

New Edition of the Chancery Guide Brings Closer Alignment with other Business and Property Court Procedures

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[The 2022 edition of the Chancery Guide](#) came into force on 29 July 2022 (the “New Guide”) together with a new Practice Note issued by the Chancellor. Revamped substantially under editors Fancourt J and Master Kaye, the New Guide is the first new edition of the Chancery Guide to be published since February 2016. It is available electronically and contains hyperlinks to relevant parts of the Civil Procedure Rules and to Practice Directions.

Many of the amendments contained in the New Guide aim to align procedural matters in the Chancery Division more closely with the other lists in the Business and Property Courts (“B&PCs”), and in particular, the Commercial Court. The New Guide also incorporates recent procedural and technological changes to the disclosure process, the preparation of witness statements and the use of electronic bundles and remote hearings. These changes overlap in significant part with the provisions we highlighted previously in the [New Edition of the Commercial Court Guide](#).

Alignment with the Commercial Court. Whilst total alignment with the Commercial Court Guide is not possible given the various specialist lists operating within the Chancery Division, the New Guide promotes consistency across the B&PCs where possible. There remain differences and practitioners are cautioned to check the New Guide to ensure compliance with its procedures. There has been substantial alignment, however, with respect to:

- Case management procedures, including with respect to agreed case summaries and agreed lists of issues for Case Management Conferences (“CMCs”) and for trial, which are now required in the Chancery Division.
- The classification of applications as “*ordinary*” or “*heavy*” has been adopted from the Commercial Court. The deadlines for the application process are now largely uniform across the Chancery Division and the Commercial Court. However, this stops short of a wholesale adoption with differences remaining in areas such as the deadlines for the submissions of skeleton arguments.

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- Skeleton arguments are not to exceed 25 pages.
 - Statements of case are likewise limited to 25 pages and can only reach 40 pages in exceptional circumstances. An accompanying summary not exceeding five pages must be filed if this limit is exceeded.

Procedural Changes. The New Guide discusses PD 51U (the Disclosure Pilot Scheme) extensively, albeit that PD 57AD which makes the Disclosure Pilot Scheme permanent in the B&PCs comes into force on 1 October 2022. In doing so, the New Guide builds on previous guidance. For example, the New Guide contains additional recommendations for best practices around the Disclosure Review Document and Extended Disclosure.

The New Guide also integrates the changes introduced by PD 57AC about the preparation of witness statements. It provides for the possibility of having an agreed bundle of key documents and an agreed narrative chronology to be submitted with skeleton arguments or by the pre-trial review date. Building on the position under the Appendix to PD 57AC, the New Guide underlines the need for trial witness statements to refer to documents “*only where necessary*” by providing references, not exhibits, for documents so that they can be identified.

Technological Changes. Incorporating the technological developments accelerated by the Covid-19 pandemic, the New Guide states in paragraph 12.33: “*no hard copy trial bundle, only electronic trial bundles, should be lodged for use by the court, unless specifically requested at any stage by the court*”. The new edition encourages parties to look beyond the use of IT in producing bundles and expects proposals from the parties at the pre-trial review stage about making wider use of IT throughout the case, including the trial.

Remote hearings are now the standard process for dealing with ordinary applications made to the Chancery Division. CMCs of up to half a day with no more than 90 minutes of reading time will normally be heard remotely too and there is greater expectation that more junior practitioners will participate at such hearings rather than senior counsel. The Court retains general discretion to order a hearing to take place remotely or in person. The extended guidance for the conduct of remote hearings in Appendix Z includes the following key provisions:

- The court can allow a party, their legal representative, a witness or an expert outside England and Wales to attend the hearing remotely.
- A person participating at a remote hearing needs to make sure that they will not breach any local laws or regulations as a result.

- The details of the person participating remotely must be provided by the parties or their legal representatives to the relevant court office “no later than 10.30am two working days before the hearing”.
- The New Guide emphasises that permission may be needed from a local court or other authority if a witness is giving evidence under these circumstances.
- The party calling the witness must ensure that any necessary permission is obtained and bring that to the attention of the court.
- The New Guide also makes practical recommendations based on the chosen venue to enable the court to assess whether the witness is communicating with others or receiving improper assistance while giving evidence.

Comment. The New Guide is a positive development and clear indication of the Chancery Division’s attempts to modernise its procedures. Given the varying nature of the work in certain specialist lists in the Chancery Division, it was never going to be possible to align the New Guide entirely with the Commercial Court Guide. Where alignment has been possible, however, it is most welcome. Chancery Court users should carefully consider the New Guide given the number of changes that have been made.

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Please do not hesitate to contact us with any questions.

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