

New Version of the TCC Guide Integrates Procedural and Technological Developments

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The new version of the Technology and Construction Court (“TCC”) Guide was published on 12 October 2022 (the “New TCC Guide”). In addition to bringing the TCC’s practices up to date with recent developments in the CPR, the New TCC Guide heralds several technological and practical changes. The objective of these changes is to promote simplicity, efficiency and cost savings.

The New TCC Guide forms part of a broader effort to simplify and update court guides across the Business and Property Courts (“B&PCs”) in accordance with procedural and technological developments. As a result, the amended provisions of the TCC Guide overlap with those in the [New Edition of the Chancery Guide](#) and the [New Edition of the Commercial Court Guide](#), such as:

- Integrating recent procedural changes about disclosure and witness statements;
- Making remote hearings the standard for certain applications; and
- Recommending that junior advocates are given a more active role.

Practice Directions. The New TCC Guide has been updated to reflect the recent changes introduced to the disclosure process and the preparation of trial witness statements. It brings the practices of the TCC in line with the Practice Direction (“PD”) 57AD and PD 57AC. Key developments for disclosure in the TCC include the following:

- The provisions of the Disclosure Pilot Scheme (PD 51U), made permanent as the new [PD 57AD](#) on 1 October 2022, have been formally incorporated into the practices of the TCC.
- The New TCC Guide adopts the declaration of the Chancellor of the High Court that “*the Disclosure Pilot is intended to effect a culture change, which operates along different lines to the CPR and is driven by reasonableness and proportionality.*”

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- Emphasising the parties' duties in relation to disclosure, the New TCC Guide reiterates the requirement to give Initial Disclosure with Statements of Case, and to complete the Disclosure Review Document alongside the Case Management Information Sheet and before the first CMC, 14 days in advance of that CMC as set by PD 57AD.

Section 12 of the New TCC Guide has also been brought in line with PD 57AC. As we previously discussed, the directions given on witness statements by PD 57AC can operate as a [useful tool to improve their content](#). The New TCC Guide endorses restrictions on building a narrative from documents and providing commentary on other evidence. The requirement under PD 57AC for the legal representative to complete a certificate of compliance is reaffirmed.

The New TCC Guide highlights the fact that evidence can be given in TCC proceedings via video link. While the New TCC Guide stops short of designating this way of giving evidence as the default, it states in paragraph 12.4.1 that if a witness *“is located outside England and Wales or would find a journey to court inconvenient or impracticable, [...] evidence may be given via a video link with the Court’s permission.”*

However, the New TCC Guide cautions parties to apply their minds to making the necessary arrangements for evidence to be given via video link prior to the pre-trial review (“PTR”). Parties are required to make an application for a *“video link direction”* and raise any questions at the PTR. Annex 3 to PD32 and Appendix K of the New TCC Guide provide detailed guidance on managing this process.

Annex I to the New TCC Guide also includes guidance on Statements of Case. Although general in nature, the guidance sets out a series of principles to be applied when drafting Particulars of Claim, Defences and Replies which should be kept in mind by parties and their legal representatives.

Technological Developments. In a bid to promote efficiency and cost savings, the New TCC Guide incorporates and formalises several technological developments in relation to remote hearings, electronic filing and electronic applications. Aligning the practice of the TCC in these respects more closely with those of the other B&PCs, the New TCC Guide introduces the following changes:

- In addition to the procedures around giving evidence via video link, the New TCC Guide states that *“the default position for all hearings under half a day will be for such hearings to take place remotely.”* This applies equally to contested applications and adjudication enforcement proceedings.

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- Parties should address the issue of a remote or hybrid hearing “*at or in advance of the PTR*” or, if the court has not determined a date for a PTR, “*in good time before the hearing.*”
 - Confirming that the Electronic Working Pilot Scheme (PD 51O) applies to the Court’s CE-Filing system. Paragraph 3.8.1 of the New TCC Guide affirms that electronic filing is mandatory if a party is legally represented.
 - A procedure for lodging electronic applications, in simple matters suitable for determination in writing, on the papers. Section 4.5 of the New TCC Guide provides, in such instances, for exchanges between the Parties to take place at least 3 days before an electronic application is filed.
 - Electronic bundles should be lodged for applications and “*[h]ard copy bundles should not be lodged unless they have been requested by the judge hearing the case.*” Further guidance on the preparation of electronic bundles is provided in Appendix J.

Case Allocation and Management. The guidance for bringing cases in the TCC has changed. The New TCC Guide increases the value limit for non-adjudication cases brought in the TCC in London from £250,000 to £500,000, although if enforcement of adjudication determinations involve particular points of principle or allegations of fraud then these might still be suitable for commencement in the TCC in London despite having a lower quantum. This should be assessed on a case by case basis before filing. The TCC in London will usually observe the limit absent special features or a good reason to explain why lower value claims have features that make determination by the TCC appropriate. This claim valuation guidance does not apply outside London.

The New TCC Guide joins the trend across the B&PCs for encouraging more active participation by junior advocates, particularly at the case management conference (“CMC”). Observing in paragraph 5.8 that many junior advocates are “*well placed to assist the court*” about case management, the New TCC Guide encourages parties to consider whether “*at least some of the matters arising may appropriately be dealt with by the more (or most) junior advocates.*” Promoting efficiency by making a larger pool of advocates available, this initiative could also lead to cost savings.

While the New TCC Guide does not substantially alter the cost and case management regime, practitioners should still be alert to the variations resulting from compliance with PDs 57AC and 57AD. Parties should also ensure that they adhere to the deadlines in the New TCC Guide for providing documents ahead of the first CMC, for any applications (whether electronic for determination on the papers, or traditional paper applications) and all subsequent hearings.

Comment. The technological and practical changes introduced by the New TCC Guide will likely produce a more streamlined process for both practitioners and litigants in person. In order to take advantage of these changes, parties must be mindful of the preparatory steps which need to be taken in advance. The recommendations in the New TCC Guide could lead to significant costs savings if practitioners continually assess the applicability of these recommendations to the practicalities of each individual case.

Parties intending to file claims at the TCC should carefully consider the New TCC Guide given the crucial changes that have been made, including the new value limit in London. While the growing overlap between procedures across the B&PCs fosters simplicity, this should not give B&PC users the false impression that the procedures are identical. The procedures of the court where the claim is to be filed should be carefully checked, whether this is the TCC, the Chancery Division or the Commercial Court.

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Please do not hesitate to contact us with any questions.

LONDON



Christopher Boyne
cboyne@debevoise.com



Tony Dymond
tdymond@debevoise.com



Patrick Swain
pswain@debevoise.com



Robert Hoose
rhoose@debevoise.com



Julia Caldwell
jcaldwell@debevoise.com



Luke Duggan
lduggan@debevoise.com