

# Disclosure in the UK Business & Property Courts

## 17 July 2024

### Disclosure in the UK Courts – Overview

Disclosure is the process by which parties to litigation are required to reveal to each other the documents that are relevant to the issues in dispute. The rules governing disclosure are detailed in the Civil Procedure Rules (CPR) and accompanying Practice Directions (PDs).

The UK courts, the CPR and the PDs provide specific guidelines for electronic documents, as well as various levels of disclosure, tailored specifically to the complexity and requirements of the case.

The main relevant disclosure provisions within the CPR and PDs are:

- [CRP, PD31](#)
- [CPR, PD31 Part B](#)
- [CPR, PD57AD](#)

Practice Directions 31A and 31B provide detailed procedures for standard and electronic disclosure, respectively, while PD57AD introduces specific models and processes for the Business and Property Courts, emphasising initial disclosure and the use of technology to manage large-scale document reviews.

#### NOTE:

- Initial Disclosure in PD57AD requires **key documents** to be provided early in the litigation process, facilitating an early understanding of the case.

- Extended Disclosure Models in PD57AD range from no additional disclosure {Models A & B} to comprehensive document searches and disclosures, tailored to the case's complexity. [Models C, D, E].
- No equivalent requirement for "Initial Disclosure" is found in other practice directions like PD31 or PD31A, where standard disclosure typically occurs after pleadings.

### Civil Procedure Rules, Part 31 (CPR 31) - Disclosure and Inspection of Documents

**Introduced:** 1999

This practice direction was part of the original implementation of the Civil Procedure Rules (CPR) which came into effect on 26th April, 1999.

- **General Rule (CPR 31.2):** Parties are required to disclose documents which support or adversely affect their own case, another party's case, or are required by a practice direction.
- **Standard Disclosure (CPR 31.6):** Includes documents on which a party relies, documents that adversely affect or support another party's case, and documents required to be disclosed by a relevant practice direction.
- **Duty of Search (CPR 31.7):** Parties must conduct a reasonable search for documents, considering factors like the number of documents, the complexity of the case, the ease and expense of retrieval, and the significance of the documents.
- **Disclosure Statement (CPR 31.10):** The disclosing party must provide a disclosure statement certifying that they understand the duty of disclosure and have complied with it. A disclosure statement accompanies each **individual production** (rather than accompanying one tranche of disclosure and covering any subsequent productions).

# Disclosure in the UK Business & Property Courts Continued



## Practice Direction 31A (PD31A) - Disclosure and Inspection

**Introduced:** 1999

Like PD31, PD31A was introduced as part of the initial set of Practice Directions accompanying the Civil Procedure Rules in 1999.

- **List of Documents (PD31A para. 4.1):** Requires a list of documents to be prepared and served, identifying documents that are available for inspection, those no longer in a party's control, and those for which a party claims a right or duty to withhold inspection.
- **Electronic Documents (PD31A para. 2A.1):** Emphasises that disclosure of electronic documents should be addressed early in the proceedings, with a specific focus on the reasonable search for these documents.

## Practice Direction 31B (PD31B) - Disclosure of Electronic Documents

**Introduced:** 2010

This practice direction was introduced to address the growing importance and volume of electronic documents in litigation. It came into effect on 1st October, 2010.

- **Electronic Documents Questionnaire (PD31B para. 8):** Requires parties to complete an **Electronic Documents Questionnaire** to provide information about their electronic documents and the processes for searching them.
- **Keyword Searches (PD31B para. 25):** Encourages parties to agree on keyword searches and other automated methods for searching electronic documents.

- **Technology Assisted Review (PD31B para. 26):** Recognises that technology-assisted review (e.g., predictive coding) may be appropriate in large-scale document searches.

## Practice Direction 57AD - Disclosure in the Business and Property Courts

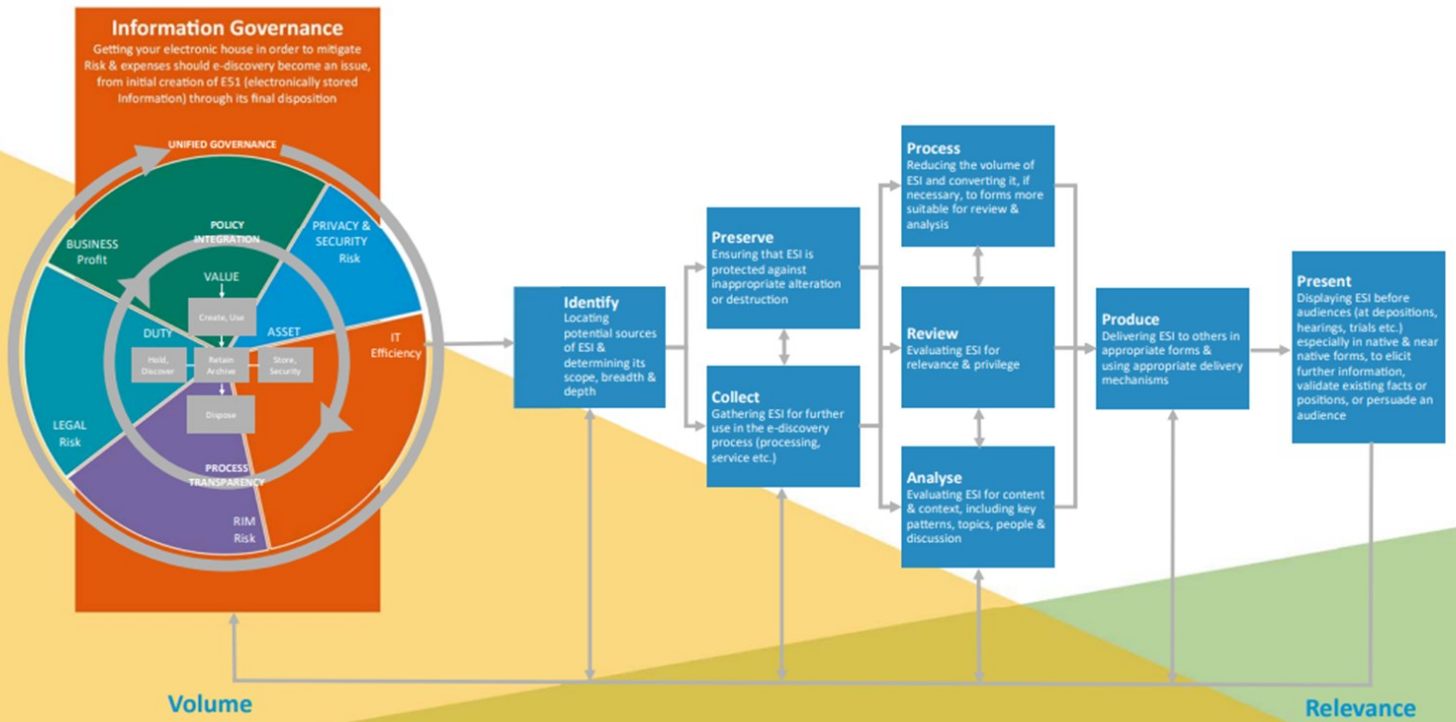
**Introduced:** 2019

Initially introduced as a pilot scheme (known as the Disclosure Pilot Scheme) on 1st January, 2019, and specifically designed for the Business and Property Courts. This pilot scheme was made permanent on 1st October 2022, reflecting its effectiveness in improving disclosure procedures in the Business and Property Courts.

- **Disclosure Pilot Scheme (PD57AD para. 1):** Initially introduced as a pilot scheme for the Business and Property Courts, now a permanent fixture, which aims to improve the efficiency and effectiveness of disclosure.
- **Disclosure Models (PD57AD para. 8):** Introduces different models of disclosure (A to E) ranging from Basic Disclosure (Model A) to Extended Disclosure (Models B to E), tailored to the needs of the case.
- **Disclosure Review Document (DRD) (PD57AD para. 10):** Requires parties to complete a DRD to outline their proposals for disclosure, addressing key issues and providing a framework for discussion and agreement between the parties. Drafted by the claimant, with parties agreeing the issues in dispute in the proceedings to which disclosure applies.
- **Initial Disclosure (PD57AD para. 5):** Requires parties to provide initial disclosure of **key documents with** their Statements of Case, unless agreed otherwise or ordered by the court.

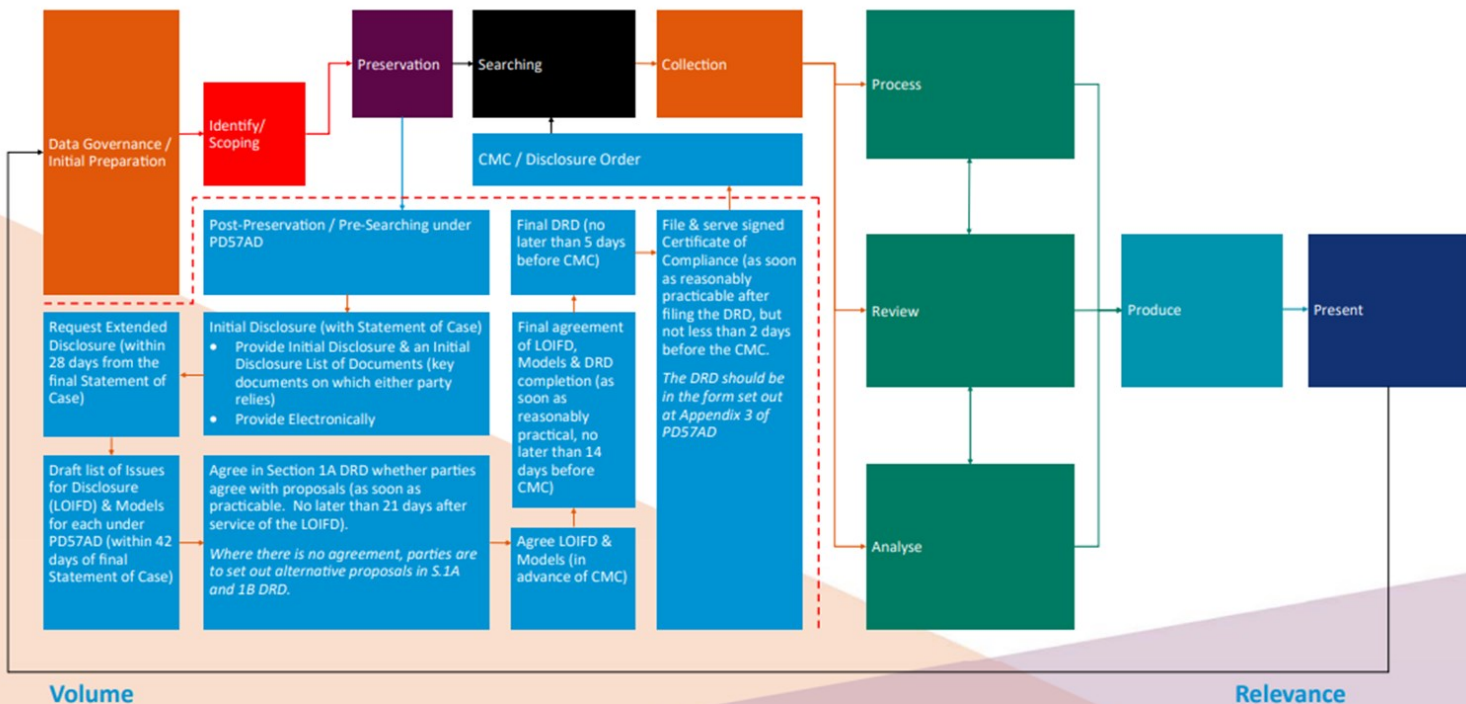
## Standards, Guidelines and Practical Resources for Legal Professionals and E-Discovery/E-Disclosure Practitioners

Best practice *Electronic Disclosure* projects follow the Electronic Discovery Reference Model (EDRM). The EDRM was developed in 2005 with an aim to improve eDiscovery /eDisclosure standards and create a formalised framework for conducting and managing effective eDisclosure projects, whether that be in the context of litigation or arbitration.



Practice Direction 57AD (PD57AD), which governs Disclosure in the UK's Business and Property Courts, sets out a series of procedural requirements that parties must follow prior to searching for relevant documents within their control or possession.

In the chart below, we have adapted the EDRM Model to fit with the necessary required processes involved when conducting disclosure to which PD57AD applies.



# Summary: PD57AD

## PD57AD - Overview

**Introduced:** 1 October, 2022. Replaced pilot PD51U

## The Purpose of Disclosure

**Paragraph 2, PD57AD:** Principles, “document”, “adverse” and “known adverse documents”.

- **PD57AD, paragraph 2.3:** The court expects parties to proceedings (and their legal representatives) to cooperate with one another and to assist the court so that the scope of disclosure, if any, that is required in proceedings can be agreed or determined by the court in the most effective way possible.
- **PD57AD, paragraph 2.4:** The court will be concerned to ensure that disclosure is directed to the issues in the proceedings and that the scope of disclosure is not wider than is reasonable and proportionate in order fairly to resolve those issues, and specifically the issues for disclosure.

## Initial Disclosure – PD57AD

Initial Disclosure under PD57AD refers to the early stage of disclosure where parties provide each other with **key documents that are essential for understanding the case**.

- **Scope of Initial Disclosure (PD57AD para. 5.1):** Parties are required to provide with their Statements of Case the **key documents** on which they rely and the **key documents** that are necessary to enable the other parties to understand the claim or defence they have to meet.
- **Timing (PD57AD para. 5.3):** Initial Disclosure must be provided at the same time as the party serves its Statement of Case (unless the parties agree otherwise or the court orders otherwise).
- **Nature of Documents (PD57AD para. 5.5):** Documents included in Initial Disclosure should be those which are not privileged and which the party relies upon or are necessary for the other party to understand the case against them. This includes both paper and electronic

documents.

- **Extended Models of Disclosure under PD57AD:** PD57AD outlines several models of extended disclosure that apply depending on the complexity and needs of the case. These models range from minimal to extensive and are designed to be more comprehensive than Initial Disclosure:

**Model A:** No Order for Disclosure (PD57AD para. 8.2) - No further disclosure beyond Initial Disclosure.

**Model B:** Limited Disclosure (PD57AD para. 8.3) - Parties disclose documents on which they rely and any additional documents requested by another party that are **necessary to understand the case**.

**Model C:** Request-led search-based disclosure (PD57AD para. 8.4) - Parties disclose documents in response to specific requests from the other side.

**Model D:** Narrow Search-Based Disclosure (PD57AD para. 8.5) - Disclosure of documents that are likely to support or adversely affect any party's case, focusing on specific issues agreed upon by the parties or directed by the court.

**Model E:** Wide Search-Based Disclosure (PD57AD para. 8.6) - Comprehensive disclosure including all documents that may be relevant to the case, subject to limits on proportionality and relevance.

# Disclosure Models

## PD57AD

### Differences Between Initial Disclosure and Extended Disclosure Models

- **Timing:** Initial Disclosure is provided at the outset, alongside the Statements of Case. Extended Disclosure is provided later, following the court's direction on the appropriate model for the case.
  - **Scope:** Initial Disclosure is limited to **key documents** necessary for understanding the claim or defence. Extended Disclosure can range from no additional disclosure (Model A) to comprehensive search-based disclosure (Model E), depending on what the court considers appropriate.
  - **Process:** Initial Disclosure is a straightforward process linked to the filing of Statements of Case. Extended Disclosure involves a more detailed and potentially extensive search and review process, often involving the use of technology and detailed negotiations between parties.
- The court may order that Extended Disclosure be given using different Disclosure Models for different Issues for Disclosure in the case. It is important that there is moderation in the number of Models used and the way in which they are applied to the Issues for Disclosure so that the disclosure process that will follow, using the Models and the Issues for Disclosure, will be practical. In the interests of avoiding undue complexity the court will rarely require different Models for the same set or repository of documents. The court may also order that Extended Disclosure be given by only one party, or that different Models are to apply to each party's Disclosure on a particular Issue for Disclosure. In some cases, it may be appropriate, practical and proportionate for different Models to be applied to different types of documents (e.g. one Model for physical documents and another Model for electronic documents)<sup>2</sup>.
  - Known adverse documents must be included in disclosure under Models A – E. Adverse documents must be disclosed at the time ordered for Extended Disclosure. In a case where no order for Extended Disclosure is made, parties must still disclose known adverse documents within **60 days of the first CMC** and provide a Disclosure Certificate certifying that this has been done<sup>3</sup>.
  - Extended Disclosure may take the form of one or more of Disclosure Models A-E<sup>4</sup>. There is no presumption that a party is entitled to search-based Extended Disclosure (Extended Disclosure Models C, D, and/or E). No Extended Disclosure Model will apply without the approval of the court<sup>5</sup>.

### Other Practice Directions and Initial Disclosure

- PD31 (Disclosure and Inspection) and PD31A (Disclosure and Inspection) do not specify an "Initial Disclosure" requirement similar to PD57AD. The general approach under these practice directions involves standard disclosure after the close of pleadings, with parties disclosing documents they rely on, those that adversely affect their own or another party's case, and those required by any practice direction.

### Disclosure Models

- The objective of relating Disclosure Models to Issues for Disclosure is to limit the searches required and the volume of documents to be disclosed. Issues for Disclosure may be grouped. Disclosure Models should not be used in a way that increases cost through undue complexity<sup>1</sup>.

1. PD57AD, 6.6: The objective of relating Disclosure Models to Issues for Disclosure is to limit the searches required and the volume of documents to be disclosed. Issues for Disclosure may be grouped. Disclosure Models should not be used in a way that increases cost through undue complexity.

2. PD57AD, 8.3: The court may order that Extended Disclosure be given using different Disclosure Models for different Issues for Disclosure in the case. It is important that there is moderation in the number of Models used and the way in which they are applied to the Issues for Disclosure so that the disclosure process that will follow, using the Models and the Issues for Disclosure, will be practical. In the interests of avoiding undue complexity the court will rarely require different Models for the same set or repository of documents. The court may also order that Extended Disclosure be given by only one party, or that different Models are to apply to each party's Disclosure on a particular Issue for Disclosure. In some cases, it may be appropriate, practical and proportionate for different Models to be applied to different types of documents (e.g. one Model for physical documents and another Model for electronic documents).

3. PD57AD, 9.2: In a case where no order for Extended Disclosure is made in respect of a party on any Issue for Disclosure, that party must still disclose all known adverse documents within 60 days of the first case management conference and provide a Disclosure Certificate certifying that this has been done.

4. PD57AFD, 8.1: Extended Disclosure may take the form of one or more of the Disclosure Models set out below.

5. PD57AD, 8.2: There is no presumption that a party is entitled to search-based Extended Disclosure (Extended Disclosure Models C, D and/or E). No Model will apply without the approval of the court.

# Disclosure Models

## PD57AD

Extended Disclosure Models A-E		
Model	Disclosure Requirements	In Further Detail
A	<b>Disclosure confined to known adverse documents.</b>	
B	<b>Limited Disclosure + known adverse documents.</b>	Key documents on which the parties seek to rely.
Search Based Extended Disclosure		
C	<b>Disclosure of particular documents or narrow classes of documents + known adverse documents.</b>	If the parties cannot agree that Model C disclosure should be given, the requesting party must raise it at the CMC. The request must be reasonable and proportionate.
D	<b>Narrow search-based disclosure, with or without Narrative Documents + adverse documents</b>	Documents that are likely to support/adversely affect a claim/defence in relation to one or more of the Issues for Disclosure. Reasonable and proportionate searches are required. The court will limit scope based on the information provided in the DRD. The court may order whether Narrative Documents should be included/excluded, otherwise, parties take a reasonable and proportionate view to including/excluding Narrative Documents based on the volume and cost of any subsequent review by the receiving party.
E	<b>Wide search-based disclosure + adverse documents + documents that lead to a train of inquiry which identifies other documents.</b>	Ordered in exceptional cases. Includes Narrative Documents. Documents which are likely to support/adversely affect a claim/defence in relation to one of more of the Issues for Disclosure or which may lead to a train of inquiry which may then result in the identification of other documents for disclosure. Reasonable and proportionate searches to be undertaken in relation to the Issues for Disclosure; the scope of the search will be determined by the court using the information in the DRD. Model E is likely to be broader than Model D.

6. PD57AD, 8.3: Model A: Disclosure confined to known adverse documents: The court may order that the only disclosure required in relation to some or all of the Issues for Disclosure is of known adverse documents in accordance with the (continuing) duty under paragraph 3.1(2) PD57AD.

7. PD57AD, 8.3: Model B: Limited Disclosure: (1) The court may order the parties to disclosure (where and to the extent that they have not already done so by way of Initial Disclosure, and without limit as to quality) – (a) the key documents on which they have relied (expressly or otherwise) in support of the claims or defences advanced in their statement(s) of case; and (b) the key documents that are necessary to enable the other parties to understand the claim or defence they have met; and in addition to disclose known adverse documents in accordance with their (continuing) duty under paragraph PD57AD; (2) A party giving Model B Disclosure is under no obligation to undertake a search for documents beyond any search already conducted for the purposes of obtaining advice on its claim or defence or preparing its statement(s) of case. Where it does undertake a search however then the (continuing) duty under paragraph 3.1(2) PD57AD [the Disclosure Duties – see table above] will apply.

8. PD57AD, 8.3: Model C: Disclosure of particular documents or narrow classes of documents: (1) The court may order a party to give disclosure of particular documents or narrow classes of documents relating to a particular Issue for Disclosure, by reference to requests set out in or to be set out in Section 1B of the Disclosure Review Document or otherwise defined by the court.; (2) If the parties cannot agree that disclosure should be given, or the disclosure to be given, pursuant to a request, then the requesting party must raise the request at the case management conference. The court will determine whether the request is reasonable and proportionate and may either order the disclosing party to search for a narrower class of documents than that requested. Any appropriate limits to the scope of the searches to be undertaken will be determined by the court using the information provided in the Disclosure Review Document. A party may address Model C requests not only to the other party or parties, but also propose that Model C be used in respect of documents which it may propose searching for and disclosing; (3) For the avoidance of doubt, a party giving Model C Disclosure must still comply with the duty (the "Disclosure Duties") under paragraph 3.1 (2) PD57AD to disclose known adverse documents; these will include any arising from the search directed by the court.

9. PD57AD, 8.3: Model D: Narrow search-based disclosure, with or without Narrative Documents: (1) Under Model D, a party shall disclose documents which are likely to support or adversely affect its claim or defence or that of another party in relation to one or more of the Issues for Disclosure.; (2) Each party is required to undertake a reasonable and proportionate search in relation to the Issues for Disclosure for which Model D disclosure has been ordered. Any appropriate limits to the scope of the searches to be undertaken will be determined by the court using the information provided in the Disclosure Review Document. (3) The court may order the parties to include or exclude Narrative Documents. In the absence of an order, the parties are encouraged to take reasonable steps to exclude Narrative Documents where it is reasonable and proportionate to do so with a view to reducing the overall volume and the cost of any subsequent review by the party receiving the disclosure; (4) For the avoidance of doubt, a party giving Model D Disclosure must still comply with the duty (the "Disclosure Duties") under paragraph 3.1(2) PD57AD to disclose known adverse documents; these will include any arising from the search directed by the court.

10. PD57AD, 8.3: Model E: Wide search-based disclosure: (1) Under Model E, a party shall disclose documents which are likely to support or adversely affect its claim or defence or that of another party in relation to one of more of the issues for Disclosure or which may lead to a train of inquiry which may then result in the identification of other documents for disclosure (because those other documents are likely to support or adversely affect the party's own claim or defence or that of another party in relation to one or more of the Issues for Disclosure); (2) Model E is only to be ordered in an exceptional case; (3) Each party is required to undertake a reasonable and proportionate search in relation to the Issues for Disclosure for which Model E Disclosure has been ordered. The scope of the search will be determined by the court using the information provided in the Disclosure Review Document and is likely to be broader than that ordered for Model D Disclosure. (4) Narrative Documents must also be searched for and disclosed, unless the court otherwise orders. (5) For the avoidance of doubt, a party giving Model E Disclosure must still comply with the duty (the "Disclosure Duties") under paragraph 3.1 (2) PD57AD to disclose known adverse documents; these will include any arising from the search directed by the court.

# List of Issues for Disclosure

## PD57AD

### List of Issues for Disclosure

Paragraph 7, PD57AD: Identifying the Issues for Disclosure

- [PD57AD, paragraph 7.2](#): Parties requesting search-based Extended Disclosure (i.e., Models C, D, E) must prepare a List of Issues for Disclosure – this is not required if the parties are agreed that Extended Disclosure is confined to Models A and B.
- The claimant is responsible for preparing and serving a *draft* List of Issues for Disclosure where search-based Extended Disclosure is sought (i.e. Models C, D and/or E). This must be done within **42 days of the final Statement of Case** (unless an agreed list of issues for trial already exists and the parties agree that it is suitable (with or without adaption to be used for disclosure). The *draft* List of Issues for Disclosure should be set out in Section [1A of the DRD](#). The claimant should seek to ensure that the draft List of Issues for Disclosure provides a fair and balanced summary of the key areas of dispute identified by the parties' Statement of Case and in respect of which it is likely that one or other of the parties will be seeking search-based Extended Disclosure.
- The List of Issues for Disclosure does not bind the parties at trial. The List of Issues for Disclosure need not contain / include a list of all the issues in the case and the issues in the case may develop or be refined as the case proceeds. The List of Issues for Disclosure may be revised or supplemented at any time prior to or following the CMC, including as a result of Statements of Case or amended statements of case subsequently served, or discussions between the parties in relation to the DRD.
- [PD57AD, paragraph 1.11](#): In a multi-party case, where the risk of undue complexity in Lists of Issues for Disclosure is heightened, while the provisions of PD57AD remain the default arrangement, an application may be made under [paragraph 1.11 PD57AD](#) to request that the Court order for a bespoke timetable and procedure to be set in order to meet the needs of the multi-party case.

### PD57AD, 7.6 – List of Issues for Disclosure Requirements

- The List of Issues for Disclosure should be as short and concise as possible.
- "*Issues for Disclosure*" means for the purposes of disclosure only those **key issues in dispute**, which the parties consider will need to be determined by the court with some reference to contemporaneous documents in order for there to be a fair resolution of the proceedings.
- The List of Issues for Disclosure does not extend to every issue which is disputed in the statements of case by denial or non-admission.
- For the purposes of producing a List of Issues for Disclosure the parties should consider what matters are common ground but should only include the key issues in dispute in the list.

### PD57AD, 7.7 – Primary functions of the Issues for Disclosure

When drafting Issues for Disclosure the parties should have regard to the primary functions of those Issues namely:

- To help the parties to consider, and the court to determine, whether Extended Disclosure is required and, if so, which Model or Models should be used;
- To assist the parties in identifying documents and categories of documents that are likely to exist and require to be disclosed;
- To assist those carrying out the disclosure process to do so in a practical and proportionate way including, in case of search-based disclosure (i.e. Models C, D and/or E), to help define and guide the searches;
- To assist with the process of reviewing documents produced by searches; and
- To avoid the production of documents that are not relevant to the issues in the proceedings.

# Disclosure Duties

## Disclosure Duties

### These duties apply to parties and their legal representatives

PD57AD, paragraph 3 sets out specific **disclosure duties** for parties to proceedings<sup>11</sup> and 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 the proceedings<sup>12</sup>. These disclosure duties continue until the conclusion of the proceedings (including any appeal) or until it is clear there will be no proceedings<sup>13</sup>.

### Party's/parties' Disclosure Duties

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:

1) to take reasonable steps to preserve documents in its control that may be relevant to any issue in the proceedings;

2) no later than the time(s) set out in paragraphs 9.1 to 9.3 [of PD57AD – within 60 days of the first CMC, and continued duty to disclose any adverse documents that subsequently come to the party's attention after the initial disclosure deadline has passed], **to disclose known adverse documents, unless they are privileged**. This duty exists regardless of whether or not any order for disclosure is made;

(3) to comply with any order for disclosure made by the court;

(4) to undertake any search for documents in a responsible and conscientious manner to fulfil the stated purpose of the search;

(5) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and

(6) to use reasonable efforts to avoid providing documents to another party that have no relevance to the *Issues for Disclosure* in the proceedings.

11. PD57AD, 3.1

12. PD57AD, 3.2

13. PD57AD, 3.3: *The duties under paragraphs 3.1 and 3.2 above are continuing duties that last until the conclusion of the proceedings (including any appeal) or until it is clear there will be no proceedings.*



# Legal Representatives' Disclosure Duties

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:

(1) to take reasonable steps to preserve documents within their control that may be relevant to any issues in the proceedings;

(2) to take reasonable steps to advise and assist the party to **comply with its Disclosure Duties**;

(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, **including through the use of technology**;

(4) to act honestly in relation to the process of giving disclosure and reviewing documents disclosed by the other party; and

(5) to undertake a review to satisfy themselves that **any claim by the party to privilege from disclosing a document** is properly made and the reason for the claim to privilege is sufficiently explained.

# Disclosure Review Document (DRD) PD57AD

## Disclosure Review Document (DRD)

- The DRD is the document by which the parties must identify, discuss and seek to agree the scope of any Extended Disclosure sought of Model C, D and/or E, and provide that information in due course to the court.
- The DRD may be modified (shortened or lengthened) as required in order that key information is exchanged and in due course provided to the court in an efficient, convenient, and helpful format - this may include revising some of the questions asked in Section 2 of the DRD or adding others relevant to the particular disclosure exercise to be undertaken.
- In cases where there is likely to be limited disclosure or the identification and retrieval of documents is straightforward, not every section of the DRD will need to be completed. For such cases the parties should consider whether it would be more appropriate to use the Less Complex Claims regime.

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## On-Going Duty

- The parties' obligation to complete, seek to agree and update the DRD is ongoing. If a party fails to co-operate and constructively engage in this process the other party or parties may apply to the court for an appropriate order at or separately from the CMC, and 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.

## Use of Technology

- PD57AD explicitly encourages the use of technology, including TAR and electronic disclosure methods, and requires cooperation through tools like the EDQ<sup>14</sup> and DRD<sup>15</sup>.
- PD31B also mandates the use of technology for electronic disclosure, promoting keyword searches and TAR.
- While other Practice Directions may not expressly require technology, the principles of the Civil Procedure Rules implicitly support its use to ensure proportionality, efficiency, and cost-effective litigation.

14. Electronic Documents Questionnaire

15 Disclosure Review Document

# Use of Technology in Disclosure

## PD57AD



### PD57AD

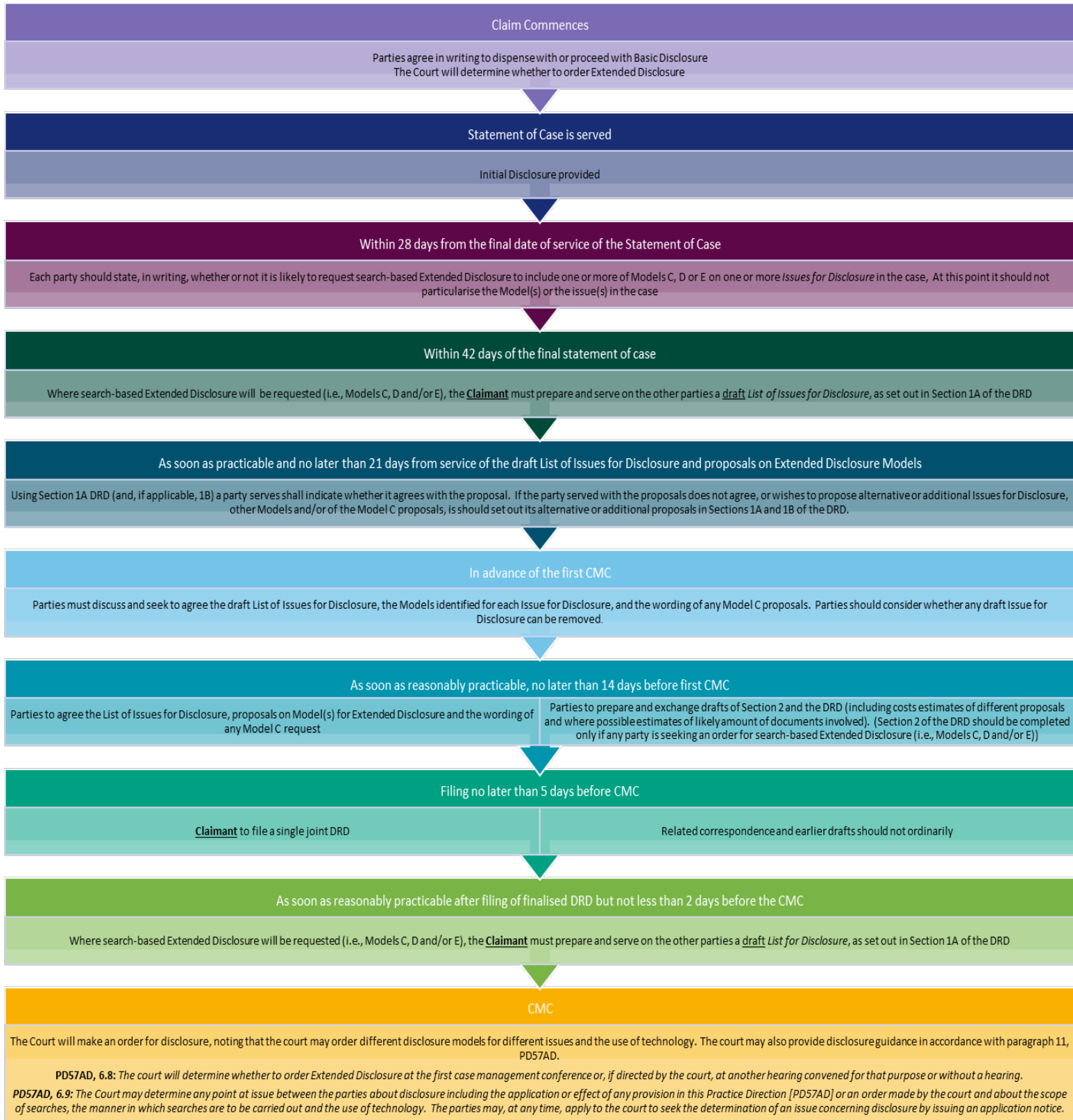
PD57AD emphasises the use of technology in the disclosure process to improve efficiency and effectiveness.

Here are key points from PD57AD regarding the use of technology and cooperation between parties:

- Technology-Assisted Review (TAR) ([PD57AD para. 23](#)): PD57AD encourages the use of Technology-Assisted Review (TAR), including predictive coding and other forms of automated document review. It acknowledges that TAR can be more accurate and cost-effective for large-scale document reviews than manual review.
- Electronic Documents Questionnaire (EDQ) ([PD57AD para. 8](#)): Parties are required to complete an Electronic Documents Questionnaire (EDQ), which provides information about the electronic documents that exist and the methods proposed for searching them. The EDQ facilitates discussion and agreement on the scope and methods of electronic disclosure.
- Disclosure Review Document (DRD) ([PD57AD para. 10](#)): The DRD requires parties to outline their proposals for disclosure, including the use of technology to search and review documents. The DRD promotes transparency and cooperation between parties in determining the most efficient methods for managing electronic disclosure.
- Models of Disclosure ([PD57AD para. 8](#)): The different models of disclosure (A to E) outlined in PD57AD allow for flexibility in how technology is used, depending on the complexity and needs of the case. For example, Model D (Extended Disclosure with Search-Based Review) is likely to involve significant use of technology.

# Extended Disclosure Timelines

## PD57AD



# Use of Technology in UK Disclosure Generally

## Other Practice Directions and Technology

PD31B (Disclosure of Electronic Documents) specifically addresses the use of technology:

- Electronic Documents Questionnaire (PD31B para. 8): Similar to PD57AD, PD31B requires parties to complete an Electronic Documents Questionnaire, which includes questions about the types of electronic documents, the sources of these documents, and the proposed methods for searching and reviewing them.
- Keyword Searches and Automated Methods (PD31B para. 25): PD31B explicitly encourages parties to use keyword searches and other automated methods to identify relevant electronic documents, emphasising efficiency and proportionality.
- Technology-Assisted Review (PD31B para. 26): Recognises that technology-assisted review methods such as predictive coding may be appropriate in large-scale disclosure exercises and encourages their use where applicable.

## Implied Use of Technology

- Even where not expressly mandated, the use of technology in disclosure is often implied by the overarching principles of the Civil Procedure Rules, particularly the need for proportionality, efficiency, and cost-effectiveness. These principles encourage the adoption of technological solutions to handle the increasing volume and complexity of electronic documents.

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