

**PRACTICE DIRECTION 26 – CASE MANAGEMENT – PRELIMINARY STAGE:  
ALLOCATION AND REALLOCATION**

This Practice Direction supplements CPR Part 26

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### **Reminders of important rule provisions other than Parts 26–29**

#### **1.**

(1) Attention is drawn in particular to the following provisions of the Civil Procedure Rules—

(a) Part 1

- (i) the Overriding Objective (defined in Rule 1.1);
- (ii) the duty of the court to further that objective by actively managing cases (set out in Rule 1.4);
- (iii) requirement that the parties help the court to further that objective (set out in Rule 1.3);

(b) Section I of Part 3;

The court's case management powers (which may be exercised on application or on its own initiative) and the sanctions which it may impose.

(c) Part 24

The court's power to grant summary judgment.

(d) Parts 32–35

Evidence, especially the court's power to control evidence.

(2) Attention is also drawn to the practice directions which supplement those Parts and Parts 27-29, and to those which relate to the various specialist jurisdictions.

## **The directions questionnaire**

### **2.**

(1) The notice of proposed allocation referred to in rule 26.4(1) will be—

- (a) in the small claims track, in form N149A (SCT);
- (b) in the fast track, in form N149B (FT);
- (c) in the intermediate track, in form NXXXX (IT); and
- (d) in the multi-track, in form N149C (MT),

and the directions questionnaire referred to in Part 26 will be in Forms N180 and N181.

(2) Attention is drawn to Part 3 of the Civil Procedure Rules which requires costs budgets in all multi-track cases.

## **Provision of extra information**

### **3.**

(1) If a party wishes to give the court further information which is believed to be relevant to allocation, assignment to a complexity band, where applicable, or case management it shall be given when the party files the directions questionnaire and copied to all other parties.

(2) The general rule is that the court will not take such information into account unless the document containing it either—

- (a) confirms that all parties have agreed that the information is correct and that it should be put before the court; or
- (b) confirms that the party who has sent the document to the court has delivered a copy to all the other parties.

- (3) The following are examples of information which will be likely to help the court—
- (a) a party's intention to apply for summary judgment or some other order that may dispose of the case or reduce the amount in dispute or the number of issues remaining to be decided;
  - (b) a party's intention to issue an additional claim or to add another party;
  - (c) the steps the parties have taken in the preparation of evidence (in particular expert evidence), the steps they intend to take and whether those steps are to be taken in co-operation with any other party;
  - (d) the directions the party believes will be appropriate to be given for the management of the case;
  - (e) about any particular facts that may affect the timetable the court will set;
  - (f) any facts which may make it desirable for the court to fix an allocation hearing, an assignment hearing, where applicable, or a hearing at which case management directions will be given.

## **Consultation**

### **4.**

(1) The parties must consult one another and co-operate in completing the directions questionnaires and giving other information to the court.

(2) The parties must try to agree the case management directions which they will invite the court to make. Further details appear in the practice directions which supplement Parts 28 and 29.

(Specimen directions for a case which is allocated to the multi-track are available on the Justice website at: [www.justice.gov.uk/courts/procedure-rules/civil](http://www.justice.gov.uk/courts/procedure-rules/civil))

(3) The process of consultation must not delay the filing of the directions questionnaire or, where required, the proposed directions (whether or not agreed).

(4) The court will expect the parties to have considered the track to which the claim should be allocated if proceedings are started, and, where applicable, the complexity

band to which it should be assigned, having regard to the provisions in rules 26.9, 26.13 and 26.14.

### **Hearings before allocation**

**5.** Where a court hearing takes place (for example on an application for an interim injunction or for summary judgment under Part 24) before the claim is allocated to a track, the court may at that hearing—

- (a) dispense with the need for the parties to file directions questionnaires, treat the hearing as an allocation hearing or, if applicable, an assignment hearing, make an order for allocation and assignment and give directions for case management; and
- (b) fix a date for directions questionnaires to be filed and give other directions.

### **Consequences of failure to file a directions questionnaire**

**6.**

(1) Parties must comply with the notice served under rule 26.4(1) by the date specified in it. Rules 26.4(9), which concerns claims started in the County Court for specified and unspecified amounts of money, and 26.4(10), which concerns claims other than those claims started in the County Court for specified and unspecified amounts of money, apply where a party is in default.

(2) Under rule 26.4(10) the court may give directions of its own initiative or list the case for a case management conference. Alternatively, if it appears appropriate to do so, the claim may be struck out or, where a defendant is in default, judgment may be entered against that defendant.

(3) Rule 26.4(11) provides for a costs sanction if an order is made under either rules 26.4(9)(b) or 26.4(10).

## **Stay to allow for settlement of the case**

### **7.**

#### **(1)**

(a) The court will generally accept a letter from any party or from the solicitor for any party as an application to extend the stay under rule 26.5.

(b) The letter should—

(i) confirm that the application is made with the agreement of all parties; and

(ii) explain the steps being taken and identify any mediator or expert assisting with the process.

#### **(2)**

(a) subject to Practice Direction 2E, an order extending the stay must be made by a judge;

(b) the extension will generally be for no more than 4 weeks unless clear reasons are given to justify a longer time.

(3) More than one extension of the stay may be granted.

(4) At the end of the stay the file will be referred to a judge for directions.

(5) The judge will consider whether to allocate the claim to a track and what other directions to give, or may require any party to give further information or fix an allocation hearing or, where applicable, an assignment hearing.

(6) Any party may apply for a stay to be lifted.

(7) Where the whole of the proceedings are settled during a stay, the taking of any of the following steps will be treated as an application for the stay to be lifted—

(a) an application for a consent order (in any form) to give effect to the settlement;

(b) an application for the approval of a settlement where a party is a person under a disability; or

- (c) giving notice of acceptance of money paid into court in satisfaction of the claim or applying for money in court to be paid out.

### **Small claims mediation**

- 8. If a claim is referred to the Mediation Service pursuant to rule 26.6 or at the court's direction, the settlement agreement must be in Form N182.

### **Allocation, reallocation, assignment, reassignment and case management**

#### **9.**

(1) The Civil Procedure Rules lay down the overriding objective, the powers and duties of the court and the factors to which it must have regard in exercising them. The court will expect to exercise its powers as far as possible in co-operation with the parties and their legal representatives so as to deal with the case justly in accordance with that objective.

(2) In most cases the court will expect to have enough information from the statements of case and directions questionnaires to be able to allocate the claim to a track, assign to a complexity band and to give case management directions.

(3) If the court does not have enough information to allocate the claim or assign the claim to a complexity band, it will generally make an order under rule 26.7(4) requiring one or more parties to provide further information within 14 days.

(4) Where there has been no allocation hearing or, where applicable, no assignment hearing, the notice of allocation will be in Forms N154 (fast track), NXXX (intermediate track), N155 (multi-track) or N157–160 (small claims).

#### **(5)**

- (a) the general rule is that the court will give brief reasons for its decision on allocation and, where applicable, on assignment, and these will be set out in the notice of allocation;

- (b) the general rule does not apply where all the directions questionnaires which have been filed have expressed the wish for the claim to be allocated to the

track and, where applicable, assigned to the complexity band to which the court has respectively allocated and assigned it.

(6) Paragraph 13 of this practice direction deals with allocation and assignment hearings and Paragraph 14 deals with allocation and assignment principles.

(7) Rule 26.18 deals with reallocation and reassignment.

(8) The practice directions supplementing Parts 27, 28 and 29 contain further information about the giving of case management directions at the allocation stage.

### **Summary judgment or other early termination**

#### **10.**

(1) Part of the court's duty of active case management is the summary disposal of issues which do not need full investigation and trial (rule 1.4(2)(c)).

(2) The court's powers to make orders to dispose of issues in that way include—

- (a) under rule 3.4, striking out a statement of case, or part of a statement of case; and
- (b) under Part 24, giving summary judgment where a claimant or a defendant has no reasonable prospect of success.

(3) The court may use these powers on an application or on its own initiative. Practice Direction 24 contains further information.

### **Summary judgment or other early termination on application**

#### **11.**

(1) A party intending to make such an application pursuant to paragraph 10 should do so before or when filing their directions questionnaire.

(2) Where a party makes an application for such an order before a claim has been allocated to a track the court will not normally allocate the claim before the hearing of the application.

(3) Where a party files a directions questionnaire stating that they intend to make such an application but has not done so, the judge will usually direct that an allocation hearing is listed.

(4) The application may be heard at that allocation hearing if the application notice has been issued and served in sufficient time.

### **Summary judgment or other early termination on the court's initiative**

#### **12.**

(1) This paragraph applies where the court proposes to make an order pursuant to paragraph 10 of its own initiative.

(2) The court will not allocate the claim to a track but instead it will either—

(a) fix a hearing, giving the parties at least 14 days' notice of the date of the hearing and of the issues which it is proposed that the court will decide; or

(b) make an order directing a party to take the steps described in the order within a stated time and specifying the consequence of not taking those steps.

(3) Where the court decides at the hearing of an application, or a hearing fixed under sub-paragraph (2)(a), that the claim (or part of the claim) is to continue it may—

(a) treat that hearing as an allocation hearing, allocate the claim and, where applicable, assign the claim to a complexity band and give case management directions; or

(b) give other directions.

### **Allocation and assignment hearings**

#### **13.**

(1) The court will only hold an allocation hearing or, where applicable, an assignment hearing and on its own initiative if it considers that it is necessary to do so.

(2) Where the court orders an allocation or assignment hearing to take place—

(a) it will give the parties at least 7 days' notice of the hearing in Form N153; and

(b) Form N153 will give a brief explanation of the decision to order the hearing.

(3) Where the court may treat another hearing as an allocation hearing or an assignment hearing it does not need to give notice to any party that it proposes to do so.

(4) The notice of allocation and, where applicable, assignment, after an allocation or assignment hearing will be in Forms N154, N155, NXXX or N157.

(5) A legal representative who attends an allocation or assignment hearing should, if possible, be the person responsible for the case and must in any event be familiar with the case, be able to provide the court with the information it is likely to need to take its decisions about allocation, assignment and case management, and have sufficient authority to deal with any issues that are likely to arise.

### **Allocation and assignment principles**

#### **14.**

(1) Rule 26.9 sets out the scope of each track.

(2) Rule 26.12 states the general rule for allocation.

(3) Rule 26.13 sets out the matters relevant to allocation to a track and, where applicable, assignment to a complexity band.

(4) Paragraphs (5) to (10) explain the court's general approach to some of the matters set out in rule 26.13.

(5) Rule 26.13(2) provides that it is for the court to assess the financial value of a claim.

(6) Where the court believes that the amount the claimant is seeking exceeds what they may reasonably be expected to recover it may make an order under rule 26.7(4) directing the claimant to justify the amount.

(7) In deciding, for the purposes of rule 26.13(2)(a), whether an amount is in dispute the court will apply the following general principles—

- (a) any amount for which the defendant does not admit liability is in dispute;
- (b) any sum in respect of an item forming part of the claim for which judgment has been entered (for example a summary judgment) is not in dispute;
- (c) any specific sum claimed as a distinct item and which the defendant admits they are liable to pay is not in dispute; and
- (d) any sum offered by the defendant which has been accepted by the claimant in satisfaction of any item which forms a distinct part of the claim is not in dispute.

(8) It follows from sub-paragraph (7) that if, in relation to a claim the value of which is above the small claims track limit of £10,000, the defendant makes, before allocation, an admission that reduces the amount in dispute to a figure below £10,000 (see CPR Part 14), the normal track for the claim will be the small claims track. As to recovery of pre-allocation costs, the claimant can, before allocation, apply for judgment with costs on the amount of the claim that has been admitted (see CPR rule 14.3 but see also paragraph 7.1(3) of Practice Direction 46 under which the court has a discretion to allow pre-allocation costs).

(9) The court will treat the views expressed by the parties as an important factor, but decisions on allocation and assignment are for the court, to be taken in the light of all the circumstances, and the court will not be bound by any agreement or common view of the parties.

(10) Where the case involves more than one money claim (for example where there is an additional claim or there is more than one claimant each making separate claims) the court will not generally aggregate the claims. Instead, it will generally regard the largest of them as determining the financial value of the claims.

## **The small claims track – allocation and case management**

### **15.**

(1) The small claims track is intended to provide a proportionate procedure by which most straightforward claims with a financial value of not more than £10,000 can be

decided, without the need for substantial pre-hearing preparation and the formalities of a traditional trial, and without incurring large legal costs. (Rule 26.9 provides for a lower financial value in certain types of case.)

(2) The procedure laid down in Part 27 for the preparation of the case and the conduct of the hearing are designed to make it possible for a litigant to conduct their own case without legal representation if they wish.

(3) Cases generally suitable for the small claims track will include consumer disputes, accident claims, disputes about the ownership of goods and most disputes between a landlord and contract-holder under the Renting Homes (Wales) Act 2016 or a landlord and tenant other than opposed claims under Part 56, disputed claims for possession under Part 55 and demotion claims or prohibited conduct standard contract order claims both as defined by rule 65.11, whether in the alternative to a claim for possession or under Part 65.

(4) A case involving a disputed allegation of dishonesty will not usually be suitable for the small claims track.

(5) The court may allocate to the small claims track a claim, the value of which is above the limits mentioned in rule 26.9(1). The court will not normally allow more than one day for the hearing of such a claim.

(6) Directions for case management of claims allocated to the small claims track will generally be given by the court on allocation.

(7) Rule 27.4 contains further provisions about directions and Practice Direction 27 sets out the standard directions which the court will usually give.

### **The fast track – allocation and case management**

#### **16.**

(1) Where the court is to decide whether to allocate to the fast track a claim for which the normal track is the fast track, it will allocate the claim to the fast track unless it believes that it cannot be dealt with justly on that track.

(2) The court will, in particular, take into account the limits likely to be placed on disclosure, the extent to which expert evidence may be necessary and whether the trial is likely to last more than a day.

(3)

(a) when it is considering the likely length of the trial the court will regard a day as being a period of 5 hours, and will consider whether that is likely to be sufficient time for the case to be heard;

(b) the court will also take into account the case management directions (including the fixing of a trial timetable) that are likely to be given and the court's powers to control evidence and to limit cross-examination;

(c) subject to paragraph (e), the possibility that a trial might last longer than one day is not necessarily a conclusive reason for the court to allocate or to re-allocate a claim to the intermediate track or the multi-track;

(d) a claim may be allocated to the fast track or ordered to remain on that track although there is to be a split trial;

(e) where the case involves a counterclaim or additional claim that will be tried with the claim and as a result the trial will last more than a day, the court may not allocate it to the fast track.

(4) Directions for the case management of claims which have been allocated to the fast track will be given at the allocation stage or at the listing stage (in either case with or without a hearing) or at both or and if necessary at other times. The trial judge may, at or before the trial, give directions for its conduct.

(5) Practice Direction 28 contains further provisions and contains standard directions which the court may give.

### **The intermediate track - allocation and case management**

**17.**

(1) Part 26 and, in particular, rules 26.9(7) to (11), 26.12 and 26.13 make provision regarding the allocation of claims to the intermediate track.

(2) Part 28 and Practice Direction 28 make provision regarding the case management of claims allocated to the intermediate track.

## **The multi-track - venue for allocation and case management**

### **18.**

(1) Sub-paragraphs (2) to (13) do not apply to—

- (a) a claim for possession of land in the County Court or a demotion claim whether in the alternative to a possession claim or under Part 65;
- (b) a Renting Homes possession claim as defined by rule 55.30 in the County Court or a prohibited conduct standard contract order claim as defined by rule 65.11 whether in the alternative to a Renting Homes possession claim or under Part 65; or
- (c) any claim which is being dealt with at the Royal Courts of Justice.

(2) The case management of a claim which is allocated to the multi-track will normally be dealt with at a Civil Trial Centre.

(3) In the case of a claim to which any of Parts 49 or 58–62 apply, case management must be dealt with at a Civil Centre. Sub-paragraphs (5) to (11) do not apply to such a claim. The claim will be allocated to the multi-track irrespective of its value, and must be transferred to a Civil Trial Centre for allocation and case management if not already there.

(4) Where a claim is issued in or automatically transferred to a Civil Trial Centre it will be allocated and managed at that court.

(5) The following sub-paragraphs apply to a claim which is issued in or automatically transferred to a court which is not a Civil Trial Centre. Such a court is referred to as a 'feeder court'.

(6) Where a judge sitting at a feeder court decides, on the basis of the directions questionnaires and any other documents filed by the parties, that the claim should be dealt with on the multi-track they will normally make an order—

- (a) allocating the claim to that track;
- (b) giving case management directions; and
- (c) transferring the claim to a Civil Trial Centre.

(7) If the judge decides that an allocation hearing, or some pre-allocation hearing is to take place (for example to strike out a statement of case under Part 3 of the Rules) that hearing will take place at the feeder court.

(8) If, before allocation, a hearing takes place at a feeder court and in exercising their powers under paragraph 5.(a) above the judge allocates the claim to the multi-track, they will also normally make an order transferring the claim to a Civil Trial Centre.

(9) A judge sitting at a feeder court may, rather than making an allocation order himself, transfer the claim to a Civil Trial Centre for the decision about allocation to be taken there.

(10) When, following an order for transfer, the file is received at the Civil Trial Centre, a judge sitting at that Centre will consider it and give any further directions that appear necessary or desirable.

(11) Where there is reason to believe that more than one case management conference may be needed and the parties or their legal advisers are located inconveniently far from the Civil Trial Centre, a judge sitting at a feeder court may, with the agreement of the Designated Civil Judge and notwithstanding the allocation of the case to the multi-track, decide that in the particular circumstances of the case it should not be transferred to a Civil Trial Centre, but should be case managed for the time being at the feeder court.

(12) A Designated Civil Judge may at any time make an order transferring a claim from a feeder court to a Civil Trial Centre and may do so irrespective of the track, if any, to which it has been allocated. They may also permit a feeder court to keep for trial a claim or (subject to review from time to time) a category of claims. Any such permission should take into account the ability of the feeder court in relation to the Civil Trial Centre to provide suitable and effective trial within an appropriate trial period.

(13) No order will be made by a feeder court fixing a date for a hearing at a Civil Trial Centre unless that date has been given or confirmed by a judge or listing officer of that Centre.

(14) Part 29 of the Rules and Practice Direction 29 set out the procedure to be adopted regarding case management.

### **Money claims sent to the County Court at Central London**

**19.** The County Court hearing centres referred to in rule 26.3(6)(c) are Barnet, Brentford, Bromley, Central London, Clerkenwell and Shoreditch, Croydon, Edmonton, Kingston-on-Thames, Lambeth, Mayors and City of London, Romford, Wandsworth, Willesden, and Uxbridge.

### **Determining the amount to be paid under a judgment or order**

#### **20.**

(1) In paragraphs 21 to 24—

(a) a 'relevant order' means a judgment or order of the court which requires the amount of money to be paid by one party to another to be decided by the court; and

(b) a 'disposal hearing' means a hearing in accordance with paragraph 23.

(2) A relevant order may have been obtained—

(a) by a judgment in default under Part 12;

(b) by a judgment on an admission under Part 14;

(c) on the striking out of a statement of case under Part 3;

(d) on a summary judgment application under Part 24;

(e) on the determination of a preliminary issue or on a trial as to liability; or

(f) at trial.

(3) A relevant order includes any order for the amount of a debt, damages or interest to be decided by the court (including an order for the taking of an account or the making of an inquiry as to any sum due, and any similar order), but does not include an order for the assessment of costs.

### **Directions on making a relevant order**

#### **21.**

(1) When the court makes a relevant order it will give directions, which may include—

- (a) listing the claim for a disposal hearing;
- (b) allocating or re-allocating the claim (but see paragraph 22);
- (c) directing the parties to file directions questionnaires by a specified date; and
- (d) staying the claim while the parties try to settle the case by alternative dispute resolution or other means.

(2) Directions may specify the level or type of judge before whom a hearing or a further hearing will take place and the nature and purpose of that hearing.

(3) Where the parties apply for a relevant order by consent, they should if possible file with their draft consent order agreed directions for the court's approval.

### **Allocation on making a relevant order**

#### **22.**

(1) If, when the court makes a relevant order—

- (a) the claim has not previously been allocated to a track; and
- (b) the financial value of the claim (determined in accordance with Part 26) is such that the claim would, if defended be allocated to the small claims track,

the court will normally allocate it to that track.

(2) Where paragraph (1)(b) does not apply, the court will not normally allocate the claim to a track (other than the small claims track) unless—

- (a) the amount payable appears to be genuinely disputed on substantial grounds;  
or
- (b) the dispute is not suitable to be dealt with at a disposal hearing.

## **Disposal hearings**

### **23.**

(1) A disposal hearing is a hearing—

- (a) which will not normally last longer than 30 minutes, and
- (b) at which the court will not normally hear oral evidence.

(2) At a disposal hearing the court may—

- (a) decide the amount payable under or in consequence of the relevant order and give judgment for that amount; or
- (b) give directions as to the future conduct of the proceedings.

(3) If the claim has been allocated to the small claims track, or the court decides at the disposal hearing to allocate it to that track, the court may treat the disposal hearing as a final hearing in accordance with Part 27.

(4) Rule 32.6 applies to evidence at a disposal hearing unless the court directs otherwise.

(5) Except where the claim has been allocated to the small claims track, the court will not exercise its power under sub-paragraph (2)(a) unless any written evidence on which the claimant relies has been served on the defendant at least 3 days before the disposal hearing.

## **Jurisdiction of Masters and District Judges**

### **24.**

Unless the court otherwise directs, a Master or a District Judge may decide the amount payable under a relevant order irrespective of the financial value of the claim and of the track to which the claim may have been allocated.

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