

GUIDANCE NOTES ON PRECEDENT H

1. Where the monetary value of the case is less than £50,000 [or the costs claimed are less than £25,000] the parties must only use the first page of Precedent H.
2. Save in exceptional circumstances, the parties are not expected to lodge any documents other than Precedent H and the budget discussion report. Both are available in Excel format on the MOJ website with PD 3E. If the Excel format precedent on the MOJ website is used, the calculation on page one will calculate the totals automatically and the phase totals are linked to this page also.
3. This is the form on which you should set out your budget of budgeted costs in accordance with CPR Part 3 and Practice Direction 3E. In deciding the reasonable and proportionate costs of each phase of the budget the court will have regard to the factors set out at Civil Procedure Rules 44.3(5) and 44.4(3) including a consideration of where and the circumstances in which the work was done as opposed to where the case is heard.
4. This table identifies where within the budget form the various items of work, **in so far as they are required by the circumstances of your case**, should be included. The time estimated may have to be justified on the budget hearing along with the grade of fee earner doing the work.
5. Allowance must be made in each phase for advising the client, taking instructions and corresponding with the other party/parties and the court in respect of matters falling within that phase.
6. The 'contingent cost' sections of this form should be used for **anticipated costs** which do not fall within the main categories set out in this form. Examples might be the trial of preliminary issues, applications to amend, applications for disclosure against third parties or (in libel cases) applications re meaning. Only include costs which are more likely than not to be incurred. **Costs which are not anticipated** but which become necessary later are dealt with in paragraph 7.6 of PD3E.
7. Any party may apply to the court if it considers that another party is behaving oppressively in seeking to cause the applicant to spend money disproportionately on costs and the court will grant such relief as may be appropriate.
8. Assumptions:
 - a. The assumptions that are reflected in this guidance document are **not** to be repeated. Include only those assumptions that **significantly** impact on the level of costs claimed such as the duration of the proceedings, the number of experts and witnesses or the number of interlocutory applications envisaged. Brief details only are required in the box beneath each phase. Additional documents are not encouraged and, where they are disregarded by the court, the cost of preparation may be disallowed, and additional documents should be included only where necessary.

UPDATED:
pursuant to decisions of the Civil Procedure Rule Committee on 09-11-18
followed by the inclusion of a new paragraph 10 at its meeting on 05-04-19
to support the changes within the 109th PD Update which came into effect on 01-10-19

- b. Written assumptions are not normally required by the Court in cases where the parties are only required to lodge the first page.
9. Budget preparation: the time spent in preparing the budget and associated material must **not** be claimed in the draft budget under any phase. The permitted figure will be inserted once the final budget figure has been approved by the court.
10. Definition of budgeted and incurred costs: see CPR 3.15 and PD3E para 7.4.
- a. Incurred costs are all costs incurred up to and including the date of the first costs management order, unless otherwise ordered.
- b. Budgeted costs are all costs to be incurred after the date of the first costs management order.

Phase	Includes	Does NOT include
Pre-action	<ul style="list-style-type: none"> • Pre-Action Protocol correspondence • Investigating the merits of the claim and advising client • Settlement discussions, advising on settlement and Part 36 offers • All other steps taken and advice given pre action 	<ul style="list-style-type: none"> • Any work already incurred in relation to any other phase of the budget
Issue/statements of case	<ul style="list-style-type: none"> • Preparation of Claim Form • Issue and service of proceedings • Preparation of Particulars of Claim, Defence, Reply, including taking instructions, instructing counsel and any necessary investigation • Considering opposing statements of case and advising client • Part 18 requests (request and answer) • Any conferences with counsel primarily relating to statements of case • Updating schedules and counter schedules of loss • Amendments to statements of case 	
CMC	<ul style="list-style-type: none"> • Completion of DQs • Arranging a CMC • Reviewing opponent's budget • Correspondence with opponent to agree directions and budgets, where possible • Preparation for, and attendance at, the CMC 	<ul style="list-style-type: none"> • Preparation of costs budget for first CMC (this will be inserted in the approved budget)

	<ul style="list-style-type: none"> Finalising the order Any further CMC that is built into the proposed directions order 	
Disclosure	<ul style="list-style-type: none"> Obtaining documents from client and advising on disclosure obligations Reviewing documents for disclosure, preparing disclosure report or questionnaire response and list Inspection Reviewing opponent's list and documents, undertaking any appropriate investigations Correspondence between parties about the scope of disclosure and queries arising Consulting counsel, so far as appropriate, in relation to disclosure 	<ul style="list-style-type: none"> Applications for specific disclosure Applications and requests for third party disclosure
Witness Statements	<ul style="list-style-type: none"> Identifying witnesses Obtaining statements Preparing witness summaries Consulting counsel, so far as appropriate, about witness statements Reviewing opponent's statements and undertaking any appropriate investigations Applications for witness summaries 	<ul style="list-style-type: none"> Arranging for witnesses to attend trial (include in trial preparation)
Expert Reports	<ul style="list-style-type: none"> Identifying and engaging suitable expert(s) Reviewing draft and approving report(s) Dealing with follow-up questions of experts Considering opposing experts' reports Any conferences with counsel primarily relating to expert evidence Meetings of experts (preparing agenda etc.) 	<ul style="list-style-type: none"> Obtaining permission to adduce expert evidence (include in CMC or a separate application) Arranging for experts to attend trial (include in trial preparation)
PTR	<ul style="list-style-type: none"> Bundle Preparation of updated costs budgets and reviewing opponent's budget Preparing and agreeing chronology, case summary and dramatis personae 	<ul style="list-style-type: none"> Assembling and/or copying the bundle (this is not fee earners' work).

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	<p>(if ordered and not already prepared earlier in case)</p> <ul style="list-style-type: none"> • Completing and filing pre-trial checklists • Correspondence with opponent to agree directions and costs budgets, if possible • Preparation for and attendance at the PTR 	
Trial Preparation	<ul style="list-style-type: none"> • Trial bundles • Witness summonses, and arranging for witnesses to attend trial Any final factual investigations Supplemental disclosure and statements(if required) • Counsel’s brief fee • Agreeing brief fee • Any pre-trial conferences and advice from counsel • Pre-trial liaison with witnesses 	<ul style="list-style-type: none"> • Assembling and/or copying the trial bundle (this is not fee earners’ work) • Counsel’s refreshers
Trial	<ul style="list-style-type: none"> • Solicitors’ attendance at trial • All conferences and other activity outside court hours during the trial Attendance on witnesses during the trial • Counsel’s trial refreshers • Dealing with draft judgment and related applications 	<ul style="list-style-type: none"> • Preparation for trial • Counsel’s brief fee for trial (include in trial preparation)
ADR/Settlement	<ul style="list-style-type: none"> • Any conferences and advice from counsel in relation to settlement • Work directed to settlement negotiations and meetings between the parties and any other ADR (including mediation), to include Part 36 and other offers and advising the client • Approval of settlement if needed • Drafting settlement agreement or Tomlin order • Advice to the client on settlement (excluding advice included in the pre action phase) 	