

General UK Civil Disclosure Rules where PD57AD does not apply

UK Civil Disclosure Rules Outside the Business & Property Courts

In the UK, disclosure procedures for civil cases outside the Business and Property Courts (i.e., where PD57AD does not apply) follow the general rules set out in the Civil Procedure Rules (CPR), particularly under Part 31 and associated Practice Directions - these rules are comprehensive, providing a detailed framework that addresses amongst other things, initial document exchange, the approach to electronic data, and the protection of privileged information.

COURT JURISDICTION OVERVIEW		
Court	Disclosure Requirements/ Rules	Details
County Court	Proportionate Disclosure	The County Court often emphasises proportionate disclosure, especially in smaller or simpler cases.
	Small Claims Track	For small claims (generally those under £10,000), the disclosure process is simplified and less formal, focusing on key documents only .
Fast Track	Limited Disclosure	For cases allocated to the fast track (usually those valued between £10,000 and £25,000), disclosure is limited to standard disclosure , and the court may make orders to streamline the process to keep costs proportional.
Multi-Track	Comprehensive Disclosure	For more complex and higher-value cases, where disclosure may be more comprehensive and tailored to the specifics of the case.

General UK Civil Disclosure Rules where PD57AD does not apply

Civil Procedure Rules (CPR) Part 31: Disclosure and Inspection of Documents

Standard Disclosure (Rule 31.6)

- **Requirement:** Each party must disclose documents on which it relies, documents that adversely affect its own case or another party's case, and documents that support another party's case.
- **What is in-scope for disclosure?** Documents relevant to the issues in the case and proportionate to the needs of the proceedings.
- **How is disclosure provided by parties?** Disclosure is typically provided in a list that identifies each document and states whether privilege is claimed over any of the documents.

Duty of Disclosure (Rule 31.10)

- Each party must make and serve a list of documents that are in their control and fall within the scope of the disclosure order.
- The list must include a disclosure statement signed by the party, confirming the duty of disclosure has been understood and complied with.

Disclosure Statement

- **What is the purpose of a Disclosure Statement?** Parties must sign a disclosure statement certifying they understand the duty of disclosure and have carried it out to the best of their ability.
- **What should be in a Disclosure Statement?** The statement should describe

- **What are the remedies for non-compliance with a party's disclosure obligations?** Parties can apply to the court for an order for specific disclosure if they believe another party has not complied with its disclosure obligations.
- **What is Court Ordered Disclosure?** The court can order the disclosure of specific documents or classes of documents.

Inspection of Documents (Rule 31.15)

- **What is inspection of documents?** Once documents are disclosed, the other party has the right to inspect them, unless they are privileged.
- **When must inspection occur?** Inspection must be requested within 7 days of the disclosure list being served.
- **When can the inspection of documents be refused?** A party can refuse inspection of documents that are privileged or if the documents are no longer in their control.

Privilege and Public Interest Immunity

- **Types of Privilege:** Legal professional privilege (covering confidential communications between a client and lawyer for the purpose of obtaining legal advice) and litigation privilege (covering documents created for the dominant purpose of litigation).
- **Claiming Privilege:** Parties must explicitly state when they are claiming privilege over a document in their disclosure list.
- **Public Interest Immunity:** Some documents may be withheld from disclosure if their release would be damaging to the public interest.

General UK Civil Disclosure Rules where PD57AD does not apply

Additional Disclosure Guidance – Supplemental Practice Directions

Practice Direction 31A (PD 31A)

Practice Direction 31B (PD 31B)

Supplemental Guidance

Specific guidance for electronic documents

- | | |
|---|---|
| <ul style="list-style-type: none"> • Form and Content of Lists of Documents: Detailed guidance on how to structure and complete the list of documents. • Disclosure Statements: Further details on the content and requirements of Disclosure Statements. • Searches: Guidance on how to conduct searches for documents and the reasonableness of such searches. | <ul style="list-style-type: none"> • Definition of Electronic Documents: Includes email, word documents, databases, spreadsheets, etc., i.e. any record of information. • Preservation of Electronic Documents: Parties must take steps to preserve electronic documents relevant to the case. • Search Methodology: Guidelines on how to search for electronic documents, including the use of keyword searches and other techniques. • Disclosure Report: In some cases, a disclosure report is required to outline the proposed approach to electronic disclosure. |
|---|---|

General UK Civil Disclosure Rules where PD57AD does not apply - Other Considerations

Part 35 of the CPR (Expert Evidence):

Although not strictly part of the disclosure rules, Part 35 often intersects with disclosure requirements as it pertains to the sharing of expert reports and related documents.

Part 18 of the CPR (Further Information):

Allows parties to request further information or clarification about any matter in dispute, which can involve the disclosure of additional documents or details.

Practice Direction on Pre-Action Conduct:

Conduct: Encourages parties to exchange relevant information and documents before proceedings are issued:

Pre-Action Protocols: Set out specific steps parties should take, including the exchange of key documents to try to settle the matter without litigation.

Pre-Action Disclosure: Applications can be made under CPR 31.16 for the disclosure of documents before a claim is formally started.

Specific Disclosure (Rule 31.12):

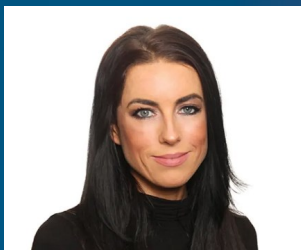
A party can apply to the court for an order for specific disclosure, which compels another party to disclose particular documents or classes of documents.

Non-Party Disclosure (Rule 31.17):

Allows a party to apply for an order requiring a third party to disclose documents relevant to the case.

Redaction: Certain parts of a document may be redacted (blacked out) if they are irrelevant, privileged, or sensitive.

Contact



Fiona Campbell

Director, Head of Electronic Disclosure

+44 (0)330 460 6620

