

Tribunal Procedure Committee

Consultation on possible changes to the Upper Tribunal Rules 2008 and the Upper Tribunal (Lands Chamber) Rules 2010 in connection with CE-Filing

June 21 2022

Introduction

1. The Tribunal Procedure Committee (the “TPC”) is the body that makes Rules that govern practice and procedure in the First-tier Tribunal and in the Upper Tribunal. Both are independent tribunals, and the First-tier Tribunal is the first instance tribunal for most jurisdictions. Further information on Tribunals can be found on the HMCTS website at:
<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about#our-tribunals>
2. The TPC is established under section 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007 (“the TCEA”), with the function of making Tribunal Procedure Rules for the First-tier Tribunal and the Upper Tribunal.
3. Under section 22(4) of the TCEA, power to make Tribunal Procedure Rules is to be exercised with a view to securing that:
 - (a) in proceedings before the First–tier Tribunal and Upper Tribunal, justice is done;
 - (b) the tribunal system is accessible and fair;
 - (c) proceedings before the First–tier Tribunal or Upper Tribunal are handled quickly and efficiently;
 - (d) the rules are both simple and simply expressed; and
 - (e) the rules where appropriate confer on members of the First–tier Tribunal, or Upper Tribunal, responsibility for ensuring that proceedings before the tribunal are handled quickly and efficiently.

4. In pursuing these aims the TPC seeks, among other things, to:
 - (a) make the rules as simple and streamlined as possible;
 - (b) avoid unnecessarily technical language;
 - (c) enable tribunals to continue to operate tried and tested procedures which have been shown to work well; and
 - (d) adopt common rules across tribunals wherever possible.

5. The TPC also has due regard to the public sector equality duty contained in section 149 of the Equality Act 2010 when making rules. Further information on the TPC can be found at our website:
<https://www.gov.uk/government/organisations/tribunal-procedure-committee>

6. The First-tier Tribunal (“F-tT”) is divided into separate chambers which group together jurisdictions dealing with like subjects or requiring similar skills. The F-tT Chambers are:
 - Social Entitlement Chamber (“F-tT(SEC)”)
 - Health, Education and Social Care Chamber (“F-tT(HESCC)”)
 - War Pensions and Armed Forces Compensation Chamber (“F-tT(WPAFCC)”)
 - General Regulatory Chamber (“F-tT(GRC)”)
 - Immigration and Asylum Chamber (“F-tT(IAC)”)
 - Tax Chamber (“F-tT(Tax)”); and
 - Property Chamber (“F-tT(PC)”).

7. Likewise, the Upper Tribunal (“UT”) is divided into separate Chambers. The UT mainly, but not exclusively, decides appeals from the F-tT.

8. Appeals from F-tT Chambers other than the F-tT(PC) are dealt with by either the Upper Tribunal (Administrative Appeals Chamber) (the “UT(AAC)”), the Upper Tribunal (Immigration and Asylum Chamber) (the “UT(IAC)”), or the Upper Tribunal (Tax and Chancery Chamber) (the “UT(TCC)”). The Rules which apply

across these Chambers are the Upper Tribunal Rules 2008 (the “UT Rules”). These Rules can be found in the “Publications” section of our website: <https://www.gov.uk/government/organisations/tribunal-procedure-committee>

9. Appeals from the F-tT(PC) are dealt with by the Upper Tribunal (Lands Chamber) (the “UT(LC)”). That Chamber also has other jurisdictions, but all matters are dealt with under the Upper Tribunal (Lands Chamber) Rules 2010 (the “UT(LC) Rules”). These Rules can also be found on our website.

This Consultation – CE-Filing

10. The purpose of this consultation is to seek views as to possible changes to the UT Rules and to the UT(LC) Rules in relation to CE-Filing.
11. CE-File is an online system in use by HMCTS staff as a case management system in the UT Chambers. It is also an e-filing system and can be made available for parties to proceedings to lodge or file documents (pleadings, correspondence and evidence etc.) electronically at the Tribunal. Similarly, the Tribunal can make a document available to a party via CE-File. CE-File does not provide a mechanism whereby parties can serve documents directly on other parties.
12. Permissive use of CE-Filing by a party is already enabled by the UT Rules and the UT(LC) Rules; as such, CE-Filing is now available in all of the UT Chambers. The respective Presidents of each Chamber have issued Practice Notes governing such permissive use. A party must first register for CE-File before it may use it. (Such Practice Notes are set out in **Annexes B to E.**)
13. The UT(TCC) commenced permissive CE-Filing on 17 May 2021, followed by the UT(LC) on 28 June 2021. The UT(IAC) commenced permissive CE-Filing for Appeals and Judicial Review cases on 17 January 2022, followed by the UT(AAC) on 24 January 2022. (As further background, the Employment Appeal Tribunal also commenced permissive CE-Filing on 12 July 2021.)

CE-Filing in the UT

14. Rules 13(1)-(5) of the UT Rules and Rule 13 of the UT(LC) Rules are essentially identical. We shall refer to them simply as 'Rule 13'. They provide as follows (with emphasis added by underlining).

Sending and delivery of documents

13.—*(1) Any document to be provided to the Upper Tribunal under these Rules, a practice direction or a direction must be—*

(a) sent by pre-paid post or by document exchange, or delivered by hand, to the address specified for the proceedings;

(b) sent by fax to the number specified for the proceedings; or

(c) sent or delivered by such other method as the Upper Tribunal may permit or direct.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.

(3) If a party informs the Upper Tribunal and all other parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party, that form of communication must not be so used.

(4) If the Upper Tribunal or a party sends a document to a party or the Upper Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.

(5) The Upper Tribunal and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

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15. Thus, the UT “*may permit*”, under Rule 13(1)(c), CE-Filing of documents. This is what it presently does, pursuant to the respective Practice Notes. (Currently, a direction [*“may permit or direct”*] that a document be CE-Filed – should that come about - could only be a case management direction in a specific case, and directed to a party already registered for CE-Filing.) Further, subject to Rule 13(3), if a party is registered for CE-Filing, then the Tribunal may deliver documents to that party via CE-File (by reason of Rule 13(2)).

16. However, were use of CE-Filing proposed to become mandatory (for example for certain classes of party – see below), then the TPC does not consider that this could sensibly be achieved without Rule change. The respective Chamber Presidents could not issue Practice Notes to achieve ‘mandation’ (should they so wish). Rather, it would be a matter for the Rules, or Practice Directions, or both. Practice Directions are not issued by the TPC, but by the Senior President of Tribunals (“SPT”) (or by Chamber Presidents with the agreement of the SPT).
17. A ‘mandation’ proposal in relation to CE-Filing has been made to the TPC by a Working Group (the “Working Group”) of administrative staff within HM Courts and Tribunals Service (“HMCTS”) and judges from each of the four UT Chambers. The proposal is that detailed provisions as to mandatory CE-Filing would be a matter governed by Practice Directions, not expressly by detailed provisions of the Rules. Amendment of the Rules would enable the making of Practice Directions for such purpose. The SPT supports this proposal as an important step towards the modernisation of tribunal procedure.
18. The Courts have already progressed to mandation for CE-Filing, as discussed below. That should not be considered surprising; there is often a commonality of IT systems across HMCTS, and (as between the Courts and Tribunals systems) shared experiences and objectives. Objectives will encompass, for example, efficiency of operation while achieving fairness between parties, and enabling access to justice.

The Courts

19. In the Courts, the use of CE-Filing is termed ‘E-Filing’ or ‘electronic working’. We shall refer to it as ‘CE-Filing’, as it is based on the CE-File system. A ‘mandation’ policy has been agreed between HMCTS and senior members of the Courts judiciary, and approved by the CPR Committee. The policy is that after CE-Filing has been made available on a permissive basis to all users, it is then made mandatory for ‘*a party who is legally represented*’ after, in most cases, approximately 3 months. The reasoning is that this gives users and Court staff time to become familiar with the system.

20. A list of Courts which have mandated CE-Filing for “a party who is legally represented” is as follows:

- Rolls Building Jurisdictions – from 1 October 2017
- Queen’s Bench Division Claims and Appeals – from 1 July 2018
- Business and Property Courts outside London – from 30 April 2019
- Senior Courts Costs Office – from 20 January 2020
- Queen’s Bench Division outside London - from 18 October 2020
- Court of Appeal (Civil Division) – from 14 February 2022.

21. The relevant Practice Direction governing CE-Filing in the Courts is Practice Direction 51O (the text is included in **Annex F** to this Consultation). One purpose of the proposal before the TPC is to bring tribunal users broadly ‘in line’ with the use of CE-Filing in the Courts, albeit recognizing that the tribunal system is different to the Courts system.

22. Below you will find further information on the following:

- background to the consultation
- possible amendment of the Rules
- the consultation questions
- how to respond and by when.

The consultation questions are also in a separate Word document on our website, which can be used for submitting your response.

Background to the Consultation

23. The UT Rules and UT(LC) Rules govern the sending and delivery of documents to the UT, and to parties (i.e. both the filing or lodging of documents at the Tribunal, and the serving of documents by parties or the Tribunal on other parties).

The 'business' of the Upper Tribunal

24. The proposal being considered by the TPC (of amending the Rules to facilitate CE-Filing becoming mandatory for certain classes of party) has potential to affect very many users. As such, it is important to understand the 'business' of the UT to which the UT Rules and UT(LC) Rules apply.
25. The business of the UT in large part derives from the 'business' of the F-tT in dealing with appeals within its various Chambers. The types of appeals in each of the F-tT Chambers are set out in **Annex A**. These are important to bear in mind since it is 'onward' appeals in these cases which will fall to be dealt with by reference to the UT Rules and to the UT(LC) Rules. There are very many disparate F-tT jurisdictions. Many appellants in the F-tT will be litigants in person ("LiPs").
26. The different UT Chambers, and the work they do, are also set out in **Annex A**. At least some appellants/respondents/other parties in the UT will be LiPs. Appeals in the UT are not limited however to appeals in cases that have first been heard in the F-tT. They include 'references' of decisions made by various agencies or regulators.

Experience to date in the UT(TCC) and UT(LC)

27. Generally, see **Annexes B and C** as representing the position following the end of last year (when each Chamber had some 6 months' experience of permissive CE-Filing). It is understood that the implementation of CE-File on a permissive basis has made operations easier for HMCTS staff; material goes straight to CE-File rather than having to be uploaded by staff. As more users have adopted CE-File, there has been less need to use email or the postal service. It is understood that there has been a positive impact on staff in relation to migrating paper files and scanning documents and training in their use of the case management and filing parts of the system.
28. A positive impact of CE-File on the judiciary has been in their ability to operate the new case management side of the system directly without the delays

involved in obtaining physical files or in waiting for staff to respond by e-mail to case queries or to provide electronic copies of documents. Use of the system has however required training and practice.

Experience to date in the UT(IAC) and UT(AAC)

29. Permissive use of CE-File has commenced relatively recently - see **Annexes D and E**. These Chambers nonetheless have provided insights regarding CE-Filing by reference to the type of cases and users in their respective Chambers.

CE-Filing - scope for its mandatory use in the UT

UT(TCC)

30. An objective in the UT(TCC) would be to increase the uptake from a very low number who have been CE-Filing since it has been introduced on a permissive basis. Approximately 70% of UT(TCC) parties are legally represented, so if they are mandated to CE-File then use will increase significantly. Where CE-Filing is not utilised, the parties file by traditional methods of e-mail (or post). Thereafter, if the UT(TCC) staff and judges wish to use the CMS system (rather than simply scanning and emailing documents between staff and judges) those documents have to be uploaded to CMS by the HMCTS administrative staff. If the documents are CE-Filed then this will reduce the administrative burden as HMCTS staff will not need to upload these documents.
31. Hence, mandation should lead to a reduction in staff time in registering cases and uploading key documents for cases, allowing staff time to be redirected to progress appeals work for judges. This should assist UT(TCC) to progress cases through the system in a shorter time frame, and ultimately delivering a better service for users. CE-File users (legal representatives) will be able to manage their cases online and receive updates on their cases through the service rather than having to make contact with the office. Judges will be better able to monitor their case load and inspect every action that has been taken on each case.

UT(LC)

32. In the UT(LC), staff find it quicker to process new cases and documents which have been submitted by CE-File. It is helpful when dealing with customer queries for staff to be able to view documents/e-mails on CMS rather than locating and going through a paper file. The calendar is a useful function to view the hearings for the week. This also saves space in the office because not as many cabinets are needed for paper documents. Time no longer needs to be spent on destroying files/bundles that exceed the timeframes in the retention policy. Mandation should add to all these benefits.

UT(IAC)

33. The main benefit of mandation in the UT(IAC) is considered to be the reduction in paper usage and physical file storage; together with the ability to file documents generated on a computer without the need to print and convey them by another means. Adoption of CE-File has also enabled UT(IAC) to decommission the two systems (ARIA and FHINS) it has been using simultaneously for some time. It is not presently anticipated that the adoption of CE-File will release staff to progress other work streams; but as above, the processes associated with document management are currently taking longer.

UT(AAC)

34. For the UT(AAC), a benefit of mandation would be reduction in staff time registering cases and uploading key documents for cases allowing staff time to be redirected to progress appeals work for judges. This should assist to progress cases through the system in a shorter time frame improving Key Performance Indicators and ultimately delivering a better service for users. Professional users could manage their cases online and receive updates on their cases through the service rather than having to make contact with the office.

Generally

35. The implementation of CE-File on a mandatory basis would be intended to make operations easier for HMCTS staff; material would go straight to CE-File rather than having to be uploaded by staff in many cases. The more users who are required to adopt CE-File, the less need there will be to use email or the postal service. There should be a positive impact on staff in relation to migrating paper files and scanning documents and training in their use of the case management and filing parts of the system.
36. The use of CE-File might also be considered beneficial as regards the secure (and timely) delivery of documents, mitigating the risk of them going astray for whatever reason.
37. A positive impact of CE-File on the judiciary is likely to be in their ability to operate the new case management side of the system directly without the delays involved in obtaining physical files or in waiting for staff to respond by e-mail to case queries or to provide electronic copies of documents.
38. As for users, it is anticipated that for those mandated to use CE-Filing there will be benefits in terms of time and cost. If professionally represented parties are mandated to use CE-Filing, then anything which makes the task conducted by a professional easier and cheaper is beneficial. If it is only those parties who are represented by a professional who must CE-File, then it is difficult to see any material prejudice to non-represented parties, unless it may come about through 'twin stream' working – see below. Those not represented by professionals may continue as before (but some may embrace their own use of CE-Filing).
39. It is suggested that if use of CE-File cannot be mandated, the full potential benefits outlined above will not be gained.
40. It is right to note that 'twin stream' working - in any context - can sometimes lead to delay and inefficiency. However, twin stream working has been in place since CE-Filing became permissive. It might be thought that experience gained in such

working can serve to reduce or eliminate risk of delay or inefficiency occasioned thereby.

Which parties might be 'mandated' to use CE-Filing?

41. There is no present intention to make CE-Filing mandatory for all UT users. It is likely there will remain a variety of filing methods available for some users; for non-mandated users not wishing to use CE-Filing, HMCTS staff will communicate with them outside the CE-Filing system.

42. It is proposed that each UT Chamber may, but will not have to, require certain classes or categories of users (such as those who are legally represented, and those who are represented by non-legal professionals) to adopt CE-File. The precise date that mandatory use would come into force, and its scope, would be for each UT Chamber to decide in conjunction with the SPT, so that a Practice Direction may be issued by the SPT.

The UT Chambers and their respective approaches to CE-File

43. As stated above, all UT Chambers have now been permitting CE-Filing. **Annexes B to E** set out information drawn from the respective UT Chambers, both as to the progress of permissive CE-Filing and as to scope for mandation. They include the terms of the current respective Practice Notes.

44. What will be of interest is what class/category of party might be subject to mandation, and whether any 'exemptions' or 'extenuating circumstances' might be identified for express inclusion in a Practice Direction. Reference may be made to **Annex F** (the CPR Practice Direction). There, for example, paragraph 2.1 deals with 'down-time'; paragraphs 2.3 and 2.5 deal with the Website and what will be included on it; and paragraphs 5.3 and 5.4 deal with 'Acceptance' notifications and errors of procedure made while using Electronic Working.

UT(LC)

45. The provisional intention of the UT(LC) is that, if the rules permit, CE-Filing should become compulsory, after a lead-in period allowing for extensive publicity and preparation, for all parties who are represented by a regulated professional person or firm, whether a lawyer (including a barrister or a member of CILEX), surveyor or accountant, and CE-Filing should remain recommended but not obligatory for LiPs. It is not, at present, envisaged that it will ever be made compulsory for LiPs.
46. The UT(LC) proposes to work with the F-tT(PC) and the Valuation Tribunal in England, from which its appeals principally come, to educate and encourage would-be appellants from those tribunals to make use of CE-Filing, even if they are not required to do so.
47. As for any possible 'exceptions' to mandation, although the alternative of paper filing will always have to be there for LIPs, it would seem hard for a professional to seek to demonstrate that they cannot use a computer to CE-File.
48. Regarding down-time issues (for example), the UT(LC) would expect to follow a similar path as that set out in the CPR Practice Direction (**Annex F**).

UT(TCC)

49. The UT(TCC) would be minded to follow the CPR practice for the Rolls Building jurisdictions of mandatory CE-filing for legally represented parties, with optional CE-filing for others. It is considered to make sense for the Rules/Practice Directions to be as consistent as possible across jurisdictions. The UT(TCC) is unlikely to try and define 'extenuating circumstances', or similar.

UT(IAC)

50. In broad terms, the UT(IAC)'s position is akin to that of the UT(TCC). More particularly, the UT(IAC) envisages mandating CE-Filing in order to start and/or

continue/respond to any appeal or application, where the party is legally represented.

51. For this purpose being “legally represented” includes being represented by (a) a qualified person (within the meaning of section 84 of the Immigration and Asylum Act 1999); and (b) a Home Office Presenting Officer.

52. One exception to mandatory CE-Filing which may be considered is if an application is for urgent consideration in judicial review.

UT(AAC)

53. Presently, the UT(AAC) does not have a firm view about which type of user may be subject to mandation. CE-Filing has not been used much to date in that Chamber. Access to justice issues might suggest that only regulated representatives should be mandated to use it. (That is because professional regulation (Bar Standards Board, Solicitors Regulation Authority, Chartered Institute of Legal Executives) is a reasonable proxy for representatives who can be expected to have the digital resources to use the system.) LiPs may well not have enough digital resources or skills; and some may fall into digitally excluded groups who form a proportion of UT(AAC) users.

54. That said, staff resources are considered important. Staff may struggle to operate a digital system and a paper system. There is a good deal of advantage in treating everyone in the same way. Otherwise, access to justice will suffer in the sense that claimants/respondents will suffer from delay in case progression and resolution. Delay and administrative complexity (operating two systems) may be seen as hindering access to justice.

55. For these reasons, the UT(AAC) has no finalised or settled view as to users who may be subject to mandation, and whether there might be ‘exceptions/extenuating circumstances’. An evidence-based approach would be appropriate. This consultation may assist to shed light on these matters.

Possible amendment of the Rules

56. Rule 13 does not currently permit the Tribunal to direct (as a matter of course) that any person must use a specific method (e.g. an electronic method) for filing documents to the exclusion of all other methods. Rule 13 may allow for, as a matter of case management, a direction that a person must send/deliver by a specific method. An example might be a direction that a hard copy of a document, sent by email, be provided for use at a hearing. However, there can be no case management directions given before a case is initiated, by the sending/delivery of a Notice of Appeal, or an application for PTA. The initiation step must still be performed by such sending/delivery unless it is 'permitted' by a different method.
57. As stated above, permissive CE-Filing, to include the filing of any documents (including those initiating proceedings), has been the subject of Practice Notes issued by the respective Chamber Presidents. Practice Notes are relatively easy to issue and withdraw. The TPC does not consider that a Practice Note could be used for mandatory use of CE-File; rather, a Practice Direction issued (or approved) by the SPT would be required, were it not expressly provided for in Rules.
58. A similar approach has been adopted in the Courts. The procedural approach taken by the Courts which are currently using CE-File is reflected in (for example) Civil Procedure Rule Rules 5.5 and 7.12, and Practice Direction 51O (the Electronic Working Pilot Scheme).
59. CPR 5.5 is as follows.

Filing and sending documents

5.5

- (1) A practice direction may make provision for documents to be filed or sent to the court by –*
- (a) facsimile; or*
 - (b) other electronic means.*

- (2) Any such practice direction may –
- (a) provide that only particular categories of documents may be filed or sent to the court by such means;
 - (b) provide that particular provisions only apply in specific courts; and
 - (c) specify the requirements that must be fulfilled for any document filed or sent to the court by such means.

60. CPR 7.12 is as follows.

Electronic issue of claims

7.12

- (1) A practice direction may make provision for a claimant to start a claim by requesting the issue of a claim form electronically.
- (2) The practice direction may, in particular –
- (a) specify –
 - (i) the types of claim which may be issued electronically; and
 - (ii) the conditions which a claim must meet before it may be issued electronically;
 - (b) specify –
 - (i) the court where the claim will be issued; and
 - (ii) the circumstances in which the claim will be transferred to another court;
 - (c) provide for the filing of other documents electronically where a claim has been started electronically;
 - (d) specify the requirements that must be fulfilled for any document filed electronically; and
 - (e) provide how a fee payable on the filing of any document is to be paid where that document is filed electronically.
- (3) The practice direction may disapply or modify these Rules as appropriate in relation to claims started electronically.

61. Practice Direction 51O deals with electronic issue of claims started or continued under the Electronic Working scheme. The Practice Direction will expire in April 2023, and its text is included in **Annex F** to this consultation. A link is as follows.
<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part51/practicedirection-51o-the-electronic-working-pilot-scheme>

62. An example of mandation (within PD 51O) is the following (with emphasis added by underlining).

2.2B *In the Central Office of the Queen’s Bench Division—*

- (a) from 1 January 2019, for a party who is legally represented, as well as for a party who is not legally represented, *Electronic Working may be used by that party to start and/or continue any relevant claims or applications; and*
- (b) from 1 July 2019, for a party who is legally represented, *Electronic Working must be used by that party to start and/or continue any relevant claims or applications.*

63. The Working Group proposal is to take a similar approach – one rule change to enable Practice Directions to be made, which will set out the mandate applied (as well as any other matters material to CE-Filing).

Access to justice – extenuating or unusual circumstances?

64. The Working Group considered that access to justice issues might arise on a case-by-case basis, and that as such, Rules (or a Practice Direction) should also provide for exemption from mandatory use, on application to the Tribunal. It was considered that there may be some professionals in some jurisdictions – probably not legal practitioners – who will not be comfortable with the technology, and exceptions might be made in unusual circumstances. (In other words, the consequence of mandate was not to be considered inescapable.)

65. It was considered that even where whole classes or categories of user are required to use CE-File, the discretion to determine when someone who would otherwise be mandated to use CE-File should be relieved of the obligation should be a matter of case management discretion, to be exercised in accordance with the overriding objective, the relevant amended Rule and under the Practice Direction. It was considered not possible to envisage in advance what might constitute exceptional or unusual circumstances. It was considered that the preference of Chamber Presidents would be for any exception to mandate to be a matter governed by the relevant Practice Direction rather than being required by the Rule.

66. It was further considered that there would also need to be flexibility within the amended Rules and Practice Direction issued thereunder for parties to use alternative or traditional methods for filing, such as in emergencies or where the CE-File system fails or is temporarily unavailable.

67. It may be noted that UT Rule 7 (in material part) states as follows.

Failure to comply with rules etc.

7.—(1) *An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or a direction, does not of itself render void the proceedings or any step taken in the proceedings.*

(2) *If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Upper Tribunal may take such action as it considers just, which may include*

(a) waiving the requirement;

(b) requiring the failure to be remedied;

(c) exercising its power under rule 8 (striking out a party's case); or

(d) except in a mental health case, an asylum case or an immigration case, restricting a party's participation in the proceedings.

68. Thus, UT Rule 7 would provide a route for justice to be provided in any particular case of non-compliance with a mandated requirement, assuming that the grounds advanced for exercise of this discretion are made out.

69. The Working Group further considered that any amendment to the Rules, and any Practice Direction issued thereunder, should also enable the electronic sending and delivery of documents through CE-File from the Tribunal to the parties.

70. As set out above, service of documents between the parties themselves (i.e. service on parties by other parties) is outside the scope of CE-File. The Working Group suggested it may be useful if amended Rules were drafted in such a way that any Practice Direction can provide the Tribunal with the power to make directions about inter-party service rather than being governed by the Rules themselves. However, inter-party service is already provided for by the Rules, as a matter of case management direction. Under UT rule 5(3)(d), the Tribunal has power to “*permit or require a party or another person to provide documents, information, evidence or submissions to the Upper Tribunal or a party.*” The rule is identical in the UT(LC) Rules.

Possible Rule Changes

71. In order to make clear provision for the use of the online CE-File portal, the proposal would be to add ‘*Uploaded to the Tribunal’s secure portal*’ to the list of

possible delivery methods in Rule 13(1). It would be for a Practice Direction to deal with issues of compatible file formats. The TPC is also considering removing the reference to sending documents by fax, since this is expected to be much less common in the future (although it will remain an option where a fax number is provided by the Tribunal or a party, since it will remain within the scope 'any other method identified ... by the Tribunal or person to whom the document is directed').

72. Additionally, to cater for possible mandation of CE-filing, over and above the current permissive use, an overall proposal for amendment of Rule 13 is as follows (by indicative drafting, with emphasis in bold).

Sending and delivery of documents

13.—(1) Any document to be provided to the Upper Tribunal under these Rules, a practice direction or a direction must be—

(a) sent by pre-paid post or by document exchange, or delivered by hand, to the address specified for the proceedings;

(b) sent by fax to the number specified for the proceedings

(bb) uploaded to the Tribunal's secure portal; or

(c) sent or delivered by such other method as the Upper Tribunal may permit or direct.

(1A) A practice direction may specify for any document subject to paragraph (1) -

(a) the requirements that must be fulfilled for it to be uploaded to the Tribunal's secure portal; and

(b) in any specified category of case, that it must be so uploaded to the Tribunal's secure portal.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them **including through the Tribunal's secure portal, that party must accept delivery of documents by that method.**

(3) If a party informs the Upper Tribunal and all other parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party, that form of communication must not be so used.

(4) If the Upper Tribunal or a party sends a document to a party or the Upper Tribunal by email or any other electronic means of communication **including through the Tribunal's secure portal, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.**

(5) The Upper Tribunal and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

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Consultation Questions

73. The TPC is interested to receive your views on possible changes to Rule 13, in the context of CE-Filing. When responding, please keep in mind that the rules should be simple and easy to follow. They should not impose unnecessary requirements or unnecessarily repeat requirements that are contained elsewhere. The TPC must secure the objectives set out in section 22(4) of the TCEA and it aims to do so in a consistent manner across all jurisdictions. Where your views are based upon practical problems which do or could arise, the TPC would be assisted by reference to relevant evidence.

74. In general, the TPC regards consultation responses as public documents. They may be published by the TPC and referred to in its Reply to the Consultation.

75. If you would prefer your response to be kept confidential, you should be aware that information you provide, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 and the Data Protection Act 2018.

76. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the TPC.

77. The questions raised are as follows.

Question 1: Do you agree that it is appropriate for there to be a mandate of CE-Filing for certain parties in the UT? If not, why not?

Question 2: If so, for which classes of party should the use of CE-Filing be mandatory?

Question 3: For such parties, what (if any) additional safeguards should there be in the event of non-compliance with mandatory CE-Filing, over and above any provision for 'down-time', and the operation of UT rule 7?

Question 4: If there is to be mandation of CE-Filing, should it be done through a Practice Direction? If not, why not?

Question 5: If through a Practice Direction, what aspects should (or should not) be specified in a Practice Direction?

Question 6: If there is to be mandation of CE-Filing, should it be done expressly through Rule change? If so, why?

Question 7: If through Rule change, what aspects should (or should not) be specified in a change to the Rules?

Question 8: Is it appropriate to amend Rule 13 in the way proposed (i.e. enabling a Practice Direction to deal with mandation)? If not, why not?

Question 9: Do you have any comments on the indicative drafting proposal?

Question 10: Do you have any further comments?

How to Respond

Please reply using the response questionnaire template.

Please send your response by **16 August 2022** to:

The Secretary, Tribunal Procedure Committee

Post point 10.18, 102 Petty France

London SW1H 9AJ

Email: tpcsecretariat@justice.gsi.gov.uk

Fax: 020 3334 2233

Extra copies of this consultation document can be obtained using the above contact details or online at: <http://www.justice.gov.uk/about/moj/advisory-groups/tribunal-procedure-committee/ts-committee-open-consultations>

ANNEX A

The First-tier Tribunal Chambers and Upper Tribunal Chambers

First-tier Tribunal Chambers

Social Entitlement Chamber

1. The F-tT(SEC) is responsible for handling appeals against decisions relating to:

- Attendance Allowance
- Bereavement Allowance
- Carer's Allowance
- Child Benefit
- child maintenance (child support)
- Compensation Recovery Scheme (including NHS recovery claims)
- Diffuse Mesothelioma Payment Scheme
- Disability Living Allowance
- Employment Support Allowance
- funeral payments
- Guardian's Allowance
- Income Support
- Industrial Injuries Disablement Benefit
- Jobseeker's Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment
- Sure Start Maternity Grant
- tax credits
- Universal Credit
- Vaccine Damage Payment
- Winter Fuel Payment

Health, Education & Social Care Chamber

2. The F-tT(HESC) deals with Special Education Needs & Disability (SEND), Care Standards (CS), and Primary Health Lists (PHL).

- The SEND jurisdiction deals with parents'/carers appeals against decisions of local authorities about children's special educational needs.
- Care Standards hearings principally concern regulatory breaches enforced by the Care Quality Commission and Ofsted against whom appeals are heard.
- Primary Health Lists appeals, in the main, concern a refusal by the National Health Service Commissioning Board to allow doctors, dentists or pharmacists to practice on behalf of the NHS.
- It is also responsible for handling applications for the discharge of patients detained in psychiatric hospitals
- It also handles applications to change community treatment orders and the conditions placed on a 'conditional discharge' from hospital.

War Pensions and Armed Forces Compensation Chamber

3. The F-tT(WPAFCC) deals with appeals against decisions about a war pension or compensation.

General Regulatory Chamber

4. The F-tT(GRC) is responsible for handling appeals against decisions made by government regulatory bodies in cases relating to:

- charities
- community right to bid
- consultant lobbyists
- conveyancing
- copyright licensing
- driving instructors
- electronic communications and postal services
- environment
- exam boards
- food
- gambling
- immigration services
- information rights
- letting and managing agents
- microchipping dogs
- pensions regulation
- secondary ticketing
- welfare of animals

Immigration and Asylum Chamber

5. The F-tT(IAC) is responsible for handling appeals against some decisions made by the Home Office relating to:

- permission to stay in the UK
- deportation from the UK
- entry clearance to the UK

It also handles applications for immigration bail from people being held by the Home Office on immigration matters.

Tax Chamber

6. The F-tT(TC) is responsible for handling appeals against some decisions made by HMRC relating to:

- Income Tax
- PAYE tax
- Corporation Tax
- Capital Gains Tax
- National Insurance Contributions
- Statutory Sick Pay

- Statutory Maternity Pay
- Inheritance Tax
- VAT
- Excise duty
- Customs duty

It also handles some appeals relating to goods seized by either HM Revenue and Customs or Border Force and against some decisions made by the National Crime Agency.

The Upper Tribunal Chambers

The Upper Tribunal (Administrative Appeals Chamber)

7. The UT(AAC) is responsible for dealing with appeals against decisions made by certain Chambers of the F-tT, and certain decisions made by others. These

include:

- social security and child support (appeals from F-tT(SEC))
- war pensions and armed forces compensation (appeals from F-tT(WPAFCC))
- mental health (appeals from F-tT(HESCC))
- special education needs or disabilities (appeals from F-tT(HESCC))
- disputes heard by the F-tT(GRC) (appeals from that tribunal, other than in charities cases)
- decisions made by the Disclosure and Barring Service
- decisions made by the Traffic Commissioner (or the Transport Regulation Unit in Northern Ireland)
- Special Education Needs Tribunal for Wales (appeals from that Tribunal)
- Mental Health Review Tribunal for Wales (appeals from that Tribunal)
- Pensions Appeal Tribunal in Northern Ireland (only for assessment appeals under the War Pensions Scheme) (appeals from that Tribunal)

The Upper Tribunal (Immigration and Asylum Chamber)

8. The UT(IAC) is responsible for handling appeals against decisions made by the F-tT(IAC), relating to visa applications, asylum applications and the right to enter or stay in the UK. All these appeals are from the F-tT(IAC).

The Upper Tribunal (Tax and Chancery Chamber)

9. The UT(TCC) is responsible for handling appeals against, and references of, certain decisions made by:

- F-tT(Tax), for cases about tax (appeals from that tribunal)
- F-tT(GRC), for cases about charities (appeals from that tribunal)
- Financial Conduct Authority
- Prudential Regulation Authority
- Secretary of State for International Trade or the Trade Remedies Authority
- Pensions Regulator
- Bank of England
- HM Treasury
- Ofgem

The Upper Tribunal (Lands Chamber)

10. The UT(LC) is responsible for handling appeals against decisions made by:

- F-tT (PC)
- Residential Property Tribunal in Wales
- Leasehold Valuation Tribunal in Wales

11. The UT(LC) is also responsible for handling applications for cases about:

- a decision about rates made by the Valuation Tribunal in England or Wales
- compensation for the compulsory purchase of land
- discharge or modification of land affected by a 'restrictive covenant'
- compensation for the effect on land affected by public works
- a tree preservation order
- compensation for damage to land damaged by subsidence from mining
- the valuation of land or buildings for Capital Gains Tax or Inheritance Tax purposes
- a 'right to light' dispute
- compensation for blighted land
- Electronic Communication Code - disputes involving masts and other telecommunications equipment on land.

ANNEX B

UT(TCC) and CE-Filing

Permissive CE-Filing commenced 17.5.21

1. **Advance notice given to users of the scope for permissive use of CE-Filing**

Advance notice was given in the Practice Note from the Chamber President dated 14 May 2021, placed on the judiciary.uk website before the introduction of permissive CE-Filing on 17 May 2021. The notice was subsequently published by various bodies on their websites, including by Tax Journal, Law Society and LexisNexis. Emails were also sent by the UT(TCC), attaching the Practice Note, to professional users (over 100) who attended various talks regarding the CE-Filing launch.

2. **Publication of the scope for such permissive use**

In the UT(TCC) Practice Note on the judiciary.uk website (and other websites referred to above):

<https://www.judiciary.uk/wp-content/uploads/2021/05/22196444.pdf>

The availability of CE-File in the UT(TCC) and the procedure for CE-Filing is also published on the gov.uk website:

<https://www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-and-professionals>

The availability of CE-Filing and encouragement to adopt its use is also included in the footer of emails from the UT(TCC) to external users. The UT(TCC) is currently working towards updating its email auto response and plans to add reference to CE-File.

3. **Over the course of permissive use of CE-File**

(i) **Take up**

As of 15 December 2021 (after 7 months), there had been only been 17 CE-Filers (those filing at least one document) i.e. the overwhelming majority of cases before the UT(TCC) have not been filed on CE-File. The available figures for E-Filing received in the period July 2021 to January 2022 are that only 4 out of a total 81 New Applications and Appeals (31 PTA Applications, 42 appeals and 8 references) were filed via CE-Filing. In addition, there were another 23 instances of documents being CE-Filed to existing cases.

(ii) Type of user

Although there is still a very low number by document number, 99% of UT(TCC)'s CE-Filing appears to be from professional users. CE-filing has been used by one non-professional litigant in person and by a limited number of professional users who are not legal representatives. All other CE-Filers are legal representatives.

It would be expected that take up would progressively increase. The UT(TCC) would expect that monthly figures could be provided and the type of user identified – the UT(TCC) is particularly interested to see the time periods involved, the number of claims lodged by users on a monthly basis, the types of users and the total number of claims in which CE-Filing has been used (by comparison with the total number of claims overall).

4. Issues experienced through permissive use of CE-Filing

- (i) Issues for users
- (ii) Issues for HMCTS staff
- (iii) Issues for judiciary

None identified by UT(TCC) so far, but take up has been very low.

5. Steps likely to be needed in order to address the problems identified in response to question 4

N/A

6. Benefits ensued through permissive use of CE-Filing

At this stage the benefits for HMCTS staff appear to be quicker registration of cases, and files being automatically uploaded onto CMS (case management system). File accuracy also increases. The benefits of CE-File to judges is not having to inspect paper files, and being able to monitor cases and updates on CMS.

7. Proportion of parties who are litigants in person; proportion of these who have been using CE-Filing

Approximately 20% of parties are litigants in person ('LIPs') (this is as estimate – that varies over time). Fewer than 5 LIPs have used CE-Filing.

8. Proportion of parties assisted by non-lawyer professionals; what proportion of these have been using CE-Filing.

Approximately 10% of parties are represented by accountancy firms/tax advisers or other professional representatives (this again is an estimate). This leaves approximately 70% of parties who are legally represented. One party to every appeal, Her Majesty's Revenue & Customs ('HMRC') or Director of Border Revenue or Financial Conduct Authority ('FCA'), is always legally represented.

9. Wish for there to be mandation, and if so for what categories of user

Yes, for legally represented parties only (in line with the High Court and recommendation of other UT Chambers).

10. Reasons for wish for there to be mandation

To increase the uptake dramatically from a very low number who have been CE-Filing since it has been introduced on a permissive basis. Approximately 70% of UT(TCC) parties are legally represented, so if they are mandated to CE-File then use will increase dramatically.

At present, where CE-Filing is not utilised, the parties file by traditional methods of e-mail (or post). Thereafter, if the UT(TCC) staff and judges wish to use the CMS system (rather than simply scanning and emailing documents between staff and judges) those documents have to be uploaded to CMS by the HMCTS administrative staff. If the documents are CE-Filed then this will reduce the administrative burden as HMCTS staff will not need to upload these documents.

Mandation will lead to a reduction in staff time registering cases and uploading key documents for cases allowing staff time to be redirected to progress appeals work for judges. This should assist UT(TCC) to progress cases through the system in a shorter time frame improving its KPIs and ultimately delivering a better service for our users.

CE-filing users (legal representatives) will be able to manage their cases online and receive updates on their cases through the service rather than having to make contact with the office.

Judges will be better able to monitor to their case load and inspect every action that has been taken on each case. This is useful information.

11. When mandation is wished to start

Wished to start 3-6 months after the amendments to the Rules to enable it to take place - assuming the TPC adopts the recommendation to make the rule changes required to Rule 13 of the UT Rules. This timescale will enable sufficient time for advance publication and notice of mandation to the relevant user groups (legal representatives in UT(TCC) appeals). It will also enable the HMCTS staff time to prepare and plan for the increase of cases that will

automatically be managed by CMS. It will also enable further and appropriate training for staff and judges using CE-File.

12. Advance notice intended to be given to users of mandation.

Advance notice will be by publication of the practice note/direction on the UT(TCC) and Gov.uk websites, circulation to various user groups (the F-tT Law Society, Bar Council, Accountancy and Tax journals) and inclusion of the start date in all external emails from the UT(TCC) (eg. in a footer or auto-response).

13. Issues anticipated through mandatory use of CE-Filing

(i) Issues for users

Adapting to the new method of filing and following the guidance available in the Practice Note and Gov.uk website as to how to operate the system.

The other problem is the maximum size of file that can be uploaded under CE-File. Often the document size will be too large for the system so large files will have to be sent by email (broken down) or uploaded to the E-judiciary Document Upload Centre (DUC) or a web based drop box. This means that CE-File will not necessarily manage all the documents in the case.

(ii) Issues for HMCTS staff

Increased time and required training in adapting to the new way of working. In addition to the transition and migration to a new system the staff will still have to operate the traditional case management and filing systems (mainly through emails and post) for all cases that are not filed by CE-File so they will have to continue to operate two ways of working.

(iii) Issues for judiciary

Taking time to learn or be trained on the options for being alerted to, and accessing, the information parties upload to CE-file. Learning or being trained upon a new way of working when opting to use CMS for internal case management (mastering the alerts, notifications and processes).

(iv) Steps likely to be needed in order to address the issues identified in response to question 13

Clear plan for HMCTS staff to be appropriately trained and resourced to adapt to a new way of working. During the transition/migration staff will take more time to process cases until they are experienced in the system. This may lead to a backlog or slower processing time initially unless extra resources are available.

14. Benefits anticipated to ensue from mandation, over and above any benefits experienced through permissive use of CE-Filing

See answer to question 10 above.

The current UT(TCC) Note

UPPER TRIBUNAL, TAX AND CHANCERY CHAMBER PRACTICE NOTE ISSUED BY MR JUSTICE ZACAROLI CHAMBER PRESIDENT ON 14 MAY 2021 ELECTRONIC FILING OF DOCUMENTS ONLINE – CE-FILE

1. CE-File is the online system for filing documents electronically at the Upper Tribunal, Tax and Chancery Chamber (“the Tribunal”).
2. It is a database where Tribunal users can easily access all their cases, and a permitted method for sending and delivery of documents to the Tribunal for the purpose of Rule 13(1)(c) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (“the Upper Tribunal Rules”).
3. For proceedings commenced after 17 May 2021 any party or their representative may use CE-File (provided they register to do so, as explained below) to provide documents to the Tribunal. They may also use it in other proceedings where the Tribunal has invited the party or representative to use CE-File.
4. Where a party or representative chooses to use CE-File to send documents to the Tribunal, they will be regarded, for the purposes of Rule 13(2) of the Upper Tribunal Rules as providing details of CE-File as a means of electronic transmission of documents to them by the Tribunal. That means the party or representative must also accept delivery of documents by CE-File from the Tribunal as required by Rule 13(2) of the Upper Tribunal Rules.
5. The Tribunal will use CE-File to send and deliver documents to all registered users.
6. CE-File has size limits. As regards electronic bundles for use in hearings, the Chamber’s guidance on electronic bundles envisages that each bundle will be a single pdf document. Parties or representatives may use CE-File to lodge such bundles if the size limit allows but otherwise will need to use other means to file the bundle rather than splitting the bundle up.
7. Where a party or representative has registered to use CE-File, they may also request the Tribunal to send them a hard copy of all documents delivered by CE-File as provided

by Rule 13(4) of the Upper Tribunal Rules. They must make such a request in writing as soon as reasonably practicable after receiving any document.

8. Parties or representatives who register for CE-File may decide at any time that they will no longer accept receipt of documents in this manner. They must first give 7 days notice in writing to the Tribunal. Once that notice period has expired, CE-File shall no longer be used for sending and delivering documents to that party (see Rule 13(3)).

Registering for and using CE-File

9. To use CE-File, you must first register as an E-Filer. This will allow you to file and receive documents electronically. To register or log in and file a document using CE-File, a party or representative should follow these 4 steps:

(a) access the CE-File website address: <https://efile.cefile-app.com/login>;

(b) register for an account or log on to an existing account by following the 'Register as an E-Filer' link at the bottom of the landing page.

(c) enter details of a new case or use the details of an existing case; Select 'Upper Tribunal (Tax and Chancery Chamber)' from the 'Courts' menu and then select whether this is a filing for a 'New Case' or an 'Existing Case'.

(d) upload the appropriate document; Explain what is being filed and upload the claim form or documents in Microsoft Word or PDF format. Once your filing in a new case is accepted, a case number will be created and you will be notified of it in CE-File and via email. In CE-File this will appear in the top right corner of the screen.

Further information and guidance: General guidance and more information about the operation of CE-File, as it already applies in some Courts, can be found at:

<https://www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-and-professionals>

For more information on filing documents please refer to the relevant guidance:

<https://www.gov.uk/government/publications/how-to-use-the-hmcts-e-filing-service>

The current maximum capacity is 50MB. If a document (apart from electronic bundles for hearings – see above) is too large send it in sections and make a note in the comments box.

The guidance also addresses the following topics: 1. Manage your account; 2. Filing; 3. Public searches; 4. Service availability; 5. Security and data protection; 6. Support and enquiries

See also the videos: • Video: An introduction to CE-File • Video: setting up a CE-File account

ANNEX C
UT(LC) and CE-Filing
Permissive use commenced 28.6.21

1. Advance notice given to users of the scope for permissive use of CE-Filing

CE-File became available to users of UT(LC) on 28 June 2021 and was the subject of a Practice Note published by the Chamber President on 17 June 2021, later appearing on the Judiciary website, but notice of the introduction of CE-File was given to regular users of the Chamber at Users group meetings in March 2021 and when Judges spoke at conferences and on-line events in the run up to its introduction.

2. Publication of the scope for such permissive use

Once public access to CE-File became available the Practice Note was referred to in the footer to all emails sent from the Chamber's public email address and in directions given for the conduct of new references and appeals. The Practice Note is at https://www.judiciary.uk/wp-content/uploads/2021/07/Practice-Note-on-CE-filing-Lands-Chamber-17.6.21_.pdf

3. Over the course of permissive use of CE-File, what has been the take up and what type of user is using it

Take up figures are available from September 2021:

2021	All new cases	New cases CE-Filed	Total CE-Filing events
September	58	15	86
October	58	15	96
November	67	31	143
December	39	21	113

Use of CE-File has been greater amongst repeat professional users than among one-off or unrepresented users. This can be seen clearly by comparing filings of new references with filings of other types of cases (typically applications for permission to appeal and appeals from the F-tT). New references are either compensation claims or claims under the Electronic Communications Code and most are professionally represented by large firms of solicitors. F-tT appeals and applications for permission to appeal are more often filed by unrepresented users or by users represented by smaller firms of solicitors.

	All new references	CE-Filed references	All new other	CE-Filed other
September	14	7 (50%)	44	8 (18%)
October	17	12 (71%)	41	3 (7%)
November	24	21 (88%)	43	11 (26%)
December	17	16 (94%)	22	5 (23%)
Total	72	56 (78%)	150	27 (18%)

The expected progressive increase in take up amongst repeat users and large firms is apparent from these figures, while take up among unrepresented users and smaller professional firms shows no such pattern.

4. Issues experienced through permissive use of CE-Filing

(i) *Issues for users*

CE-File cannot be accessed if a user is having problems with the internet. Lack of understanding of how documents should be uploaded. Quite often users attach all their documents to one filing type, rather than up-loading documents of different types separately (e.g. notice of reference, witness statement and exhibits all in one filing).

(ii) *Issues for HMCTS staff*

In the beginning there were problems with training. It took a while for staff to have a thorough understanding of how CE-File works. This had mostly been achieved by the time CE-Filing became available to the public. Staff now having to spend time separating filings if they have been uploaded as one case event. Time is also taken up by entering contact details if these haven't been entered when a new case is submitted by CE-File. Refunding fees paid through CE-file is time consuming.

(iii) *Issues for judiciary*

UT(LC) Judges and Members report that using CE-File for case management, for determining applications for permission to appeal, and for listing are all much slower than using a paper file. Rather than navigating quickly through a file which has been organised in a standard form it is now necessary laboriously to open several documents to identify the information required. On the other hand, there is no delay in waiting for the paper file to be found and delivered.

5. Steps likely to be needed in order to address the problems identified in response to paragraph 4

Professional users have been supplied with "top-tips" at Users Groups to encourage them to separate filings into documents of different types. Clearer

explanation could be provided on CE-File itself. It is not anticipated that additional resources are required.

The problem of CE-File being slow to navigate and lengthy waits while documents open may relate to the processing speed of the hardware available to judiciary, although this seems to be the universal experience of it.

6. Benefits which have ensued through permissive use of CE-Filing
Staff find it quicker to process new cases and documents which have been submitted by CE-File. It is helpful when dealing with customer queries for staff to be able to view documents/e-mails on CMS rather than locating and going through a paper file. The calendar is a useful function to view the hearings for the week. Saves space in the office because not as many cabinets are needed for paper documents. Time no longer needs to be spent on destroying files/bundles that exceed the timeframes in the retention policy.

7. Proportion of parties in the Chamber who are LiPs, and what proportion of these have been using CE-Filing

See paragraph 3 above. The proportion of represented and unrepresented users varies depending on the type of case. Some of the work of the UT(LC) involves large scale commercial litigation, while other cases are much more modest disputes between private individuals. Overall, probably about 50% of cases involve a litigant in person, but this is influenced significantly by the number of applicants for permission to appeal from the F-tT. If one disregards unsuccessful applications for PTA, the percentage is probably about 30%.

8. Proportion of parties assisted by non-lawyer professionals, and what proportion of these have been using CE-Filing

Again, the pattern varies between the different jurisdictions. In a small proportion of compensation references (perhaps 10%) one side or the other is likely to be represented by a firm of Chartered Surveyors. In non-domestic rating work the involvement of Chartered Surveyors or other rating professionals is much higher (more appellants are represented by rating specialists than by solicitors). In appeals from the F-tT, non-lawyer professionals are rarely involved.

9. Wish for there to be mandation, and if so for what categories of user

The UT(LC) would like all professionally represented parties to be required to make use of CE-File; it should be available to unrepresented users, and the UT(LC) will encourage and support them to use it, but its use should not be

mandatory. There are considerable savings of time and expense for users in not having to file hard copy material, as there are for the Chamber's staff in processing it. Professional users of CE-File are enthusiastic and would prefer that all sides in the same case make use of the same system for filing material.

10. When is mandation wished to start, and why

By the end of 2022, to allow time for voluntary adoption to increase in jurisdictions where CE-File is less well known, and to allow users to become aware of the requirement and prepare for it.

11. Advance notice intended to be given to users of mandation, and how

See the link provided in paragraph 2 for the current Practice Note. A similar document would be issued in advance of use becomes mandatory for professionals. Notice of the change to mandation would be included in all email correspondence and orders issued for several months ahead of time. The Chamber website would be modified to explain what was required and material supplied by the F-tT to applicants for permission to appeal to the UT would be adapted to provide guidance. The aim would be to encourage CE-filing even where it is not mandatory.

12. Issues anticipated through mandatory use of CE-Filing

- (i) for users
- (ii) for HMCTS staff
- (iii) for judiciary

The same problems as have been described under paragraph 4. Since there is no proposed mandation for non-professional users, there will be no increase in the degree of any problems caused to users; only the same issue for professional users who have not yet got used to CE-filing.

It would be expected that anticipated issues may be described in narrative form, but also with some plan for recording quantitative aspects. For example, there may be plans for records of 'contact the tribunal' enquiries and 'efile support' enquiries, in terms of volumes and types.

13. Steps likely to be needed in order to address the issues identified under paragraph 12

See paragraph 5, and the further publicity described under paragraph 11 above.

14. Benefits anticipated to ensue from mandation, over and above any benefits experienced through permissive use of CE-Filing

The same benefits as are already provided but to a greater extent.

The Current UT(LC) Note

**UPPER TRIBUNAL, LANDS CHAMBER PRACTICE NOTE ISSUED BY MR JUSTICE FANCOURT, CHAMBER PRESIDENT, ON 25 JUNE 2021
ELECTRONIC FILING OF DOCUMENTS ONLINE – CE-FILE**

1. CE-File is the online system for filing documents electronically at the Upper Tribunal, Lands Chamber (“the Tribunal”).
2. It is a database where Tribunal users can easily access all their cases, and a permitted method for sending and delivery of documents to the Tribunal for the purpose of Rule 13(1)(c) of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (“the Lands Chamber Rules”).
3. For proceedings commenced after 28 June 2021 any party or their representative may use CE-File (provided they register to do so, as explained below) to provide documents to the Tribunal. They may also use it in other proceedings where the Tribunal has provided a CE-file reference in the format LC-2021-xxxxxx.
4. Professional representatives are encouraged to use CE-file to commence new cases or deliver documents to the Tribunal, and in due course, when sufficient experience of the new system has been acquired, its use may become compulsory for professional users.
5. CE-file is also available for use by parties who do not have a professional representative, but the Tribunal will also continue to accept documents from them by post, DX, fax, email or by hand.
6. Where a party or representative chooses to use CE-File to send documents to the Tribunal, they will be regarded, for the purposes of Rule 13(2) of the Lands Chamber Rules, as providing details of CE-File as a means of electronic transmission of documents to them by the Tribunal. That means the party or representative must also accept delivery of documents by CE-File from the Tribunal as required by Rule 13(2) of the Lands Chamber Rules.
7. The Tribunal will use CE-File to send and deliver documents to all registered users.

8. Parties who register for CE-File may decide at any time that they will no longer accept receipt of documents in this manner by notifying the Tribunal and all other parties. Parties should be aware that it may take the Tribunal up to 7 days to process this notification.

9. CE-File has size limits. As regards electronic bundles for use in hearings, the Chamber's guidance on electronic hearing bundles¹ requires each bundle to be a single pdf document. Parties or representatives may use CE-File to lodge such bundles if the size limit allows but otherwise will need to use other means to file the bundle rather than splitting the bundle up.

10. Where a party or representative has registered to use CE-File, they may also request the Tribunal to send them a hard copy of all documents delivered by CE-File as provided by Rule 13(4) of the Lands Chamber Rules. They must make such a request in writing as soon as reasonably practicable after receiving any document. Registering for and using CE-File

11. To use CE-File, you must first register as an E-Filer. This will allow you to file and receive documents electronically. To register or log in and file a document using CE-File, a party or representative should follow these 5 steps:

(a) access the CE-File website address: <https://efile.cefile-app.com/login>; (b) register for an account or log on to an existing account by following the 'Register as an E-Filer' link at the bottom of the landing page.

(c) enter details of a new case or use the details of an existing case; Select 'Upper Tribunal (Lands Chamber)' from the 'Courts' menu and then select whether this is a filing for a 'New Case' or an 'Existing Case'.

(d) upload the appropriate document; Explain what is being filed and upload the claim form or documents in Microsoft Word or PDF format. Once your filing in a new case is accepted, a case number will be created and you will be notified of it in CE-File and via email. In CE-File this will appear in the top right corner of the screen

(e) pay the appropriate fee for the application, reference or appeal, if applicable. Fees can be paid either by credit card or debit card or by using Payment by Account ('PBA')

Further information and guidance: General guidance and more information about the operation of CE-File, as it already applies in some Courts, can be found at: <https://www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-and-professionals>

For more information on registering and filing documents, please refer to the relevant guidance on the following page:

<https://www.gov.uk/government/publications/how-to-use-the-hmcts-e-filing-service>

The current maximum capacity is 50MB. If a document (apart from electronic bundles for hearings – see above) is too large send it in sections and make a note in the comments box.

The guidance also addresses the following topics: 1. Manage your account; 2. Filing; 3. Public searches; 4. Service availability; 5. Security and data protection; 6. Support and enquiries

See also the videos: • Video: An introduction to CE-File • Video: setting up a CE-File account

Annex D

UT(IAC) and CE-Filing

Permissive use commenced 17.1.22

1. CE-File became available to users of the UT(IAC) on 17 January 2022. Users were informed of the intention to use CE-File (and of the 17 January 2022 commencement date) at the Chamber's User Group meeting in September 2021. Users were also given information regarding webpages and online videos explaining the system. Notice of the 17 January 2022 date was given by email. Updates were also shared via HMCTS social media platforms and posters in offices.
2. As for publication of the scope for permissive use, the Chamber President issued a Practice Note under paragraph 7 of Schedule 4 to the TCEA, available via the following link:

<https://www.judiciary.uk/announcements/upper-tribunal-immigration-and-asylum-chamber-guidance-note-on-ce-file-and-electronic-bundles/>

3. Over the course of permissive use of CE-File:

(i) Anticipated take up

It is considered difficult to estimate the proportion of UT(IAC) users who would use CE File on a permissive basis. From the applicant side, a recent webinar on the system was well attended (80 participants). From the respondent's side, the head of the Secretary of State's Specialist Appeals Team indicated at a recent User Group meeting that they welcome the introduction of the system. Users on both sides are already familiar with the similar system which has been in place in the F-tT(IAC) since shortly before the pandemic.

The UT(IAC) anticipates that use (whether permissive or mandatory) will be limited to professional users, and that self-representing litigants will prefer to continue using conventional means of filing, including email.

(ii) Anticipated type of user

Professional users (solicitors, barristers and legal representatives authorised by the Office of the Immigration Services Commissioner ("OISC"), for which see below) are expected to use the system. In statutory appeals from the F-tT(IAC), the Home Office has already indicated that it is eager to do so. It is hoped that the Government Legal Department will also use CE-File for filing in immigration

judicial review. There is not expected to be a great deal of use on the part of self-representing litigants.

(iii) Analysis in relation to these issues

As CE-File has only been available in UTIAC for permissive use for a relatively short time, no analysis has been undertaken at present, although early indications from professional bodies are positive (as above). The take-up and the type of user will be kept under review during the first quarter of permissive use. It would be expected that take-up would progressively increase. It is understood that monthly figures, and as regards type of user, will be recorded.

4. Issues anticipated through permissive use of CE-Filing

The introduction of CE-File has necessitated significant amendment to working practices on the part of HMCTS staff and judiciary. Although the system has been in use for staff and judiciary for some weeks, significant difficulties continue to occur whilst the Chamber comes to grips with a completely new way of working.

(i) Issues for users

From the users' side, issues will include an initial lack of familiarity with the system and general IT issues such as internet connectivity and/or bandwidth. There will inevitably be occasions when CE-File is not functioning, whether due to essential maintenance or malfunction such as recently occurred for much of the morning on 17 January 2022. Users can however raise technical difficulties and queries with the support team by email. Filing by alternative means will remain available in such circumstances.

It is also anticipated that some users may find the limitation on uploads to present some difficulty. CE-File will only accept file uploads of up to 50MB, and scanned bundles in more complex cases can easily exceed that size, which will require them to be split into sections.

Professional users who are familiar with the F-tT(IAC)'s system might also take some time to familiarise themselves with the rather different way in which CE-File operates. That said, many solicitors with a wider practice will already have experience of CE-File in different jurisdictions, including the Queen's Bench.

(ii) Issues for HMCTS staff

It has been noted that one issue raised by other jurisdictions is that before mandation if a party sends documents via email/post rather than using CE-File it takes staff longer to process as they need to scan the documents onto CMS. It can currently take up to 30 minutes to create a case when users do not use E-Filing.

If there was a DOM1 outage, this would cause problems but this is factored into the Business Continuity Plan ('BCP') and open-build laptops can be used to access the system.

General feedback from staff at the moment is that it takes a lot longer to take actions; this may improve as staff become accustomed to the system.

(iii) Issues for judiciary

In common with other jurisdictions, judges in UT(IAC) have commented that cases take longer to progress on CE-file as compared to a paper file. This might currently result from a lack of familiarity with the system. Concerns have been expressed in UT(IAC)'s Judicial Welfare Committee about the increased use of screens. The Chamber has also experienced significant difficulty with staff failing to upload essential documents to the system, meaning that a judge does not have all that is required to decide an application.

5. Benefits anticipated to ensue from permissive use of CE-Filing

The main benefit is the reduction in paper usage and physical file storage; together with the ability to file documents generated on a computer without the need to print and convey them by another means. Adoption of CE-File has also enabled UT(IAC) to decommission the two systems (ARIA and FHINS) it has been using simultaneously for some time. It is not presently anticipated that the adoption of CE-File will release staff to progress other work streams; as above, the processes associated with it are currently taking longer.

6. Proportion of parties in the Chamber as LiPs, and what proportion of these are anticipated to use CE-Filing

Approximately 40% of litigants are self-represented. As above, take-up amongst this group is likely to be limited in UT(IAC).

7. Proportion of parties assisted by non-lawyer professionals, and what proportion of these are anticipated to use CE-Filing

Non-lawyer professionals (accountants or surveyors, for example) are not viewed in the same way as other Chambers of the UT. Representatives who are not members of the legal professions must be registered and approved by the OISC, established under s83 of the Immigration and Asylum Act 1999. UT(IAC) does not hold any data on the number of parties represented by an OISC firm as compared to a solicitor.

8. Wish for there to be mandation, and if so for what categories of user

UT(IAC) supports the proposal that the UT Rules should allow individual Chamber Presidents to mandate use of CE-File (or an equivalent system) for professional users. The Chamber President would only seek to mandate after a period of permissive use which was sufficient to gauge the functionality and reliability of the system from the perspective of users, judiciary and staff. Mandation, at the appropriate time, would bring the UT in line with other jurisdictions in which there is already mandation, including the QBD and the SCCO.

9. When mandation might start, and why

Mandation would be feasible by May 2022. However, there is firm anticipation of a longer period of permissive use, so as to give users, judiciary and staff a proper opportunity to use the system voluntarily. Any move towards mandation would only take place with notice, and after taking their views and experience into account.

10. Advance notice to users

A minimum of three months, using UT(IAC)'s website, physical media (posters and leaflets at hearing centres) and through the UT(IAC) User Group. There would also be prior communication with the Immigration Legal Practitioners Association. There would also be an aim to publish a Practice Direction under s23(2) TCEA, well in advance of such a change.

11. Anticipated issues through mandatory use of CE-Filing

(i) Issues for users

See 4(i) above.

(ii) Issues for HMCTS staff

Before mandation it will mean extra work for staff as they will need to scan all documents not filed via CE-Filing. If the system goes down, the BCP can be invoked to allow a skeleton team to continue to work.

(iii) Issues for judiciary

The judiciary's interaction with CE-File will be the same, whether it is in permissive or mandatory use by the parties. Post-mandation, however, there will inevitably be a period of transition in which professional users who did not use the system on a permissive basis adapt to it. That might lead to attempts to file papers by other means. Any such difficulty is likely to be ameliorated by a general requirement, in common with the QBD, for hearing bundles to be provided on paper, unless directed otherwise.

12. Benefits anticipated to ensue from mandatory use of CE-Filing

See 5 above. From a judicial perspective, the principal benefit lies in reducing the amount of paper and the increased 'portability' of work.

The Current UT(IAC) Note

Upper Tribunal Immigration And Asylum Chamber: Guidance Note On CE-file And Electronic Bundles

INTRODUCTION

1. This note contains guidance (issued under paragraph 7 of schedule 4 to the Tribunals, Courts and Enforcement Act 2007) for users of the Upper Tribunal (IAC) on two separate but related matters. The first part concerns the introduction of electronic filing via the CE-file system. The second concerns the filing of bundles by electronic means, including email and CE-file. The guidance applies to all cases in the UTIAC, whether it is sitting in its appellate or judicial review capacity.

CE-FILE

2. CE-File is the online system for filing documents electronically in the UTIAC for appeals and judicial reviews.

3. From 17 January 2022, CE-File will be a method permitted under rule 13(1)(c) of the Tribunal Procedure (Upper Tribunal) Rules 2008 ("the Rules") for documents to be filed with the UTIAC by parties and their representatives.

IMPORTANT: CE-File MUST NOT at present be used for making urgent applications for interim relief in judicial reviews. Such applications must continue to be made by email to UTIACJudicialReviewApplications@justice.gov.uk as explained on forms UTIAC4 and UTIAC5 and at Apply for a judicial review in an immigration or asylum case – GOV.UK (www.gov.uk)

4. Any application for permission to appeal, which is (i) made to the UTIAC; or (ii) granted by the First-tier Tribunal on or after that day will be assigned a CE reference, as will any application for judicial review made on or after that day.

5. CE file references are in the form JR-2021-LON-XXXX or UI-2021-XXXX. Those references will be used in addition to the IAC's conventional references for appeals and judicial reviews.

REGISTERING FOR AND USING CE-FILE

6. To use CE-File to file and receive documents electronically, you must first register as an E-Filer by following the instructions described at E-Filing – Login (cefile-app.com)

7. Users of CE-file should continue to send a copy of any document they upload to CE-file to the other party by post, email or by hand. It should not be assumed

that any document uploaded to CE-File will be sent by the Upper Tribunal to the other party, unless it is a document which the Rules specifically require the Upper Tribunal to send (such as a response to a notice of appeal under rule 24). Users must therefore continue to comply with rule 28A(2)(a) in judicial review proceedings, by providing a copy of an application for judicial review, and any accompanying documents, to each person named in the application as a respondent or interested party and filing with the Tribunal a completed Form UTIAC2 (Statement of service).

8. Where a party or representative chooses to use CE-File to send documents to the Tribunal, they will be regarded, for the purposes of rule 13(2) of the Rules, as providing details of CE-File as a means of electronic transmission of documents to them by the Tribunal. That means the party or representative must also accept delivery of documents by CE-File from the Tribunal as required by rule 13(2).

9. The Tribunal will use CE-File to send and deliver documents to all registered users in connection with their active CE-File cases.

10. Parties who register for CE-File may decide at any time that they will no longer accept receipt of documents in this manner by notifying the Tribunal and all other parties. Parties should be aware that it may take the Tribunal up to 7 days to process this notification.

11. Where a party or representative has registered to use CE-File, they may also request the Tribunal to send them a hard copy of documents delivered by CE-File as provided by rule 13(4). They must make such a request in writing as soon as reasonably practicable after receiving the document via CE-File.

12. The Tribunal may also request hard copies (or duplicates) of anything filed by CE-File.

BUNDLES

13. Electronic bundles must be prepared as follows and be suitable for use with all of Adobe Acrobat Reader, PDF Expert and PDF Xchange Editor.

14. A bundle which is sent by email must not exceed 20MB. A bundle which is uploaded to CE-File must not exceed 50MB. If the bundle is larger than this it must be split into the fewest number of sections and a note made in the comments box to show that this has occurred. Each part of a split bundle should be numbered sequentially (“Appellant’s Supplementary Bundle Part 1, 2, 3,” for example).

15. Any electronic bundle (whether or not it is placed on CE-File) must be paginated in ascending order from start to finish. The first page of the PDF will be numbered “1”, and so on. If a bundle has to be split because it exceeds the maximum megabyte size for electronic transmission, the numbering must ignore the split. Index pages must be numbered as part of the document, they are not to be skipped. The pagination of any hard copy of the bundle must correspond exactly with the pagination of the PDF.

16. Wherever possible, pagination should be computer-generated; if this is not possible, pagination must be in typed form.

17. The index page must be hyperlinked to the pages or documents it refers to.
18. The bookmarks must be hyperlinked and labelled indicating what document they are referring to (it is best to have the same name or title as the actual document) and also display the relevant page numbers.
19. All bundles must be text-based, not a scan of a hard copy bundle. If documents within a bundle have been scanned, optical character recognition should be undertaken on the bundle before it is lodged. The text within the bundle must therefore be selectable as text, to facilitate highlighting and copying.
20. Any document in landscape format must be rotated so that it can be read from left to right.
21. The display view size of all pages must always be 100%.
22. The resolution on the electronic bundle must be reduced to about 200-300 dpi to prevent delays whilst scrolling from one page to another.
23. An electronic bundle filed by a litigant in person must, if at all possible, comply with the above. If it is not possible for a litigant in person to comply, he or she must include a brief explanation of the reasons why.
24. For all hearings except Case Management Review hearings, the parties must provide paper copies of the hearing bundle, unless otherwise directed.
25. Any draft orders or directions must be sent as a Microsoft Word file, so as to assist the judge or lawyer in reviewing, editing and approving them.

FURTHER INFORMATION AND GUIDANCE

26. Further information and guidance about the operation of CE-File, as it already applies in some courts and tribunals, can be found at <https://www.gov.uk/guidance/hmcts-e-filing-service-for-citizens-andprofessionals>.
27. A list of Frequently Asked Questions is also available at FAQs on using the Courts Electronic Filing System (CE-File) | Practical Law (thomsonreuters.com)
28. For further assistance with CE, contact the support team on EfileSupport@justice.gov.uk

ANNEX E

UT(AAC) and CE-Filing

Permissive use commenced 24.1.22

1. **Advance notice given to users of the scope for permissive use of CE-Filing**

The UT(AAC) placed notices on the Practical Law website, TR's website and the GOV.UK pages for UT(AAC). There was updating of HMCTS's social media and adding of UT(AAC) to the list of jurisdictions on the e-filing service pages on GOV.UK. Notice of the introduction of CE-File was given to the regular users of the Chamber at Stakeholder meetings on 5 March 2021 and 15 November 2021.

2. **Where will publication of the scope for such permissive use be found**

A Practice Note will be placed on the judicial website once approved by the Chamber President. We will consider whether we can include reference to the e-filing service and Practice Note once available to our users on our email auto response, in the footer to all emails sent via Adminappeals (UT(AAC)'s generic email address) and in any directions given for the progression of all new applications and appeals.

3. **Over the course of permissive use of CE-File: what is anticipated to be the take up, and what is anticipated to be the type of user using it**

This is difficult to estimate as the Chamber has a large proportion of unrepresented claimants, around 80% coming to the Chamber as LiPs. Take up in similar jurisdictions such as the EAT has been increasing so the UT(AAC) is hopeful to encourage its use as it allows staff to focus on progressing appeals rather than registering them. It also gives appellants the ability to receive updates on the progress of their appeals through the e-filing service and without having to contact the office. The majority of the UT(AAC) work is received from the SSCS Chamber and those claimants will have recently experienced a digital service through Reform and the Track my Appeal digital service, on which they can upload evidence and view their papers and decisions online. This may encourage a greater uptake of the e-filing service as they will be used to dealing with their case online at the F-tT but this will not suit all. Paper routes and options will still remain for those digitally excluded or unable to use or access digital services.

All represented and official bodies or government departments are expected to make use of the service. All advisory services will be encouraged to make use of the service such as the Citizens Advice Bureaux or any welfare rights or advice agencies. Some jurisdictions within the Chamber already work digitally and by email predominately, and so those users would also be expected to take up using the e-filing service with guidance from the staff.

4. **Issues anticipated through permissive use of CE-Filing**

(i) *Issues for users*

Anticipated issues may be those technical issues if CE-File cannot be accessed if a user is experiencing problems with their internet or the e-filing service is down. Technical queries may slow them down but they can contact e-file support for any technical advice or the main admin office for any process queries. There may also be issues with the uploading as multiple documents may be uploaded when they are not required. However, as the Chamber will not be rejecting filings it would then need to inform the users if anything further was required or if in fact they were needed to stop filing additional documents.

(ii) *Issues for HMCTS staff*

Refresher training would be expected as initial training was delivered in October, due to originally anticipated delivery of the e-filing service in November. The staff are still learning how to manage the processes through the case management system, so the introduction of the e-filing service may slow things down at first.

(iii) *Issues for judiciary*

Anticipated problems may be as above as it may slow progress as Judges are also learning how to manage their cases through the new system and further accessing documents may initially slow them down. One plus point, however, is that all documents would be available in one place with no paper file, so the judge could progress their cases with everything in one place. It would be expected that anticipated problems may be described in narrative form, but also with some planning for recording of aspects of problems. For example, there may be records to be kept of 'contact the tribunal' enquiries and 'efile support' enquiries, in terms of volumes and types.

5. Benefits anticipated to ensue from permissive use of CE-Filing

The biggest benefit would be to allow staff to progress appeals work through the case management system rather than in registering cases. This would free up time to action older cases, offer phone and email support to users and reduce the time taken to initially get cases on the system. Benefits would be measured by Key Performance Indicators and reviewing waiting times and case length statistics on a monthly basis.

6. Proportion of parties in the Chamber who are LiPs, and what proportion of these are anticipated to use CE-Filing

Approximately 80% of users are LiPs but some access the UT(AAC) services now by email only and so an estimate for take up of the service would be up to 20%. However, if the main user base had also accessed digital services at the First-tier Tribunal for Social Security and Child Support (SSCS) this could then be higher. No better estimate may be given at this time.

7. Proportion of parties are assisted by non-lawyer professionals, and what proportion of these are anticipated to use CE-Filing

The approximate remaining 20% who are represented are largely represented by non-legal representatives and advice agencies. These agencies would be expected to take

up use of the CE-filing service and again any figures would be difficult to assess as filings could be made not only for registration but during the lifetime of the case.

8. Wish for there to be mandation, and if so for what categories of user

Mandation should be for professional legal representatives only and those regulated by the BSB/SRA/Cilex. Non legal representatives should be encouraged and hopefully be happy to make use of the service when they understand the benefits and reduced response time from the Chamber and should not be mandated due to pressures on resources and possible access to digital services.

9. When mandation is wished to start, and why

After an initial period for the staff and users to access the new e-filing service of 3-6 months, mandation should be in place for legal representatives.

10. Advance notice intended to be given to users, and how

Through all channels above such as stakeholder meetings, websites and HMCTS social media. Adjustment of footers on letters and emails, the auto response and GOV.UK pages.

11. Issues anticipated to be experienced through mandatory use of CE-Filing

(ii) *Issues for users*

As above, but advice will be available and it is for professional legal representatives who may have experience in filing through this service in other Chambers.

(iii) *Issues for HMCTS staff*

As above, again and perhaps in rejecting email filings and signposting to the e-filing service for those that are mandated.

(iv) *Issues for judiciary*

Same as above, as they would perhaps need to direct users to file through the service and not to our email inbox. It would be expected that problems may be described in narrative form, but also with some quantitative aspects. For example, there may be planned recording of 'contact the tribunal' enquiries and 'efile support' enquiries, in terms of volumes and types.

12. Benefits anticipated to ensue from mandatory use of CE-Filing

A reduction in staff time registering cases and uploading key documents for cases allowing staff time to be redirected to progress appeals work for judges. This should assist to progress cases through the system in a shorter time frame improving our KPIs and ultimately delivering a better service for our users. Professional users could manage their cases online and receive updates on their cases through the service rather than having to make contact with the office.

The current UT(AAC) note

UPPER TRIBUNAL ADMINISTRATIVE APPEALS CHAMBER NOTE FOR USERS

ELECTRONIC FILING OF DOCUMENTS ONLINE: CE-FILE

1 CE-File is the online system for filing documents electronically at the Upper Tribunal Administrative Appeals Chamber (“the Tribunal”). It is also a database that enables Tribunal users to access their cases.

2 It is now a permitted method for sending and delivering documents to the Tribunal for the purpose of rule 13(1)(c) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698, “the Upper Tribunal Rules”).

3 Since CE-File became operational for internal purposes in August 2021, all new applications and appeals (other than in Scotland) have been assigned a CE-File reference number in the format UA-yyyy-xxxxxx-zzz (where yyyy is the year, xxxxxx represents the file number and zzz a suffix indicating the subject matter). Appeals in Scotland are assigned a reference number in the format: UA-yyyy- SCO-xxxxxx-zzz.

4 For proceedings commenced on or after 7 March 2022, any party or their representative may use CE-File to make applications and appeals and provide documents to the Tribunal. To do so, they must first register, as is explained at [9] below. Parties and representatives may also use it in other proceedings where the Tribunal has provided a CE-File reference in the format UA-yyyyxxxxxx-zzz.

5 Professional representatives are strongly encouraged to use CE-File to commence new cases or deliver documents to the Tribunal. In due course, its use may become mandatory so professional representatives are encouraged to familiarise themselves with the system as soon as possible.

6 Litigants in person (unrepresented parties) may also use CE-File, but the Tribunal will continue to accept documents from all users by post, DX, fax, email or by hand. As use of CE-File relies on scanned documents, unrepresented users may prefer to continue to use other methods e.g. post and will not be disadvantaged by doing so.

7 CE-File has size limits. Parties or representatives may use CE-File to lodge electronic bundles if the size limit (currently 50MB) allows but, if it is appropriate in any particular case to lodge a larger bundle, they will need to use other means (e.g. the Tribunal’s Document Upload Centre) to file the bundle.

8 It remains the case that fees are not payable in proceedings in the Tribunal.

Registering for and using CE-File

9 To use CE-File, users must first register as an E-Filer. This will allow users to file documents electronically. To register or log in and file a document using CE-File, a party or representative should follow these 4 steps:

(a) access the CE-File website address: <https://efile.cefile-app.com/login>;

(b) log on to an existing account or register for an account by following the ‘Register as an E-Filer’ link at the bottom of the landing page;

(c) enter details of a new case or use the details of an existing case (select 'Upper Tribunal (Administrative Appeals Chamber)' from the 'Courts' menu and then select whether this is a filing for a 'New Case' or an 'Existing Case');

(d) upload the appropriate document (explain what is being filed and upload the claim/application form or documents in Microsoft Word or PDF format).

Once a filing in a new case is accepted, a case number will be created and users will be notified of it in CE-File and via email. In CE-File this will appear in the top right hand corner of the screen.

DAME JUDITH FARBEY DBE

CHAMBER PRESIDENT

11 April 2022

ANNEX F

PRACTICE DIRECTION 510 – THE ELECTRONIC WORKING PILOT SCHEME

This Practice Direction supplements CPR rules 5.5 and 7.12

Contents of this Practice Direction

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<u>Security</u>	Para. 18

General
1.1

(1) This Practice Direction is made under rules 5.5, 7.12 and 51.2 of the Civil Procedure Rules (“CPR”). It provides for a pilot scheme (“Electronic Working”) to—

(a) operate from 16 November 2015 to 6 April 2023;

(b) operate in—

(i) the Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Circuit Commercial Court, and the Admiralty Court, at the Royal Courts of Justice, Rolls Building, London (together, “the Rolls Building Jurisdictions”);

(ii) the Central Office of the Queen’s Bench Division at the Royal Courts of Justice;

(iii) the B&PCs District Registries (as defined in paragraph 1.2 of Practice Direction 57AA);

(iv) the Senior Courts Costs Office (“the Costs Office”);

(v) the District Registries of the Queen’s Bench Division situated in Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle and Cardiff (“QB DRs”); and

(vi) the Court of Appeal (Civil Division).

(c) apply—

(i) to existing proceedings and proceedings started on or after 16 November 2015 in the Rolls Building Jurisdictions;

(ii) in the Central Office of the Queen’s Bench Division, to proceedings started after 1 January 2019, and will not apply to existing proceedings unless ordered by the court;

(iii) in the B&PCs District Registries, to proceedings started on or after 25 February 2019, and will not apply to existing proceedings unless ordered by the court;

(iv) in the Costs Office, to detailed assessment proceedings in which the request for a hearing is filed on or after 7 October 2019, to applications filed on or after 7 October 2019 and to proceedings started in the Costs Office on or after 7 October 2019;

(v) in the QB DRs, to proceedings commenced after 19 July 2021 and will not apply to existing proceedings unless otherwise ordered by the court; and

(vi) to existing proceedings and proceedings started on or after 10 January 2022 in the Court of Appeal (Civil Division).

(2) Electronic Working is a permitted means of electronic delivery of documents to the court for the purposes of rule 1.46 of the Insolvency (England & Wales) Rules 2016 (“IR 2016”).

1.2

(1) Electronic Working works within and is subject to all statutory provisions and rules together with all procedural rules and practice directions applicable to the proceedings concerned, subject to any exclusion or revision within this Practice Direction.

(2) In particular, the following provisions of the CPR apply unless specifically excluded or revised by this Practice Direction—

Part 8 (alternative procedure for claims)

Part 47 (Detailed Assessment of Costs)

Part 49 (Companies Court)

Part 52 (Appeals)

Part 57 (Probate, Inheritance and Presumption of Death)

Part 58 (Commercial Court)

Part 59 (Circuit Commercial Courts)

Part 60 (Technology and Construction Court Claims)

Part 61 (Admiralty Claims)

Part 62 (Arbitration Claims)

Part 63 (Intellectual Property Claims)

Part 63A (Financial List)

Part 64 (Estates, Trusts and Charities)

Part 74 (Enforcement of Judgments in different jurisdictions)

Part 77 (Provisions in support of criminal justice)
Practice Direction – Insolvency Proceedings
Practice Direction: Directors Disqualification Proceedings
EU Competition Law Practice Direction

(3) The following provisions of the CPR shall not apply to this Practice Direction—
Part 76 (Proceedings under the Prevention from Terrorism Act 2005)

Part 88 (Proceedings under the Counter-Terrorism and Security Act 2015)

(4) Parties should also (as appropriate) give careful consideration to the Chancery Guide, the Admiralty and Commercial Courts Guide, the Technology and Construction Court Guide, the Financial List Guide, the Circuit Commercial Court Guide, the Patents Court Guide, the Intellectual Property Enterprise Court Guide, the Senior Courts Costs Office Guide and the Queen’s Bench Guide (where applicable).

(5) Where the provisions of this Practice Direction conflict with the provisions of Practice Direction 5B or Practice Direction 52C, this Practice Direction shall take precedence.

Usage and operation of Electronic Working

2.1

Electronic Working enables parties to issue proceedings and file documents online 24 hours a day every day all year round, including during out of normal Court office opening hours and on weekends and bank holidays, except—

(a) where there is planned “down-time”: as with all electronic systems, there will be some planned periods for system maintenance and upgrades when Electronic Working will not be available;

(b) where there is unplanned “down-time”: periods during which Electronic Working will not be available due, for example, to a system failure or power outage, or some other unplanned circumstance; and

(c) where the filing is of a notice of appointment by a qualifying floating charge holder under Chapter 3 of Part 3 of the IR 2016 and the court is closed, in which case the filing must be in accordance with rule 3.20 of the IR 2016.

2.2 Electronic Working applies to and may be used to start and/or continue (subject to the provisions in paragraph 1.1(1)(c)) CPR Part 7, Part 8 and Part 20 claims, pre-action applications including applications under rule 31.16, insolvency proceedings, and arbitration claims in the Rolls Building Jurisdictions, the B&PCs District Registries, the Central Office of the Queen’s Bench Division, QB DRs and detailed assessment proceedings and Part 8 claims in the Costs Office and applications for permission to appeal and appeals in the Court of Appeal (Civil Division).

2.2A In the Rolls Building Jurisdictions from 1 October 2017—

(a) for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims or applications; and

(b) for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims or applications.

2.2B In the Central Office of the Queen’s Bench Division—

(a) from 1 January 2019, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims or applications; and

(b) from 1 July 2019, for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims or applications.

2.2C In the B&PCs District Registries from 25 February 2019, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims or applications.

2.2D In the B&PCs District Registries from 30 April 2019, for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims or applications.

2.2E In the Costs Office from 7 October 2019, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims, detailed assessment proceedings or applications.

2.2F In the Costs Office from 20 January 2020, for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims, detailed assessment proceedings or applications.

2.2G In the QB DRs from 19 July 2021, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims or applications.

2.2H In the QB DRs from 18 October 2021 for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims or applications.

2.2I In the Court of Appeal (Civil Division) from 10 January 2022, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any appeals or applications.

2.2J In the Court of Appeal (Civil Division) from 14 February 2022, for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant appeals or applications.

2.3 To file a document using Electronic Working, a party shall—

- (a) access the Electronic Working website address specified by Her Majesty’s Courts and Tribunals Service (“the Website”);
- (b) register for an account or log on to an existing account;
- (c) enter details of a new case or use the details of an existing case;
- (d) upload the appropriate document; and
- (e) pay the appropriate fee.

2.4 Proceedings issued in the Rolls Building Jurisdictions, the B&PCs District Registries, the Central Office of the Queen’s Bench Division, QB DRs and the Costs Office, and the Court of Appeal (Civil Division) will be stored by the Court as an electronic case file (“the Electronic Working Case File”).

2.5 The Website contains further details, updated from time to time, on how to complete a filing, including in the event of down-time or where a particular document format is not compatible with Electronic Working, information about the timing of any planned down-time, and a support email address to contact in the event of any down-time or when experiencing any other technical difficulty in using the Website.

Electronic Working and alternate filing methods

3.1 Any document which is filed using Electronic Working must not also be filed by some other means unless this is required by paragraphs 3.4(2), 10, 11 and 13 or a rule or practice direction, or Court order or Practice Note.

3.2 Proceedings which have not been started using Electronic Working may be continued using Electronic Working (subject to the provisions in paragraph 1.1(1)(c)) after documents originally submitted in those proceedings have been converted to PDF format. The proceedings shall then continue as if they had been started using Electronic Working.

3.3 To permit use of Electronic Working for proceedings initially started by other means—

- (a) the Court will, where appropriate, seal the paper copy of the document;
- (b) the parties will pay any fee due;

(c) the Court will either request that the party provide the document in PDF format or scan the document into PDF format and store it on the Electronic Working Case File; and thereafter

(d) the parties will, subject to paragraph 3.5, file documents needing to be filed through Electronic Working in accordance with this Practice Direction.

3.4

(1) The Court may refuse to convert documents to PDF format where those documents were originally submitted by some other means.

(2) In relation to any document required by the Rules, any Practice Direction or any order of the court to be filed, the Court will not accept that document for filing if submitted by e-mail and any such document must be filed through Electronic Working (unless submitted on paper); but if a Judge, Master, Registrar, District Judge or court officer authorised to exercise the jurisdiction of the Court of Appeal (as defined in rule 52.24) has requested or permitted the submission of such a document by e-mail then it must be so submitted as well as being filed through Electronic Working (or on paper).

3.5

(1) Where an original document is required by order of the Court or by provision of the CPR or IR 1986 or 2016 to be filed, such original document cannot be filed using Electronic Working and must instead be physically filed with the Court.

(2) This includes original wills, grants of probate or evidence of testamentary documents which must be filed physically with the Court in order for contentious probate claims to be issued. As a result, contentious probate claims cannot be issued using Electronic Working unless the Court permits.

Original documents

4 Where parties file documents using Electronic Working, the original signed documents, including the original exhibits to any witness statement filed, must be preserved and must be made available for inspection if required by another party to the proceedings and/or by order of the Court.

General rules regarding issue and filing

5.1 Any document which is filed using Electronic Working must—

- (a) consist of one copy only unless required by a Court order, rule or practice direction;
- (b) be in PDF format (or in Excel format if appropriate) unless the Court directs otherwise or unless the document is a draft order, in which case it shall be in “Word” format;
- (c) not exceed 50 (fifty) megabytes or such other limit that may be specified by Her Majesty’s Courts and Tribunals Service; and
- (d) be categorised or labelled as to the type of document that it is (e.g. “Claim Form”, “Witness Statement”, “Exhibit”) and numbered sequentially.

5.2

(1) In the event that a document exceeds the maximum limit specified in paragraph 5.1(c), the party seeking to file the document shall divide the document into parts and file each part separately.

(2) Parties can, in one filing, file up to 10 (ten) documents with each document not exceeding 50 (fifty) megabytes or such other limit specified by HMCTS.

5.2A In the event that a document is confidential and is required to be filed, it must, when filed in the Electronic Working Case File, be filed as a confidential document, using the process set up in Electronic Working for that purpose, in order to ensure that it is not visible to everyone.

5.3

(1) Submission of any document using Electronic Working will generate an automated notification acknowledging that the document has been submitted and is being reviewed by the Court prior to being accepted (the “Acceptance”).

(2) The court may make an order to remedy an error of procedure made while using Electronic Working, in accordance with CPR 3.10(b). When the court makes such an order, a document filing will not fail Acceptance because of the error of procedure made.

(3) Court staff may refuse to include a submitted document in its corresponding Electronic Working Case File if the document has been scanned and saved upside down or is otherwise illegible or incomplete.

(4) Where Court staff has not included a submitted document on its corresponding Electronic Working Case File for one of the reasons listed in paragraph 5.3(3), the submission will not have failed Acceptance, but the party having made the submission will have to upload the document again in accordance with Court staff instructions in order for the document to be properly included on the corresponding Electronic Working Case File.

5.4

(1) Where payment of a court fee is required to accompany the filing of a document, the date and time of filing on Electronic Working will be deemed to be the date and time at which payment of the Court fee is made using Electronic Working.

(2) The date and time of payment will also be the date and time of issue for all claim forms and other originating processes submitted using Electronic Working.

(3) For all other document filings, the date and time of filing will be the submission date and time for the purposes of any direction under the appropriate rules or for the purposes of complying with an order of the Court, unless expressly provided otherwise by the Court.

(4) Once a document filing is accepted, a notification will appear on the Electronic Working online account registered to the filing party to confirm that the document has been accepted and to confirm the date and time of issue or the date and time of filing in accordance with paragraphs 5.4(1) to 5.4(3).

(5) The date and time of issue or the date and time of filing of a document submitted using Electronic Working will not be delayed by Acceptance, unless the submission fails Acceptance because the filing error is more serious than an error of procedure, or the Court orders that it has failed Acceptance for some other reason.

(6) If the submission fails Acceptance, notice of the reasons for failure will be given to the party on that party's Electronic Working online account and if the submission was of a claim form, appeal notice, or other document requiring to be issued, it will be deemed not to have been issued.

(7) In cases where payment of the Court fee has already been made and a claim form or other originating application fails Acceptance, the fee will be refunded and a corrected claim form or originating application will have to be submitted and the Court fee paid again in order for proceedings to be issued. In such cases, the new submission will generate a new date and time of issue or date and time of filing in accordance with paragraphs 5.4(1) to 5.4(3).

5.5 A claim form or other originating application filed by a party using Electronic Working will, subject to Acceptance and payment, be issued in the relevant Rolls Building Jurisdiction, B&PC District Registry, the Central Office of the Queen's Bench Division QB DRs, the Costs Office, or the Court of Appeal (Civil Division), and the claim will proceed in that Court unless it is transferred to another Court.

5.6 If any documents that are not required by any rule, practice direction, order or direction to be filed are submitted via Electronic Working, they may not be retained on the online account and/or Electronic Working Case File.

Payment of fees

6.1

(1) Where any rule or practice direction provides for a fee to be paid, a party filing a document using Electronic Working must, except in circumstances specified in subparagraph (4), pay the appropriate fee by account or by credit/debit card or by any other online method specified by Her Majesty's Courts and Tribunals Service.

(1A) When a party enters its payment by account number into Electronic Working when prompted by Electronic Working to do so, that party will be deemed to have made the payment. The party will thereby owe the relevant court fee to Her Majesty's Courts and Tribunals Service.

(2) The court will keep a record of when payment was made or deemed to have been made.

(3) In proceedings where payment under the Insolvency Rules is required to be made in a manner that precludes online payment (such as the official receiver's deposit for a winding up petition, which must be paid by cheque), parties will be able to use Electronic Working to initiate those proceedings, but must post or deliver payment to the Court within seven calendar days of submitting the originating application document(s). Failure to do so may result in the originating application failing Acceptance or the petition being struck out.

(4) For filings other than the issue of originating proceedings which incur payment of a fee, a party who is not legally represented and who wishes to pay that fee by account or by credit/debit card must make the filing and the payment through Electronic Working.

6.2 A party who has applied or wishes to apply for Help with Fees or partial Help with Fees must contact the Court to obtain a Help with Fees payment by account number, prior to using Electronic Working to issue a claim or to initiate other proceedings requiring the payment of a court fee.

Electronic sealing

7.1 When the Court issues a claim form, appeal notice or other originating application which has been submitted using Electronic Working and accepted by the Court, the Court will electronically seal the claim form, appeal notice or originating application with the date on which the relevant Court fee was paid and this shall be the issue date, as per the provisions of paragraph 5.4.

7.2 The electronic seal may differ in appearance to the seal used on paper.

Service

8.1 The Court will electronically return the sealed and issued claim form, appeal notice or originating application to the party's Electronic Working online account and notify the party that it is ready for service.

8.2 Unless the Court orders otherwise, any document filed by any party or issued by the Court using Electronic Working in the Rolls Building Jurisdictions, B&PC District Registry, the Central Office of the Queen's Bench Division QB DRs, the Costs Office, or the Court of Appeal (Civil Division), which is required to be served shall be served by the parties and not the Court.

8.3 The CPR and IR 2016 as to filing evidence of service apply.

Calculation of time periods

8A Notwithstanding the operation of Electronic Working outlined in paragraph 2.1 above, CPR rule 2.8 applies, where relevant, to any issue, filing, or other originating application, including the presentation of a winding-up petition or a bankruptcy petition, made through Electronic Working.

Transfer of proceedings and file transmission

9.1

(1) If proceedings which have used Electronic Working are subsequently transferred to a jurisdiction not operating Electronic Working, no documents will be able to be filed in

those proceedings through Electronic Working after the date of transfer and this Practice Direction will cease to apply to those proceedings.

(2) Her Majesty's Courts and Tribunals Service shall make arrangements for a version of the Electronic Working Case File of the transferred proceedings to be made available to the receiving Court in a format requested by the receiving Court.

9.2 Where a request for transmission of the Court file of any insolvency proceedings is made pursuant to IR 2016 rule 12.39(12), the Court shall make arrangements for a version of the Electronic Working Case File of the proceedings being transmitted to be made available to the Secretary of State or the official receiver, as the case may be, in a format of their choosing.

9.3 If proceedings are transferred into one of the Rolls Building Jurisdictions, B&PC District Registry, the Central Office of the Queen's Bench Division QB DRs, the Costs Office, or the Court of Appeal (Civil Division),, all filing subsequent to the order transferring those proceedings may be done using Electronic Working after documents originally submitted in those proceedings have been converted to PDF format in accordance with paragraphs 3.2 and 3.3.

Applications in proceedings

10.1

(1) Where a party to proceedings files an application for an order or other relief using Electronic Working and a hearing is required, the party filing the application shall lodge an application bundle with the Court.

(2) The application bundle may be lodged in electronic format.

10.2 The application bundle must—

(a) also be filed as a paper copy, unless otherwise stated either by order or in a practice direction;

(b) contain the application notice and any evidence filed in the application, including exhibits together with such other documents as may be required by any rule, practice direction, order of the Court or relevant Court guide; and

(c) be filed in accordance with the time limits required by any applicable rule, practice direction, order of the Court or relevant Court guide or, in the absence of such a requirement, 3 (three) days before the hearing.

10.3 The electronic copy of the application bundle must—

(a) be filed using Electronic Working;

(b) either (i) comply with the formatting requirements of any rule, practice direction, order of the court or relevant Court guide; or (ii) where no relevant requirements within (i) apply be formatted as one PDF document with bookmarks as appropriate for each document and with section headings within the document, unless its size exceeds 50 (fifty) megabytes, in which case it can be divided into up to 10 (ten) documents of that size, each bearing bookmarks as appropriate; and

(c) be updated as required and filed in compliance with paragraphs (a) and (b) above.

10.4 Where the application bundle is also provided in paper format that must be indexed and paginated so as to correspond exactly to the electronic version of the bundle.

Case and cost management and other directions

11.1 Where—

(a) a rule, practice direction, or order of the Court requires—

(i) the Court to give case or cost management or other directions, whether at a hearing or not; and

(ii) a bundle to be filed with the Court in connection with case or cost management or other directions; and

(b) a party wishes to file the bundle using Electronic Working,

the bundle must contain such documents as are required by any rule, practice direction, order of the Court or Court guide.

11.2 The Bundle must be filed in paper copy as well, unless the Court orders otherwise.

11.3 The claimant, applicant or petitioner, as appropriate, shall be responsible for ensuring the electronic copy of the bundle complies with the requirements specified in paragraph 10.3 above.

11.4 The claimant, applicant or petitioner, as appropriate, shall be responsible for ensuring the paper copy is indexed and corresponds exactly with the electronic version of the bundle with sequential pagination.

Statements of truth

12 CPR Part 22 and the practice direction supplementing that part and any rule applicable to the Bankruptcy and Companies Courts which require certain forms and documents to be verified by a statement of truth shall apply to any forms or documents filed using Electronic Working.

Trial bundles

13.1 The trial bundle must be filed with the Court in paper format.

13.2 An electronic version of the trial bundle must also be filed if the Court so orders, in which case it must comply with the requirements of paragraph 10.3 and the paper copy must comply with paragraph 10.4.

13.3 The Court will retain any electronic copy of the trial bundle for a period of 2 (two) months after judgment has been delivered, after which it may be deleted.

13.4 The time in paragraph 13.3 may be extended by order of the court at the request of a party or on the court's own initiative.

Bundles in the Court of Appeal (Civil Division)

14.1 A bundle in support of an application for permission to appeal may be filed using Electronic Working providing the bundle complies with the requirements at paragraph 10.3.

14.2 If a bundle in support of an application for permission to appeal is filed in paper format the court may order an electronic version also to be filed.

14.3 Bundles for appeal hearings must be filed with the court in paper format.

14.4 An electronic version of the appeal bundle must also be filed if the court so orders, in which case it must comply with the requirements of paragraph 10.3 and the paper copy must comply with paragraph 10.4.

14.5 The court will retain any electronic copy bundles for a period of 2 (two) months after judgment has been delivered, after which they may be deleted.

14.6 The time in paragraph 14.5 may be extended by order of the court at the request of a party or on the court's own initiative.

Inspection of documents on the Electronic Working Case File by parties or permitted persons

15.1 In addition to any inspection facility that may be available through the Website or a party's Electronic Working online account, the parties to any proceedings except insolvency proceedings, or their legal representatives, shall be entitled to inspect an electronic record of the proceedings in person at the Court on a terminal provided for that purpose by Her Majesty's Courts and Tribunals Service and obtain electronic copies of documents contained in the Electronic Working Case File subject to the provisions of CPR rule 5.4B.

15.2 In addition to any inspection facility that may be available through the Website or a party's Electronic Working online account, persons permitted by IR 2016 rule 12.39(3)-(6) to inspect the Court file of insolvency proceedings shall be entitled to inspect an electronic record of the proceedings in person at the Court on a terminal provided for that purpose by Her Majesty's Courts and Tribunals Service and obtain, subject to

paragraph 15.2, electronic copies of documents contained in the Electronic Working Case File, unless permission of the Court is required under IR 2016 rule 12.39(9)-(10) and subject to rule 12.39(7) and (11) and Chapter 10.

15.3 The Electronic Working Case File will be updated by the Court as and when documents are filed by the parties and accepted.

15.4 Information concerning the availability of the facility outlined in paragraph 10.1 will be communicated by Her Majesty's Courts and Tribunals Service on the Website.

Public kiosk service for the electronic inspection of publicly available documents

16.1 A public kiosks are available at the Royal Courts of Justice both at the Strand and at the Rolls Building, London, for non-parties to proceedings governed by the CPR, to enable such non-parties to examine an electronic record of the proceedings and determine whether any documents in relation to the proceedings are publicly available.

16.2 Persons wishing to obtain copies of documents available to non-parties in accordance with CPR rule 5.4C must—

(a) complete the appropriate office copy request form; and

(b) pay the appropriate fee.

Supply of electronic copies of documents by email

17 Persons permitted to obtain copies of documents may request electronic copies of the documents to be sent by the Court by e-mail to an address supplied by such persons.

Security

18 Her Majesty's Courts and Tribunals Service will take such measures as it thinks fit to ensure the security of information communicated or stored electronically. These may include requiring persons using Electronic Working to follow security steps such as—

(a) entering an email address as their customer identification and/or password;

(b) providing personal information for identification purposes; and

(c) complying with any other security measures as may from time to time be required before using Electronic Working.

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