

PART 1

The overriding objective

1.1.—(1) These Rules are a procedural code with the overriding objective of enabling the court to deal with cases justly and at proportionate cost.

(2) Dealing with a case justly and at proportionate cost includes, so far as is practicable –

(a) ensuring that the parties are on an equal footing and can participate fully in proceedings, and that parties and witnesses can give their best evidence;

(b) saving expense;

(c) dealing with the case in ways which are proportionate –

(i) to the amount of money involved;

(ii) to the importance of the case;

(iii) to the complexity of the issues; and

(iv) to the financial position of each party;

(d) ensuring that it is dealt with expeditiously and fairly;

(e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; ~~and~~

(f) using and promoting alternative dispute resolution^(GL); and

~~(g)~~ enforcing compliance with rules, practice directions and orders.

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Court's duty to manage cases

1.4.—(1) The court must further the overriding objective by actively managing cases.

(2) Active case management includes –

(a) encouraging the parties to co-operate with each other in the conduct of the proceedings;

(b) identifying the issues at an early stage;

(c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;

(d) deciding the order in which issues are to be resolved;

- (e) encouraging or ordering the parties to use an alternative dispute resolution^(GL) procedure if the court considers that appropriate and facilitating the use of such procedure;
- (f) helping the parties to settle the whole or part of the case;
- (g) fixing timetables or otherwise controlling the progress of the case;
- (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
- (i) dealing with as many aspects of the case as it can on the same occasion;
- (j) dealing with the case without the parties needing to attend at court;
- (k) making use of technology; and
- (l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

PART 3

The court's general powers of management

3.1.—(1) The list of powers in this rule is in addition to any powers given to the court by any other rule or practice direction or by any other enactment or any powers it may otherwise have.

(2) Except where these Rules provide otherwise, the court may –

- (a) extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired);
- (b) adjourn or bring forward a hearing;
- ~~(bb)~~ (c) require that any proceedings in the High Court be heard by a Divisional Court of the High Court;
- ~~(e)~~ (d) require a party or a party's legal representative to attend the court;
- ~~(d)~~ (e) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
- ~~(e)~~ (f) direct that part of any proceedings (such as a counterclaim) be dealt with as separate proceedings;
- ~~(f)~~ (g) stay^(GL) the whole or part of any proceedings or judgment either generally or until a specified date or event;
- ~~(g)~~ (h) consolidate proceedings;
- ~~(h)~~ (i) try two or more claims on the same occasion;

- ~~(j)~~ (j) direct a separate trial of any issue;
- ~~(j)~~ (k) decide the order in which issues are to be tried;
- ~~(k)~~ (l) exclude an issue from consideration;
- ~~(j)~~ (m) dismiss or give judgment on a claim after a decision on a preliminary issue;
- ~~(j)~~ (n) order any party to file and exchange a costs budget;
- (o) order the parties to participate in alternative dispute resolution^(GL):
- ~~(m)~~ (p) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective, including hearing an Early Neutral Evaluation with the aim of helping the parties settle the case.

(3) When the court makes an order, it may –

- (a) make it subject to conditions, including a condition to pay a sum of money into court; and
- (b) specify the consequence of failure to comply with the order or a condition.

(3A) Where the court has made a direction in accordance with paragraph ~~(2)(bb)~~ (2)(c) the proceedings shall be heard by a Divisional Court of the High Court and not by a single judge.

(4) Where the court gives directions it will take into account whether or not a party has complied with the Practice Direction (Pre-Action Conduct) and any relevant pre-action protocol^(GL).

(5) The court may order a party to pay a sum of money into court if that party has, without good reason, failed to comply with a rule, practice direction or a relevant pre-action protocol.

(6) When exercising its power under paragraph (5) the court must have regard to –

- (a) the amount in dispute; and
- (b) the costs which the parties have incurred or which they may incur.

(6A) Where a party pays money into court following an order under paragraph (3) or (5), the money shall be security for any sum payable by that party to any other party in the proceedings.

(7) A power of the court under these Rules to make an order includes a power to vary or revoke the order.

(8) The court may contact the parties from time to time in order to monitor compliance with directions. The parties must respond promptly to any such enquiries from the court.

PART 28

Directions

28.7.—(1) The matters to be dealt with by directions under rule 28.2(1) include—

- (a) disclosure of documents;
- (b) service of witness statements; ~~and~~
- (c) expert evidence; ~~and~~
- (d) whether to order or encourage the parties to participate in alternative dispute resolution^(GL).

(Rules 28.2(3) and (4) deal with orders for disclosure.)

(Rule 26.9(6) deals with limitations in relation to expert evidence and the likely length of trial in fast track cases.)

(2) Directions to be given under rule 28.2(1) shall be in the form set out at <http://www.justice.gov.uk/courts/procedure-rules/civil>, unless the court orders otherwise.

Directions

28.14.—(1) The matters to be dealt with by directions under rule 28.2(1) include—

- (a) disclosure of documents;
- (b) service of witness statements;
- (c) expert evidence;
- (d) whether to fix a pre-trial review; ~~and~~
- (e) listing the case for trial; ~~and~~
- (f) whether to order or encourage the parties to participate in alternative dispute resolution^(GL).

(2) The following provisions apply in respect of directions in the intermediate track—

- (a) oral expert evidence is limited to one witness per party, save where the oral evidence of a second expert for any party is reasonably required and is proportionate; and
- (b) the trial time estimate must not exceed 3 days.

(3) The following provisions apply in respect of directions in the intermediate track, unless the court orders otherwise—

- (a) rules 28.2(3) and (4) apply in respect of disclosure;
- (b) the total length of all the permitted witness statements and witness summaries of a party shall not exceed 30 pages; and

(c) any expert report shall not exceed 20 pages, excluding any necessary photographs, plans and academic or technical articles attached to the report.

PART 29

Case management

29.2.—(1) When it allocates a case to the multi-track, the court will –

(a) give directions for the management of the case and set a timetable for the steps to be taken between the giving of directions and the trial; or may

(b) fix –

(i) a case management conference; or

(ii) a pre-trial review,

or both, and give such other directions relating to the management of the case as it sees fit.

(1A) When giving directions, the court must consider whether to order or encourage the parties to participate in alternative dispute resolution^(GL).

(2) The court will fix the trial date or the period in which the trial is to take place as soon as practicable.

(3) When the court fixes the trial date or the trial period under paragraph (2), it will –

(a) give notice to the parties of the date or period; and

(b) specify the date by which the parties must file a pre-trial check list.

PART 44

Court's discretion as to costs

44.2.—(1) The court has discretion as to –

(a) whether costs are payable by one party to another;

(b) the amount of those costs; and

(c) when they are to be paid.

(2) If the court decides to make an order about costs –

(a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; but

(b) the court may make a different order.

(3) The general rule does not apply to the following proceedings –

(a) proceedings in the Court of Appeal on an application or appeal made in connection with proceedings in the Family Division; or

(b) proceedings in the Court of Appeal from a judgment, direction, decision or order given or made in probate proceedings or family proceedings.

(4) In deciding what order (if any) to make about costs, the court will have regard to all the circumstances, including –

(a) the conduct of all the parties;

(b) whether a party has succeeded on part of its case, even if that party has not been wholly successful; and

(c) any admissible offer to settle made by a party which is drawn to the court's attention, and which is not an offer to which costs consequences under Part 36 apply.

(5) The conduct of the parties includes –

(a) conduct before, as well as during, the proceedings and in particular the extent to which the parties followed the Practice Direction – Pre-Action Conduct or any relevant pre-action protocol;

(b) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;

(c) the manner in which a party has pursued or defended its case or a particular allegation or issue; ~~and~~

(d) whether a claimant who has succeeded in the claim, in whole or in part, exaggerated its claim;

(e) whether a party failed to comply with an order for alternative dispute resolution^(GL), or unreasonably failed to participate in alternative dispute resolution proposed by another party.

(6) The orders which the court may make under this rule include an order that a party must pay –

(a) a proportion of another party's costs;

(b) a stated amount in respect of another party's costs;

(c) costs from or until a certain date only;

(d) costs incurred before proceedings have begun;

(e) costs relating to particular steps taken in the proceedings;

(f) costs relating only to a distinct part of the proceedings; and

(g) interest on costs from or until a certain date, including a date before judgment.

(7) Before the court considers making an order under paragraph (6)(f), it will consider whether it is practicable to make an order under paragraph (6)(a) or (c) instead.

(8) Where the court orders a party to pay costs subject to detailed assessment, it will order that party to pay a reasonable sum on account of costs, unless there is good reason not to do so.

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