documents as a class, provided that a party's Disclosure Duties have been complied with ⁵⁷ . Where a party inadvertently produces a privileged document , the party who has received the document may use it or its contents only with the permission of the court. ⁵⁸ Where a party has been told, or has reason to suspect, that a document has been produced to it inadvertently, that party shall not read the document and shall promptly notify the party who produced it to him. If that party confirms that the document was produced inadvertently, the receiving party shall, unless on application the court otherwise orders it, either return it or destroy it, as directed by the producing party, without reading it .	
	6	Challenging Right/ Duty to Disclose: ⁵⁹ A party who wishes to challenge the exercise of a right or duty to withhold disclosure or production must apply to the court by application notice supported where necessary by a witness statement.	
	7	Court Inspection: The court may inspect the document or samples of the class of documents if that is necessary to determine whether the claimed right or duty exists or the scope of that right or duty.	
	8	Confidentiality: If there are any material concerns over the confidentiality of a document (whether the confidentiality benefits a party to the proceedings or a third party), the court may order disclosure to a limited class of persons, upon such terms and subject to such conditions as it thinks fit. The court may make further orders upon the request of a party, or on its own initiative, varying the class of persons, or varying the terms and conditions previously ordered, or removing any limitation on disclosure.	

55 PD57AD, 13.2
 56 PD57AD, 14.1
 57 PD57AD, 14.1
 58 PD57AD, 19.1
 59 PD57AD, 14.2

Phase 14 - Presentation/Service of Extended Disclosure

Timeline	Client Disclosure		✓ / x
Phase 14 - Presentation / Service of Extended Disclosure			
1 day	1	Serve Disclosure Certificate (substantially in the form set out in Appendix 4 of PD57AD), signed by the party giving disclosure, to include a statement supported by a statement of truth signed by the party of an appropriate person at the party that all known adverse documents have been disclosed. NOTE: Proceedings for contempt of court may be brought against a person who signs, or causes to be signed by another person, a false Disclosure Certificate without an honest belief in its truth. ⁶⁰	
	2	Service of an Extended Disclosure List of Documents (unless dispensed with, by agreement or order).	
	3	Production of the documents over which no claim is made to withhold production (if the party cannot produce a particular document) compliance with paragraph 12.3, PD57AD (<i>next line</i>). Produced documents should ideally be sent via SFTP/encrypted hard-drive. Passwords should be provided separately. ⁶¹	
	4	If a party cannot produce a particular document (because the document no longer exists, the party no longer has it in its possession or for any other reason) the disclosing party is required to describe each such document with reasonable precision and explain with reasonable precision the circumstances in which, and the dates when, the document ceased to exist or left its possession or the other reason for non-production. If it is not possible to identify individual documents, the class of documents must be described with reasonable precision. ⁶²	
	5	Company/ Firm / Association Disclosure Certificate: In the case of a company, firm, association or other organisation, or where the Disclosure Certificate is signed by a party on behalf of other parties, the certificate must: (1) Identify the person signing the Disclosure Certificate; and (2) Explain why she or he is considered to be an appropriate person to sign it.	
	6	Disclosure Certificate signed by Legal Representative: A Disclosure Certificate may be signed by the legal representative for the party concerned, provided always that the legal representative has explained the significance of the Disclosure Certificate to his or her client(s) and has been given written authority to sign the Disclosure Certificate on the behalf of the client(s). In such cases, the party will be deemed to have agreed to and be bound by the certifications given by its legal representatives. ⁶³	
	7	Documents not Disclosed: Parties and Legal Representatives' Disclosure Duties are on-going and parties may not without the permission of the court or agreement of the parties rely on any document in its control that it has not disclosed at the time required for Extended Disclosure (or within 60 days after the first CMC in a case where there will be no Extended Disclosure).	

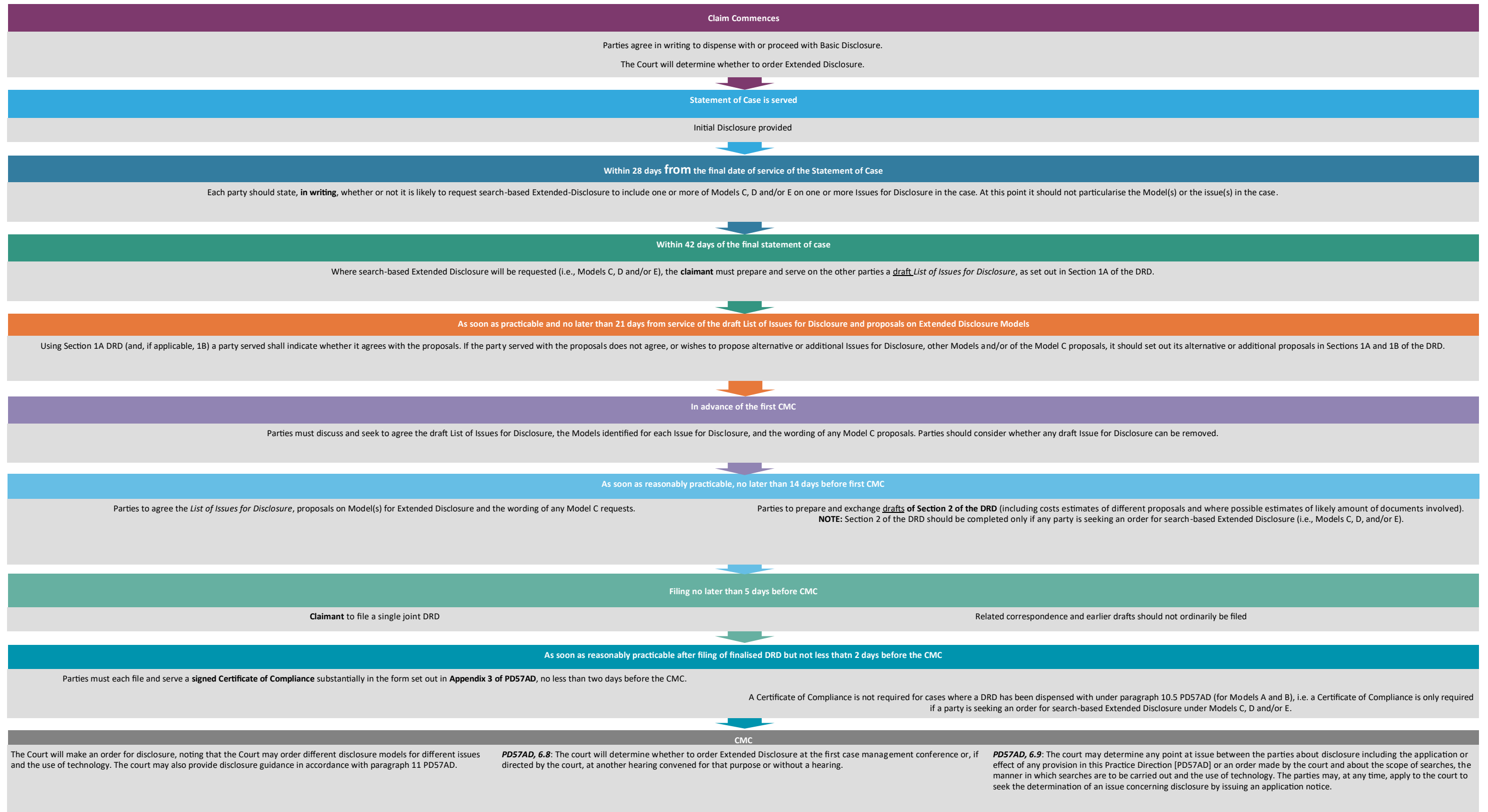
60 PD57AD, 23.1

61 PD57AD, 12.1

62 PD57AD, 12.3

63 PD57AD, 12.6

Extended Disclosure Timelines under PD57AD





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