

# Multi-Track Claims and Draft Directions

## What is a Multi-Track Claim and what are the Procedures?

In the UK courts, to ensure that cases are dealt with justly, the Civil Procedure Rules (CPR) prescribes three currently three 'tracks'\* that a case will fall into, depending on the nature, value and complexity of the matter.

These tracks are:

- **Small-track:** Usually for lower value and less complicated claims with a value up to £10,000.
- **Fast-track:** For claims valued between £10,000-25,000.
- **Multi-track:** Used for complicated claims with a value of £25,000 or more<sup>1</sup>. There is no standard procedure for multi-track cases.

\*(As part of the Ministry of Justice's push to extend Fixed Recoverable Costs, the CPR will introduce (among other changes) a fourth track, called the 'intermediate track', for cases worth £25,000 to £100,000. The changes to the CPR come into force on 1 October 2023. It may be worth reflecting on these changes to see how they affect your day-to-day practice.)

## The Directions Questionnaire

As soon as a claim worth in excess of £25,000 becomes a "defended claim", a *Notice of Allocation* to the multi-track procedure is issued by the court.

The Notice of Allocation imposes obligations on the parties, including the following headline requirements relating to directions specifically:

- Complete a particular Directions Questionnaire<sup>2</sup> (the purpose of which is to assist a judge decide whether the track the claim is provisionally marked for is correct);
- Serve copies of the Directions Questionnaire on all other parties;
- Attempt to agree directions with the other parties;
- All parties are to file proposed directions in accordance with CPR 29.1 (2) along with the Directions Questionnaire.

1. CPR, Part 26.6 –(8)

2. The Notice of Proposed Allocation to the Multi-Track will direct which directions questionnaire must be completed.

3. CPR, Part 27 sets out the procedures for claims allocated to the small claims track. CPR, Part 28 sets out the procedure for claims allocated to the fast track.

4. <https://www.justice.gov.uk/courts/procedure-rules/civil/standard-directions/general/list-of-cases-of-common-occurrence>

5. Enacted on 1 October 2022.

## What is CPR 29.1(2)?

CPR 29.1(2) sets out general provisions about the management of cases allocated to the multi-track and applies only to a case allocated to that track<sup>3</sup>.

Specifically, CPR 29.1(2) states:

*When drafting case management directions both the parties and the court should take as their starting point any relevant model directions and standard directions which can be found online at [www.justice.gov.uk/courts/procedure-rules/civil](http://www.justice.gov.uk/courts/procedure-rules/civil) and adapt them as appropriate to the circumstances of the particular case.*

## Issues with Standard Directions (per the requirements of CPR 29.1 (2))

As touched on in the preceding section, CPR29.1(2) provides, via a .gov website<sup>4</sup> ("**government website**") some "Standard Directions". These directions come in many variations and a party's legal representative is able to pick tailor-made standard directions depending on the discipline, i.e. Personal Injury, Commercial Litigation, etc.

An issue concerning correctly applicable disclosure rules arises; the current draft Directions on the government website assume that claims reside in the County Court, however where a multi-track claim falls within the remit of the Business and Property Courts, a claim must follow the Disclosure process governed by Practice Direction 57AD ("**PD57AD**")<sup>5</sup>, which the Standard Directions do not currently prescribe for.

## Standard Directions for a CCMC

We have therefore adapted the Standard Directions to address disclosure requirements in the Business and Property Courts, naming them "**Business and Property Court Standard Directions**".

Please navigate to **Annex A** below to access a copy of the Business and Property Court Standard Directions.

To obtain a MSWord version of this document, please contact: *Fiona Campbell* ([Fiona.Campbell@Fieldfisher.com](mailto:Fiona.Campbell@Fieldfisher.com)) or *Moishe Noe* ([Moishe.Noel@Fieldfisher.com](mailto:Moishe.Noel@Fieldfisher.com))

## Health Warning

The Business and Property Court Standard Directions is a template that should be adapted to the facts, nature, and other disclosure-related directions of any multi-track matter falling within this court jurisdiction. All other additions or deletions should be given appropriate consideration.

## Annex A

### Business and Property Court Standard Directions

IN THE HIGH COURT OF JUSTICE  
 BUSINESS AND PROPERTY COURTS [ ] CLAIM No: [ ]  
 BUSINESS LIST (ChD)  
 BEFORE DISTRICT JUDGE: [ ]  
 DATE: [ ]

B E T W E E N

PARTY A  
 - and -  
 Claimant

PARTY B  
 Defendant

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 DRAFT CCMC ORDER  
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**Warning: You must comply with the terms imposed upon you by this order otherwise your case is liable to be struck out or some other sanction imposed. If you cannot comply you are expected to make a formal application to the court before any deadline imposed upon you expires.**

UPON reading the Case Management bundle

AND UPON hearing [ ], Counsel for the Claimant and [ ]. Counsel for the Defendant at the Costs and Case Management Conference

#### IT IS ORDERED THAT

1. The Claim is allocated to the Multi-Track and assigned to District Judge[ ] for Costs and Case Management.
2. At all stages the parties must consider settling this litigation by any means of Alternative Dispute Resolution (including Mediation); any party not engaging in any such means proposed by another must serve a witness statement giving reasons within 21 days of that proposal; such witness statement must not be shown to the trial judge until questions of costs arise.
3. The Claimant's Costs Budget is agreed in the sum of £[ ].
4. The Defendant's Costs Budget is agreed in the sum of £[ ].
5. The Parties shall by 4:00pm on [ ] file and serve an updated front sheet of their respective Precedent H forms.
6. Disclosure of documents will be dealt with as follows:
  - 6.1 The parties are to comply with the requirements of PD57AD;

- 6.2 Disclosure Models (including any Extended Disclosure Models) are to be agreed between the parties by 4.00pm on [ ];
- 6.3 [Where search based Extended Disclosure has been agreed, the Claimant will prepare and serve on [the other parties / the Defendant] a draft List of Issues for Disclosure, set out in Section 1A of the Disclosure Review Document, PD57AD, no later than by 4.00pm on [ ]].
- 6.4 No later than 21 days from the service of the draft List of Issues for Disclosure, the parties are to agree and finalise the draft List of Issues for Disclosure, the Models identified for each Issue for Disclosure, and the wording of any Model C proposals.
- 6.5 The final agreed Disclosure Review Document (DRD) should be filed by the Claimant no later than 5 days before the Case Management Conference.
7. Evidence of fact will be dealt with as follows:
- 7.1 By 4:00pm on [ ] all Parties must serve on each other copies of the signed statements of any witnesses on whom they intend to rely and all notices relating to evidence.
- 7.2 Oral evidence will not be permitted at trial from a witness whose statement has not been served in accordance with this order or has been served late, except with permission from the Court.
8. The Parties have permission to rely on the written evidence of a [ ].
- 8.1 The Parties shall endeavour to agree the instructions in those terms to be given to their respective experts by not later than 4:00pm on [ ]. Insofar as the Parties cannot agree by that time on any of the matters dealt with by this paragraph, an application must be made for those outstanding matters to be dealt with by the Court, notifying the Court of the requirement for a speedy determination of the same.
- 8.2 The Parties have permission to use in evidence one such expert's report.
- 8.3 By 4:00pm on [ ] the expert must be identified to all parties.
- 8.4 By 4:00pm on [ ] the Parties must exchange reports.
- 8.5 The Parties may raise written questions of the authors of any reports served on them pursuant to this Order by 4:00pm on [ ] which must be answered by 4:00pm on [ ].
- 8.6 Unless the reports are agreed, there must be a without prejudice discussion between the experts by 4:00pm on [ ] in which the experts will identify the issues between them and reach agreement if possible. The experts will prepare for the Court and sign a statement of the issues on which they agree and on which they disagree with a summary of their reasons in accordance with CPR 35.12, and each statement must be sent to the Parties to be received by 4:00pm on [ ].
- 8.7 A copy of this Order must be served on the expert with the expert's instructions.
- 8.8 The expert may apply direct to the court for directions where necessary under CPR 35.14.

- 8.9 There is no permission at present to call oral expert evidence at trial. Any application for permission to do so must be issued not later than 21 days before the pre-trial review identified below. Any such application should be listed at the pre-trial review.
9. The trial will be listed as follows:
- 9.1 The trial window is between [ ] and [ ].
- 9.2 The estimated length of trial is [ ] days (to include any judicial pre- reading time).
- 9.3 By 4:00pm on [ ] the Parties must file with the Court their availability for trial, preferably agreed and with a nominated single point of contact. They will be notified of the time and place of trial.
- 9.4 Insofar any trial is listed on a date, which cannot be attended by a witness whose necessity was unknown until after disclosure, an application to re-list the trial must be made as soon as practicable thereafter.
- 9.5 By 4:00pm on [ ] Pre-Trial Check Lists must be sent to the Court.
10. Pre-Trial directions are as follows:
- 10.1 There will be a Pre-Trial review 4 weeks before the trial window starts, with a time estimate of 45 minutes.
- 10.2 The Pre-Trial Review will be conducted [remotely by MS Teams / in person]. The Claimant must make the relevant arrangements in accordance with CPR PD23A.
- 10.3 Not less than 3 clear days before the Pre-Trial Review the Claimant must file and send to the other party a bundle for the hearing complying with Appendix X to the Chancery Guide 2022 in PDF. The bundle must contain:
- 10.3.1 draft directions;
- 10.3.2 a chronology; and
- 10.3.3 a case summary.
- 10.4 The Parties shall exchange and send to the Court skeleton arguments for the Pre-Trial Review not later than 4:00pm two working days before the hearing.
- 10.5 At the Pre-Trial Review, the Court will consider whether the trial bundle shall be prepared, in whole or in part, in hard copy or electronically or both, with particular regard to any plans.
11. The trial directions are as follows:
- 11.1 Not more than 14 nor less than 10 clear days before the trial, the Claimant must file at Court and serve an indexed and paginated bundle of documents compliant with Appendix X to the Chancery Guide 2022. The Parties must endeavour to agree the contents of the bundle before it is filed. The bundle will include:
- 11.1.1 a chronology;
- 11.1.2 a trial timetable.

- 11.2 The Parties must file with the court and exchange skeleton arguments with copy authorities at least 3 clear days before the trial by email.
12. The Parties may, where CPR 2.11 applies, agree to extend any time period to which the proceedings may be subject for a period or periods of up to 28 days in total without reference to the Court, provided that this does not affect the date given for any Case or Costs Management Conference or Pre-trial Review or the date of the Trial. The parties shall notify the Court in writing of the expiry date of any such extension.
13. Costs in the case.

ORDER MADE: [                    ]