

111th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the existing practice directions supplementing the Civil Procedure Rules 1998 are made by the Master of the Rolls under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Edward Argar MP, Parliamentary Under-Secretary of State for Justice, by the authority of the Lord Chancellor.

The amendments to the following existing practice directions come into force on the following dates—	
Practice Direction 51R – Online Court Pilot	11a.m. on 9 September 2019
Practice Direction 51S – The County Court Online Pilot	11a.m. on 9 September 2019

The amendments made by this Update apply in relation to all claims submitted to the court on or after 11 a.m. on 9 September 2019.

The Right Honourable Sir Terence Etherton
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:

Edward Argar MP

Parliamentary Under-Secretary of State for Justice

Ministry of Justice

Date: 2/09/2019

PRACTICE DIRECTION 51R – ONLINE COURT PILOT

1) In the table of contents, –

a) after the entry for paragraph 5.1, insert –

“

New feature – defendant to complete directions questionnaire online (form OCON180), to tell the court about their hearing requirements	Paragraph 5.2
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“.

b) for the entry for paragraphs 6.2 and 6.3, substitute –

“

Sub-section B – defendant defending the claim, but willing to mediate	Paragraph 6.2
Sub-section C – defendant defending the claim, and not willing to mediate	Paragraph 6.3

“.

c) Omit the entries for paragraphs 6.4 and 6.5 (Sections 6D and 6E);

d) after the entry for paragraph 6.6, insert –

“

Sub-section G – claims selected to test mediation “new	Paragraph 6.7
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feature” – defendant given early indication that willing to mediate – sub-sections B and F to apply, but with changes	
Sub-section H – claims selected to test “new feature” form OCON180 directions questionnaires online, setting out hearing requirements – claimant wishes to continue with the claim where the defendant has supplied hearing requirements – claimant also to supply hearing requirements – consideration and sending out	Paragraph 6.8

“;

- e) omit the entries for paragraphs 7.18 to 7.36 (Section 7C); and
- f) in the entry for paragraph 7.41, for “terms” substitute “plan”;
- g) after the entry for paragraph 7.41, insert –

“

Claimant accepts part admission and repayment plan – claimant may request judgment on admission	Paragraph 7.41A
Claimant accepts part admission and repayment plan and decides to request a judgment on admission	Paragraph 7.41B
Claimant accepts part admission and repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement	Paragraph 7.41C
Claimant accepts the defendant’s proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond	Paragraph 7.41D

”;

- h) after the entry for paragraph 7.42, insert –

“

Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer but not the repayment plan, proposes different plan; defendant is an individual, which includes a sole trader: affordability calculation	Paragraph 7.42A
Claimant accepts affordability calculation repayment plan or the affordability calculation repayment plan amounts to the claimant’s proposed repayment plan - court asks claimant	Paragraph 7.42B

whether they request judgment, or are proposing a settlement agreement instead	
Claimant accepts affordability calculation repayment plan or affordability calculation repayment plan amounts to the claimant's proposed repayment plan - claimant requests judgment	Paragraph 7.42C
Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement agreement	Paragraph 7.42D
Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond	Paragraph 7.42E
Claimant rejects defendant's proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined	Paragraph 7.42F
Claimant rejects the defendant's proposed repayment plan, proposes different terms - defendant is not an individual	Paragraph 7.42G

”;

- i) after the entry for paragraph 19.1, insert –

“

SECTION 20 – Legal Advisers	
Scope of this Section	Paragraph 20.1
Jurisdiction of legal advisers – and limits on the jurisdiction	Paragraph 20.2
Reconsideration of a decision made by a legal adviser	Paragraph 20.3
SCHEDULE TO SECTION 20 – Table A	

”.

- 2) In paragraph 1.1 –

- a) after the definition of “enter judgment”, insert –

““form OCON180” means form OCON180 – directions questionnaire online, that parties complete and submit to tell the court about their hearing requirements, should a court hearing be necessary;”; and

- b) after the definition of “paper response form”, insert –

“preferred court” means –

(a) if the defendant is not an individual and the claimant has submitted form OCON180 to the court, the county court hearing centre specified in that form; or

(b) in all other cases, the county court hearing centre specified in form OCON180 submitted by the defendant;”.

3) In paragraph 2.1(1), for “30th November 2019” substitute “30th November 2021”.

4) In the signpost following paragraph 5.1(7) –

a) for “after 4 pm” substitute “at or after 4.00 p.m.”; and

b) for “received” substitute “submitted”.

5) After paragraph 5.1, insert –

“New feature – defendant to complete directions questionnaire online (form OCON180), to tell the court about their hearing requirements

5.2(1) This paragraph is a “new feature” (as defined) about form OCON180 and applies to claims selected to test this new feature on or after 11.00 a.m. on 9 September 2019 where—

(a) the defendant wishes to defend the whole of the claim, and will be using form OCON9B to make the response; or

(b) the defendant wishes to defend part of the claim and admit part of the claim and uses form OCON9A and OCON9B to make the response.

(2) At the same time that the defendant submits the completed response form to the court in accordance with paragraph 5.1, the defendant must also submit completed form OCON180 to the court, to tell the court what requirements the defendant would have, should a court hearing be necessary.”.

6) In paragraph 6.1 –

a) for subparagraph (2), substitute –

“Sub-section B applies if the defendant has notified the court that they are willing to mediate.

(This sub-section is altered by sub-section G and H for certain claims that are selected to test certain “new features”.);

b) for subparagraph (3), substitute –

“Sub-section C applies if the defendant is not willing to mediate.

(This sub-section is altered by sub-section H for certain claims that are selected to test certain “new features”.);

c) omit subparagraphs (4) and (5).

d) After subparagraph (6) insert –

“(This sub-section is altered by sub-section G and H for certain claims that are selected to test certain “new features”.)

(7) Sub-section G applies if –

(a) the claim has been selected to test this “new feature” (as defined) about mediation on or after 11.00 a.m. on 9 September 2019; and

(b) before or at the same time that the response form has been received by the court, the defendant has indicated to the court that they do not wish to opt out of mediation.

(When sub-section G applies, it changes how sub-sections B and F work.)

(8) Sub-section H applies if –

(a) the claim has been selected to test this “new feature” (as defined) about form OCON180 on or after 11.00 a.m. on 9 September 2019;

(b) the defendant has defended the whole of the claim, or defended part and admitted part of the claim, and has used form OCON9A and OCON9B as appropriate to make the response;

(c) the defendant has also submitted form OCON180, setting out their hearing requirements should a hearing be necessary; and

(d) the claimant tells the court, under the following paragraphs, that they wish to continue with the claim –

i) paragraph 6.2(5);

ii) paragraph 6.2(6);

iii) paragraph 6.3(5);

iv) paragraph 7.43.

(When sub-section H applies, it changes how sub-sections B, C and F work.)”.

7) For the heading to paragraph 6.2, substitute –

“Sub-section B – defendant defending the claim, but willing to mediate”.

8) In paragraph 6.2(1), omit “is a new feature. It”.

9) In paragraph 6.2(2) –

a) for “that the amount has been paid”, substitute “the defendant’s defence”; and

b) for “that it has been paid” substitute “it”.

10) In paragraph 6.2(5), omit “or negotiate further”.

11) In paragraph 6.2(6), omit –

a) “or negotiate further”; and

b) “or negotiate”.

12) In paragraph 6.2(7), omit “or negotiate further”.

13) In paragraph 6.2(12), omit –

a) “or further negotiation”; and

b) “or negotiate”.

14) For the heading to paragraph 6.3, substitute –

“Sub-section C – defendant defending the claim, and not willing to mediate”.

15) In paragraph 6.3(1), omit “is a new feature. It”.

16) In paragraph 6.3(2) –

- a) for “that the amount has been paid”, substitute “the defendant’s defence”; and
- b) for “that it has been paid” substitute “it”.

17) Omit paragraphs 6.4 and 6.5 (Sections 6D and 6E).

18) In paragraph 6.6(1) –

- a) in subparagraph (c), each time it appears, omit “or negotiate”;
- b) omit subparagraphs (e) to (h).

19) After paragraph 6.6, insert –

“Sub-section G – claims selected to test mediation “new feature” – defendant given early indication that willing to mediate – sub-section B and F to apply, but with changes

6.7-(1) This paragraph is a “new feature” (as defined) about mediation. It applies where sub-section G of Section 6 applies, so if –

(a) the claim has been selected to test this new feature on or after 11.00 a.m. on 9 September 2019; and

(b) before or at the same time that the response form has been received by the court, the defendant has indicated to the court that they do not wish to opt out of mediation.

(2) If, but for this sub-section, a claim would normally fall under sub-section B, that sub-section will still apply to the claim, but with the following changes:

Provision number	Change
Paragraph 6.2(5)	<p>The following is substituted for that paragraph:</p> <p>“If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they wish to continue with the claim and have not opted out of mediation, the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation. The 28-day period is</p>

	calculated from and including the date that the response form is received by the court. The court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.”.
Paragraph 6.2(6)	Omitted.
Paragraph 6.2(7)	Omitted.
Paragraph 6.2(12)	Omitted.

(3) If this sub-section applies, sub-section F still applies, but changed so that paragraph 6.6(1)(c) is omitted.

Sub-section H – claims selected to test “new feature” form OCON180 directions questionnaire online, setting out hearing requirements – claimant wishes to continue with the claim where the defendant has supplied hearing requirements – claimant also to supply hearing requirements – consideration and sending out

6.8(1) This paragraph is a “new feature” (as defined) about form OCON180 and applies where sub-section H of Section 6 applies, so if –

(a) the claim has been selected to test this new feature on or after 11.00 a.m. on 9 September 2019

(b) the defendant has defended the whole of the claim, or defended part and admitted part of the claim, and has used form OCON9A and OCON9B as appropriate to make the response;

(c) the defendant has also submitted form OCON180, setting out their hearing requirements should a hearing be necessary; and

(d) the claimant tells the court, under the following paragraphs, that they wish to continue with the claim –

i) paragraph 6.2(5);

ii) paragraph 6.2(6);

iii) paragraph 6.3(5);

iv) paragraph 7.43.

(2) At the same time that the claimant tells the court that they wish to continue with the claim, the claimant must also submit completed form OCON180 to the court, to tell the court what requirements the claimant would have, should a court hearing be necessary.

(3) Once the court has received the claimant's form OCON180, Sub-sections B and C will still apply as appropriate, but instead of the court referring the claim to a judge under paragraphs 6.2(9), 6.2(12) or 6.3(5), or sending the claim out under paragraph 6.2(11), a legal adviser may consider the forms under Section 20, table A. If the forms are not considered by a legal adviser, the court must send the claim out of Online Civil Money Claims to the "preferred court" (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(4) If subparagraph (3) applies, Sub-section F does not apply.

(5) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

(i) each of the party's form OCON180 is treated as their completed directions questionnaire form N180;

(ii) Civil Procedure Rules 26.3, 26.4 and 26.4A do not apply; and

(iii) if an "order for allocation" has been made while the claim is in Online Civil Money Claims, Civil Procedure Rules 26.5 does not apply. (An "order for allocation" is a court order that sets out what route (known as a "track") the case will follow, based on the value of the claim and how complicated the case is.)".

20) Omit paragraph 7.1(3).

21) Omit paragraphs 7.18 to 7.36 (Section 7C).

22) In paragraph 7.40(2), omit "so that paragraph 7.20 applies".

23) After paragraph 7.40(2), insert –

"(3) If the claimant uses form OCON225A to accept the defendant's offer of the amount admitted in full settlement of the claim, but then the claimant has not received the whole

amount admitted before the end of the 5 days, the claimant may request a judgment on admission.

(4) The claimant requests the judgment by completing form OCON225A and submitting it to the court using the OCMC website. When requesting judgment, the claimant may also specify its repayment plan.

(5) If the court receives a request for judgment on admission, it must “enter judgment” (as defined).

(6) If the claimant has specified a repayment plan in the request for judgment, the judgment must state that repayment is to be made in accordance with that repayment plan.

(7) If the claimant has not specified a repayment plan in the request for judgment, the judgment must state that the whole amount admitted must be repaid in full within 5 days of the date of the judgment.

(8) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount owed that the defendant has already paid;

(b) any interest on the amount admitted that the claimant is entitled to and has claimed on the claim form; and

(c) costs.”.

24) In paragraph 7.41(1), after “repayment plan”, insert “in full settlement of the claim”.

25) In paragraph 7.41(2), for “so that paragraphs 7.24 to 7.27” substitute “and paragraphs 7.41A to 7.41D”.

26) After paragraph 7.41, insert –

“Claimant accepts part admission and repayment plan – claimant may request judgment on admission

7.41A If the claimant uses OCON225A to accept the defendant’s offer of the amount admitted in full settlement of the claim and proposed repayment plan, the claimant may request a judgment on admission, but does not have to: the claimant may decide to propose a settlement agreement instead.

Claimant accepts part admission and repayment plan and decides to request a judgment on admission

7.41B (1) If the claimant decides to request judgment on admission, the claimant requests the judgment by completing form OCON225A and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) on the defendant’s repayment plan.

(3) The judgment will be made for the amount of –

- (a) the amount admitted, minus any payments of the amount owed that the defendant has already paid; and
- (b) any interest on the amount admitted that the claimant is entitled to and has claimed on the claim form; and
- (c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the defendant’s repayment plan.

Claimant accepts part admission and repayment plan, proposes a settlement agreement instead of requesting a judgment on admission – defendant accepts the proposal for a settlement agreement

7.41C (1) If –

- (a) the claimant accepts the defendant’s offer and proposed repayment plan;
- (b) instead of requesting a judgment on admission, the claimant has proposed a settlement agreement on the same terms as the defendant’s proposed repayment plan;
- (c) the proposed agreement is in the form of OCON Settlement Agreement A;
- (d) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and
- (e) the defendant has, within 7 days of the date of the claimant’s proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement,

the court must “stay” the proceedings (as defined). When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down, and the defendant fails to comply with the settlement agreement.

(2) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

Claimant accepts the defendant’s proposed repayment plan, proposes a settlement agreement, instead of requesting a judgment on admission – defendant rejects the proposal for a settlement agreement, or does not respond

7.41D (1) If –

(a) the claimant accepts the defendant’s offer and proposed repayment plan;

(b) instead of requesting a judgment on admission, the claimant has proposed a settlement agreement on the same terms as the defendant’s proposed repayment plan;

(c) the proposed agreement is in the form of OCON Settlement Agreement A;

(d) the claimant has used the OCMC website to notify the court of the proposal to the defendant; and

(e) the defendant has, within 7 days of the date of the claimant’s proposal, used the OCMC website to notify the court that they have rejected the proposal and do not agree to the settlement agreement, or within that time has failed to notify the court of their response,

the claimant may request a judgment on admission.

(2) The claimant requests a judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) with payment to be made in accordance with the defendant’s proposed repayment plan.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the defendant’s proposed repayment plan.”.

27) In paragraph 7.42(2) –

a) for “so that paragraphs 7.28 to 7.33” substitute “and paragraphs 7.42A to 7.42F”; and

b) for “paragraph 7.34” substitute “7.42G”.

28) After paragraph 7.42, insert –

“Defendant offers to pay amount admitted and proposed repayment plan – claimant accepts offer but not the repayment plan, proposes different plan; defendant is an individual, which includes a sole trader: affordability calculation

7.42A-(1) If the claimant has rejected the defendant’s proposed repayment plan, the claimant may also suggest a repayment plan.

(2) On receiving the claimant’s suggested repayment plan, the court will produce an “affordability calculation”. The affordability calculation will be carried out electronically, by the application of a formula to the information submitted by the parties. The purpose of the calculation is to establish what rate of repayment a defendant is likely to be able to afford, based on the information submitted by the parties: an “affordability calculation repayment plan”.

(3) The explanation of the formula is set out in Annex A to this practice direction.

(4) If the affordability calculation indicates that the defendant will not be able to afford to repay the amount admitted in accordance with the claimant's repayment plan, the court will tell the claimant, and ask the claimant whether they accept or reject the affordability calculation repayment plan instead.

(5) The claimant may accept or reject the affordability calculation repayment plan using the OCMC website.

Claimant accepts affordability calculation repayment plan or the affordability calculation repayment plan amounts to the claimant's proposed repayment plan - court asks claimant whether they request judgment, or are proposing a settlement agreement instead

7.42B If the claimant accepts the affordability calculation repayment plan, or if the affordability calculation repayment plan is calculated as amounting to the claimant's repayment plan, the court will ask the claimant whether they wish to request judgment on admission, or whether they are proposing a settlement agreement instead.

Claimant accepts affordability calculation repayment plan or affordability calculation repayment plan amounts to the claimant's proposed repayment plan - claimant requests judgment

7.42C-(1) If, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed, the claimant wishes to request a judgment on admission, they may make the request by completing form OCON225A and submitting it to the court using the OCMC website.

(2) If the court receives a request for judgment, it must "enter judgment" (as defined) with payment to be made in accordance with the "affordability calculation repayment plan" (as defined).

(3) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(4) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(5) If, after judgment has been made, the defendant objects to the affordability calculation repayment plan, or if the claimant no longer agrees to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant. The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(6) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(7) If the court receives a request for re-determination on time, it must send the claim out of Online Civil Money Claims to the defendant's "home court" (as defined).

Following affordability calculation, claimant proposes settlement agreement, and defendant accepts the settlement agreement

7.42D-(1) This paragraph applies, if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

(a) the claimant uses the OCMC website to tell the court that –

(i) it proposes a settlement agreement to the defendant;

(ii) the settlement agreement is in the form of OCON Settlement Agreement A; and

(iii) the settlement agreement is for repayment of the amount admitted in accordance with the affordability calculation repayment plan; and

(b) the defendant has, within 7 days of the date of the claimant's proposal, used the OCMC website to notify the court that they have accepted the proposal and agree to the settlement agreement.

(2) If the defendant has accepted the settlement agreement in those circumstances, the court must "stay" the proceedings (as defined).

(3) When it stays the proceedings, the court must enable the claimant to return to court to request judgment on admission for any money still owed under the settlement agreement, if the settlement agreement breaks down and the defendant fails to comply with the settlement agreement.

(4) If the settlement agreement breaks down, the claimant requests judgment on admission by completing form OCON225 and submitting it to the court using the OCMC website.

(5) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) on terms that the amount outstanding is to be paid in accordance with the terms of the settlement agreement.

(6) The judgment will be made for the amount of –

(a) the admitted amount, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(7) The judgment must state that the amount is to be paid in accordance with the terms of the settlement agreement.

(8) If, after the judgment has been made, the claimant or the defendant changes their mind about the affordability calculation repayment plan and wishes to object to the plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant.

(9) The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they now object to the affordability calculation repayment plan.

(10) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(11) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant’s “home court” (as defined).

Following affordability calculation, claimant proposes settlement agreement, but defendant rejects the settlement agreement, or fails to respond

7.42E-(1) This paragraph applies if, after an affordability calculation has been done and the court has asked the claimant how they wish to proceed –

(a) the claimant uses the OCMC website to tell the court that –

- (i) it proposes a settlement agreement to the defendant;
- (ii) the settlement agreement is in the form of OCON Settlement Agreement A; and
- (iii) the settlement agreement is for repayment of the amount admitted in accordance with the affordability calculation repayment plan; and

(b) within 7 days of the date of the claimant's proposal, the defendant uses the OCMC website to tell the court that they reject the settlement agreement or the defendant does not respond to the court within the 7 days.

(2) If the defendant has rejected the settlement agreement or failed to respond within the 7 days in those circumstances, the claimant can request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must “enter judgment” (as defined) on terms that the amount outstanding be paid in accordance with the affordability calculation repayment plan.

(4) The judgment will be made for the amount of –

- (a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and
- (b) any interest that the claimant is entitled to and has claimed on the claim form; and
- (c) costs.

(5) The judgment must state that the amount is to be paid in accordance with the affordability calculation repayment plan.

(6) If, after the judgment has been made, the claimant changes their mind about the affordability calculation repayment plan and wishes to object to the plan, or the defendant wishes to object to the affordability calculation repayment plan, they may ask, on time, for a re-determination by a judge of the plan for the repayment of the amount admitted by the defendant.

(7) The claimant or defendant may make their request for re-determination using the OCMC website. When requesting a re-determination, the claimant or defendant must explain why they object to the affordability calculation repayment plan.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Claimant rejects defendant's proposed repayment plan, and also rejects affordability calculation repayment plan - judgment with repayment plan to be determined

7.42F-(1) If, following an affordability calculation, the claimant wishes to reject the affordability calculation repayment plan, they may do so using the OCMC website.

(2) If the claimant rejects the affordability calculation repayment plan, they may still request judgment on admission, by completing form OCON225 and submitting it to the court using the OCMC website.

(3) If the court receives a request for judgment on admission, it must "enter judgment" (as defined), with the plan for the repayment of the amount owed by the defendant to be determined.

(4) The judgment will be made for the amount of –

(a) the amount admitted, minus any payments of the amount admitted that the defendant has already paid; and

(b) any interest that the claimant is entitled to and has claimed on the claim form; and

(c) costs.

(5) The judgment must state that the plan for the repayment of the amount admitted by the defendant is to be determined.

(6) The plan for the repayment of the amount admitted by the defendant must be ordered by a judge.

(7) If either party objects to the plan for repayment ordered by the judge, they may ask, on time, for a re-determination of the plan for the repayment of the amount admitted by the defendant. The claimant or defendant may make their request for re-determination to Online Civil Money Claims. When requesting a re-determination, the claimant or defendant must explain why they object to the plan ordered by the judge.

(8) The request for re-determination will be submitted to the court on time if it is received by the court within 19 days after the date of the judgment.

(9) If the court receives a request for re-determination on time, it must send the claim out of OCMC to the defendant's "home court" (as defined).

Claimant rejects the defendant's proposed repayment plan, proposes different terms - defendant is not an individual

7.42G-(1) This paragraph applies where –

(a) the defendant is not an individual; and

(b) the claimant has accepted the defendant's offer, but has rejected the defendant's proposed repayment plan.

(2) The claimant may also suggest a repayment plan.

(3) On receiving the claimant's rejection, the court will send the claim out of Online Civil Money Claims, to the "CCBC" (as defined).".

29) In paragraph 7.43, after "admission", insert "and wishes to continue with the claim".

30) In paragraph 7.44, after "part defence" insert "or the defendant's proposed repayment plan or (where relevant) affordability calculation repayment plan,".

31) In paragraph 14.1, before subparagraph (1), insert –

“(A1) For the purposes of this practice direction, a form, document or email is received by the court when it is recorded as received by the OCMC website, or as appropriate by HMCTS email software.

(A2) If the OCMC website is functioning normally so that it can receive forms and documents, and the court receives a form or document before 4.00 p.m., that form or document is treated as submitted that day. The same rule applies in relation to emails received by the court before 4.00 p.m. where the HMCTS email software is functioning normally.”.

32) In paragraph 14.1(1) –

- a) for “at or after 4 p.m.”, substitute “at or after 4.00 p.m. and before or at 11.59 p.m.”;
- b) for “before 4 p.m.” substitute “before 4.00 p.m.”; and
- c) after “is open.”, insert –

“The same rule applies in relation to emails received by the court at or after 4.00 p.m. and before or at 11.59 p.m., where the HMCTS email software is functioning normally.”.

33) In paragraph 14.1(2) –

- a) in subparagraph (a), after “documents”, insert “, or the HMCTS email software is malfunctioning so that it cannot receive emails”;
- b) in subparagraph (b), for “4 p.m.” substitute “4.00 p.m.”;
- c) in subparagraph (c), for “or document” substitute “, document or email (as appropriate)”; and
- d) in the words that follow subparagraph (c) –
 - i) for “or document”, substitute “, document or email”; and
 - ii) after “website”, insert “or email software (as appropriate)”.

34) In paragraph 14.1(3) –

- a) for “or document” substitute “, document or email”; and
- b) for “4p.m., substitute “4.00 p.m.”.

35) In paragraph 14.1(4), for “or document” substitute “, document or email”.

36) After paragraph 19.1, insert –

“SECTION 20 – LEGAL ADVISERS

Scope of this Section

20.1(1) This Section is a “new feature” (as defined) about legal advisers, and applies to all claims selected to test new features on or after 11.00 a.m. on 9 September 2019 where –

- (a) the amount claimed is £300 or less;
- (b) the parties have submitted to the court their completed forms OCON180, setting out their hearing requirements should a hearing be necessary; and
- (c) the “preferred court” (as defined) is one of the following hearing centres –
 - (i) Birmingham;
 - (ii) Manchester;
 - (iii) Edmonton;
 - (iv) Clerkenwell and Shoreditch.

(2) This Section sets out what court powers (jurisdiction) a “legal adviser” (as defined) can use in relation to a claim in Online Civil Money Claims, and the limits on using those powers. It also sets out what action a party can take if they are unhappy with anything done by a legal adviser.

(The definition of a legal adviser is set out in paragraph 1.1 of this Practice Direction. In brief, a legal adviser is a member of court staff who is a barrister or solicitor, who has been authorised to act as a legal adviser by relevant judges.)

Jurisdiction of legal advisers – and limits on the jurisdiction

20.2(1) A legal adviser may exercise the jurisdiction of the county court in relation to all the powers that are set out in the first column of Table A that is set out in the Schedule to this Section.

(2) Legal advisers may only exercise a particular power in so far as it is not limited by anything in the second column of that Table A, or by any of the general limits on the exercise of powers set out in paragraph (3) below.

(3) The general limits on legal advisers exercising any power are that –

- (a) a legal adviser must not make a final decision on any claim;

(b) a legal adviser must not exercise any power in relation to a claim where the defendant's response is submitted to the court on paper rather than electronically;

(c) if a legal adviser considers that a claim requires a hearing in advance of a trial, the legal adviser must send the claim out of Online Civil Money Claims;

(d) if a claim is complicated, the legal adviser must send the claim out of Online Civil Money Claims; and

(e) a legal adviser must not send a claim out of the pilot until the later of–

(i) the end of the time for a party to request reconsideration by a judge of the legal adviser's decision (see paragraph 20.3(3)); or

(ii) the determination of any reconsideration.

(4) A claim is complicated and must be sent out of the pilot if –

(a) the claim raises a substantial point of law;

(b) the claim has a complicated factual background; or

(c) more than one expert per claim is to provide an opinion.

(5) A legal adviser may consider a claim to be complicated for any other reason, and if so the legal adviser must still send the claim out of Online Civil Money Claims.

Reconsideration of a decision made by a legal adviser

20.3(1) Decisions of a legal adviser will be made without a hearing.

(2) A party may request any decision of a legal adviser to be reconsidered by a judge, and any request must be made on time.

(3) A request is made on time if it is submitted to the court within 19 days after the date of the decision.

(4) The request may be made on paper, and sent to the Online Civil Money Claims address set out in paragraph 2.1(2), or online, using the OCMC website (as defined).

(5) The request may include a summary of the issue and an explanation of why the reconsideration is sought.

(6) Reconsideration will be by a judge, and will take place without a hearing.

SCHEDULE TO SECTION 20

TABLE A

	Power or function	limit
1	Power to consider completed forms OCON180 and give directions in form OCON24 about how the progress of the claim is to be managed, and send claim out of the pilot after completed forms OCON180 have been submitted and directions made. The power to give case management directions is not limited to the other matters specified in this table A.	
2	Power and obligation in paragraph 18.2 (requirement to send claim out of Online Civil Money Claims if claim considered unsuitable or inappropriate for it)	The legal adviser must send the claim to the preferred court (as defined), without giving any directions. If, however, a party has specified particular accessibility requirements on their form, the legal adviser may send the claim to one or other of the claimant or defendant's specified courts as the legal adviser considers would be most appropriate given

		the parties' accessibility requirements
3	Power to refer a claim to a judge if the legal adviser thinks that appropriate	Power subject to power in entry 2 of this table (requirement to send claim out of Online Civil Money Claims if claim considered unsuitable or inappropriate for it)
4	Power to direct the parties to contact the Small Claims Mediation Service	Power to direct only where the parties have not previously opted for mediation, but the legal adviser considers that it may nevertheless be appropriate.
5	Power to direct the parties to supply additional information that the legal adviser considers reasonably necessary to enable the case to be progressed the most effectively	
6	Power to make directions about the management of a claim, including directions about listing the claim for a hearing	
7	Power to propose to a judge that a claim or defence be considered for possible strike out	
8	Power to carry out all functions allowed to be carried out by a legal adviser under Civil Procedure Rules Practice Direction 2E	Insofar as any functions arise in the context of Online Civil Money Claims, and subject to any limitations on those functions that are set out in that Practice Direction

		(as well as the limitations set out in this Section 20).
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PRACTICE DIRECTION 51S – THE COUNTY COURT ONLINE PILOT

1) In paragraph 2, for “30 November 2019”, substitute “30 November 2021”.