

Chancery Orders in Chancery District Registries

Introduction

1. With effect from 2 January 2015 Chief Master Marsh issued (with the authority of the Chancellor) a Practice Note entitled **Chancery Division – production of orders for Master and Judges**
2. The Practice Note did not make explicit that it was directed to Chancery Judges and to Masters sitting in The Rolls Building, and the revisions in practice were not intended to be implemented in Chancery District Registries.
3. Subject to further direction from the Chancellor the Practice Note has no direct application to the Chancery District Registries at Manchester, Liverpool, Preston, Leeds or Newcastle. In particular, the revised arrangements for the production and service of orders do not apply.
4. The Practice Note does, however, adapt procedures that already exist in the Chancery District Registries, and contains much sound advice, so that it will be possible to establish a significant degree of uniformity of practice. The Practice Note will also inform the drawing of orders made in the County Court Chancery Business List.
5. It will continue to be the practice that (unless the Court otherwise specifically directs, as it will in the case of committal orders and may in cases involving litigants in person) it is the responsibility of the parties to prepare a draft order and to submit it in agreed form for approval within seven days.
6. Draft orders should usually be lodged in MS Word format which enables minor changes to be made without either the court retyping the order or it being returned to the legal representative for amendment.
7. All draft orders provided to the court should be in the form set out in Appendix 1, subject only to such amendments as circumstances require. A copy of the Appendix (adapted for District Registries) is annexed.
8. The draft order must include:
 - (a) the title and number of the proceedings;
 - (b) the name of the Judge or District Judge: Mr/Mrs Justice [name]; His/Her Honour Judge [name] [(sitting as a judge of the HighCourt)]; District Judge or Mr/Ms Recorder [name];
 - (c) the date of the order;
 - (d) if the order is made at a hearing, the names of the advocates and/or those given permission to address the court (**NB this is a change from current practice**);
 - (e) Back sheets are not needed and must not be provided.
 - (f) Service arrangements in District Registries will remain as at present. Where an order is (drawn and) served by the court the service note will say “The court has sent sealed copies of this order to:” followed by the identity of the parties to whom the order has been sent.

Consent orders (including Tomlin orders)

9. A consent order lodged by solicitors will only be accepted by the court and referred to the Judge or Master for approval if:

- (a) the word “draft” or “minute” does not appear in the order and the title and preamble are in the correct format;
- (b) the signed order, together with a “clean” copy of the order in MS Word format excluding the signature provisions, is submitted by e-mail;
- (c) the email contains an undertaking that the court fee will be paid within 2 working days;

If these requirements are not complied with, the consent order may not be accepted and may be returned. An order lodged correctly will be referred to the Judge or District Judge for approval but will not be sealed until the court fee has been paid.

If a consent order requires amendment because the terms of the order are not approved by the court, the order will normally be returned for re-drafting. If the changes are minor the Judge or Master may choose to make the necessary amendments and approve the order. In cases of real urgency, a party may request a Judge or Master to approve a consent order at an Application without Notice hearing provided that the consent order and two clean copies are provided and the court fee has been paid.

In the case of Tomlin orders with a confidential schedule, the schedule should not be lodged with the court. The order must identify clearly the agreement which forms the schedule and where it is held.

APPENDIX 1

IN THE HIGH COURT OF JUSTICE

Claim no 123456

CHANCERY DIVISION

MR/MRS JUSTICE [NAME]

OR HIS/HER HONOUR JUDGE [name] (sitting as a Judge of the High Court)

OR DISTRICT JUDGE [NAME]

[DAY/MONTH/YEAR]

BETWEEN:

ABCD

Claimant

And

(1) EFG

(2) HIJ

Defendant(s)

Order

UPON THE APPLICATION¹ of [party] by notice dated [...]

AND UPON HEARING [names of the advocates and/or those given permission to address the court] for the Claimant and [names] for the First Defendant and the Second Defendant [in person] [with the assistance of [name] as a McKenzie friend]

IT IS ORDERED THAT:

1. [X]
2. [Y]

To: [party or representative]
And to: [party or representative]

¹ Alternatively “UPON the Application of [party] by Part 8 Claim Form dated” or in the case of a Part 7 Claim “UPON THE TRIAL of this claim..”

**Guidance for Chancery District Judges concerning the grant of
Injunctions and other interim relief**

**(Given by the Chancery Supervising Judges
with the authority of The Chancellor)**

1. The objective of the revisions to Practice Direction PD2B was to remove irksome restrictions upon the jurisdiction presently exercised by District Judges (in implementation of recommendations in Chapter 3 of the Chancery Modernisation Review which characterised some jurisdictional restraints as “old fashioned, frequently inconvenient and productive of pointless anomalies”), and to replace formal restraints with guidance as to the exercise of enlarged powers. The objective was not to achieve a wholesale change in the allocation of business as between District Judges and Judges. It is therefore expected that District Judges will approach the use of the new powers with caution.
2. Freezing and search orders, including orders made under CPR 25.1(g) will only be made by a High Court Judge or by an authorised Circuit Judge. A District Judge may vary or discharge such an order with the consent of all parties affected by it.
3. The current arrangements for the grant of interim injunctions in the Chancery Division will continue to apply. District Judges should not usually hear applications for interim injunctions where the American Cyanamid test must be applied. If such an application is made to a District Judge, unless there are good reasons for the District Judge to hear it, the application should be referred forthwith to a Judge.
4. District Judges may now hear interim applications which include an interim injunction if the injunction is secondary to the main relief which is sought. An example might be in a partnership dispute, where District Judges have routinely ordered the delivery up of papers pending trial but now will clearly have (what was in doubt before) a power to grant an injunction directing payment of partnership monies into a specified bank account to be held to the order of the Court.
5. Issues arising from the grant of an injunction may (as now) be referred by a Judge to a District Judge for determination.
6. Applications for interim relief, other than an injunction, may as at present continue to be heard by a District Judge, and nothing in this Guidance restricts that.
7. Where there is doubt about the suitability of an application for an injunction or other interim relief being dealt with by a District Judge, guidance should be obtained by the District Judge from the Supervising Judge or from a specialist Chancery s.9 Judge.

8. District Judges may grant final injunctions in connection with any application or trial where the trial itself is listed or is to be listed before a District Judge or where the final injunction is part of the disposal of the case under Part 24.

1 May 2015

**Guidance concerning the type of claims which
are suitable for trial by a District Judge**

**(Given by the Chancery Supervising Judges
with the authority of The Chancellor)**

1. The objective of the revisions to Practice Direction PD7 was to bring the power to undertake trials of Part 7 claims more into line with the present power of District Judges to undertake the trial of Part 8 claims.
2. This note provides broad guidance which will be developed in the light of experience.
3. The release of the restrictions preventing District Judges trying Part 7 claims without the consent of the parties is intended (a) to facilitate the efficient use of judicial resources in the High Court (b) to further the requirements of the overriding objective and (c) to remove from the parties the power to determine what level of judge should determine their dispute and to make clear that this is a case management function of the Court itself. However, trials by District Judges are likely to be the exception due to the pressure of other work currently undertaken by them.
4. In any District Registry it will be essential only to list trials before District Judges if the volume of case management work can still be disposed of efficiently and expeditiously. To that end District Registries should put in place a procedure under which a District Judge proposing to undertake the trial of a Part 7 claim (with or without the consent of the parties) can obtain the approval of a specialist Chancery s.9 judge (who, in granting or withholding approval will take into account not only the complexity, value, significance and novelty of the case together with all other relevant factors but also the business needs of the District Registry).
5. District Judges should not try claims involving issues of particular legal or factual complexity and should not normally try cases where the trial is estimated to last more than 5 days (including pre-reading but excluding the preparation of any reserved judgment).
6. Trials by District Judges will normally be conducted in cases otherwise falling within trial category C (and particularly where the legal issues arising in the claim fall within the areas of expertise of the District Judge).

7. Preliminary issues may well be suitable for trial by a District Judge, such as where the speedy determination of issues may assist the parties to settle the overall claim.
8. Careful consideration should be given to objections by a party to trial by a District Judge. The wishes of the parties, however, are merely one factor to be taken into account.
9. If there is doubt about the application of this guidance then further guidance should be obtained from the Supervising Judge or from one of the specialist Chancery s.9 judges.

1 May 2015