



INSIDE 18



CHANGES TO CPR PRACTICE DIRECTION 6 APRIL 2019

GEMMA McGUNGLE CASTS HER EYE OVER THE UPCOMING CHANGES TO CPR 32 PD.

BUNDLE BURDENS

As of 6th April 2019, the following changes apply to CPR 32 PD. Whilst most in practice would consider these new provisions as to the contents of trial bundles old hat, there are a few mandatory provisions that practitioners should be aware of.

For completeness, I have taken the extraordinary skill of copying and pasting the entirety of the new provisions within the Practice Direction, highlighting the few that I consider to be less obvious:

PRACTICE DIRECTION 32

After paragraph 27.2, insert— “27.3 Rule 39.5 provides that unless the court orders otherwise, the claimant must file a trial bundle containing documents required by— a relevant practice direction; and any court order.

27.4

Rule 39.5 provides that the claimant must file the trial bundle not more than 7 days and not less than 3 days before the start of the trial.

27.5

Unless the court orders otherwise, the trial bundle should include a copy of—

the claim form and all statements of case;

a case summary and/or chronology where appropriate;

requests for further information and responses to the requests;

all witness statements to be relied on as evidence;

any witness summaries;

any notices of intention to rely on hearsay evidence under rule 32.2 any notices of intention to rely on evidence (such as a plan, photograph etc.) under rule 33.6 which is not— contained in a witness statement, affidavit or experts' report;

being given orally at trial; and

hearsay evidence under rule 33.2;

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any medical reports and responses to them;

any experts' reports and responses to them;

any order giving directions as to the conduct of the trial; and

any other necessary documents.

27.5

The originals of the documents contained in the trial bundle, together with copies of any other court orders should be available at the trial.

27.6

The preparation and production of the trial bundle, even where it is delegated to another person, is the responsibility of the legal representative who has conduct of the claim on behalf of the claimant. If the claimant is unrepresented, the court may direct that another party must prepare and produce the trial bundle.

27.7

The trial bundle should be paginated (continuously) throughout, and indexed with a description of each document and the page number. Where the total number of pages is more than 100, numbered dividers should be placed at intervals between groups of documents.

27.8

The bundle should normally be contained in a ring binder or lever arch file. Where more than one bundle is supplied, they should be clearly distinguishable, for example, by different colours or letters. If there are numerous bundles, a core bundle should be prepared containing the core documents essential to the proceedings, with references to the supplementary documents in the other bundles.

27.9

For convenience, experts' reports may be contained in a separate bundle and cross referenced in the main bundle.

27.10

If a document to be included in the trial bundle is illegible, a typed copy should be included in the bundle next to it, suitably cross-referenced.

27.11

The contents of the trial bundle should be agreed where possible. The parties should also agree where possible—
that the documents contained in the bundle are authentic even if not disclosed under Part 3; and
that documents in the bundle may be treated as evidence of the facts stated in them even if a notice under the Civil Evidence Act 1995 has not been served.

27.10

Where it is not possible to agree the contents of the bundle, a summary of the points on which the parties are unable to agree should be included.

27.12

The party filing the trial bundle should supply identical bundles to all the parties to the proceedings and for the use of the witnesses.

27.13

Unless the court otherwise directs, contemporaneous documents in the trial bundle relied on by the parties or either of them should be assembled as a single unit in chronological order of creation.

27.14

Unless the court otherwise directs, documents in the trial bundle should be copied double-sided.

CONCLUSION

One final provision that seeks to save paper is trumped by the multiple provisions encouraging various different types of bundle and thus, more paper.

GEMMA MCGUNGLE

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