

6 December 2017

# THE BUSINESS AND PROPERTY COURTS IN LEEDS



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On the “super-highway” to more joined up and competitive courts  
across England and Wales

# Foreword

## **The Chancellor of the High Court – Sir Geoffrey Vos**

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The **Business and Property Courts of England & Wales** went live on 2nd October 2017, having been launched at a series of events across the country in July 2017. I am delighted to be able to introduce the new **Business and Property Courts in Leeds** to users in the North-East.

The advantages of bringing together the Commercial Court, the Technology and Construction Court and the courts of the Chancery Division are, by now, clear. The Business and Property Courts is an intelligible user-friendly name for UK plc's international dispute resolution jurisdictions. It will allow the specialist dispute resolution jurisdictions in London to be linked more closely with the equivalent courts in the regions. There will be a super-highway between Leeds and the Rolls Building ensuring that local and international businesses are equally supported across the country in the resolution of their disputes. Specialist judges will be more flexibly deployed, ensuring that High Court judges will be available to try cases in Leeds whenever that is required.

The new Business and Property Courts will provide the joined-up thinking for business dispute resolution that has been long overdue. But the familiar procedures of the individual courts will not be lost to users. Instead, we will build on the reputation and standing of the Commercial Court, the TCC and the courts of the Chancery Division.

When proceedings are issued (electronically in Leeds in 2018), Business and Property Court users will be able to choose between intuitive courts and lists as follows: Admiralty Court (QBD), Business List (ChD), Commercial Court (QBD) (or Circuit Commercial Court (QBD) instead in the circuits), Competition List (ChD), Financial List (ChD/QBD), Intellectual Property List (ChD), Insolvency and Companies List (ChD), Property, Trusts & Probate List (ChD), Revenue List (ChD), and Technology & Construction Court (QBD).

I am delighted to say that we will soon be adding Newcastle (and Liverpool) to the current list of regional centres in which the Business and Property Courts operate.

## **Vice Chancellor – Mr Justice Barling**

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The launch of the Business and Property Courts (B&PCs) in Leeds on 10 July 2017 attracted an impressive attendance on the part of the judiciary, legal profession and business community. This is testimony to the timeliness of the initiative.

Having reversed post-war decline, there is every reason to expect that Leeds, along with Manchester, forming as they do the heart of the evolving Northern Powerhouse, will enjoy a stable and prosperous future. Leeds is home to a huge variety of businesses which are thriving, and form the basis for the very significant economic growth expected in the region over the next decade.

A prosperous 21st century commercial centre like Leeds requires a modern system of dispute resolution that reacts positively to the needs of the business community. This is the aim of the B&PCs, which will contribute to the more effective deployment of the unrivalled talents of our judges and legal profession, enabling them to serve the needs of those who provide goods and services within our region.

Cross-deployment of the judiciary has been happening for years in Leeds, but more can be done, and the B&PCs will encourage and expand this process by enabling greater flexibility in the work carried out by specialist judiciary.

A modern court system must also seize the opportunities to achieve greater efficiency in the resolution of business disputes. To this end, electronic filing will become the norm across the B&PCs, and is expected to begin in Leeds next year.

## **Mr Justice Males**

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Leeds is one of the great commercial centres of the United Kingdom and it is right that the new Business and Property Courts should be located here, serving the business community of the North East. No businessman or woman will want to end up in court, but I hope that it will be a reassurance that when disputes arise, as from time to time they will, the expertise is available here to ensure a prompt, efficient and local resolution of those disputes.

The specialist business courts which together comprise the Business & Property Courts – the Circuit Commercial Court, the Technology & Construction Court and the various lists of the Chancery Division – will each retain their own procedures and expertise, enabling clients to pick the court which is right for the case, while benefiting from shared administration and cross deployment of judges.

I welcome particularly the enhanced role for the renamed Circuit Commercial Court. This will further strengthen the relationship between the Commercial Court in London and the Circuit Commercial Court in Leeds and elsewhere, ensuring that local cases are tried locally as they should be, with the flexibility to deploy the right level of judge for each case. As a judge who sits regularly in the Commercial Court in London, I look forward to coming to Leeds to try commercial cases here.

As a Presiding Judge of the Circuit, I know that the specialist local judges and the excellent commercial bar and solicitors in the North-East will rise to the challenge of serving local business in these new courts. I look forward to playing my part in this initiative.

# Background



The Judicial Executive Board approved plans for the specialist jurisdictions of the High Court of England and Wales to be known as “The Business and Property Courts” (B&PCs) in March 2017. An explanatory statement was issued by Sir Geoffrey Vos, the Chancellor of the High Court and Sir Brian Leveson, President of the Queen’s Bench Division in May 2017.

The Government and City institutions are very supportive of the changes, which aim to give the specialist jurisdictions an intelligible user friendly denomination, whilst also preserving the valuable existing brands and practices of the individual courts. The specialist jurisdictions in England and Wales comprise the Commercial Court, the circuit Commercial Court, the Technology and Construction Court, the courts of the Chancery Division (including those dealing with financial services, intellectual property, competition and insolvency). In London, these specialist jurisdictions operate together at the Rolls Building. There are also B&PCs in the five main regional centres where specialist business is undertaken (Leeds, Manchester, Birmingham, Bristol and Cardiff) and it is anticipated B&PCs will be established in Newcastle and Liverpool in the near future.

The advantages expected from the B&PCs include:

**Intelligible name** – The B&PCs is a user friendly understandable umbrella term for the national and international dispute resolution jurisdictions. The B&PCs will continue to offer the best court-based dispute resolution service in the world, served by a top class, independent, specialist judiciary.

**Joining up the regional courts with London** – There will be a super highway between the B&PCs at the Rolls Building and those in the regions, to ensure that international businesses and domestic enterprises are equally supported in the resolution of their disputes.

**Flexible cross deployment of judges** – The B&PCs will facilitate the flexible cross deployment of judges with suitable expertise and experience to sit in business and property cases across the courts.

**Familiar procedures** – The B&PCs will build on the reputation and standing of the Commercial Court, the Circuit Commercial Court, the TCC and the courts of the Chancery Division, whilst allowing for the familiar procedures and practices of those jurisdictions to be retained.

Launch events took place in London and subsequently in the regional centres in July 2017. The event to launch the B&PCs in Leeds took place on 10 July 2017.

The B&PCs became operational from 2 October 2017.

# FAQs



## Why are these changes being made?

The courts of England and Wales are highly respected, but it has been acknowledged for some time that the naming of the courts could be more user-friendly.

The B&PCs and their lists are a user-friendly and easily understandable system. The purposes of the courts and the lists are clearly discernible from their names and this will lead for greater clarity and engagement between the court and its users.

The B&PCs also represent the close relationship between the various regions and the courts at the Rolls Building. Judges in the B&PCs will sit in the various courts across the country according to need, reinforcing the national nature of the B&PCs.

## When will these changes be implemented?

The B&PCs went live on 2 October 2017.

## What are the new Courts and Lists called?

The divisions and lists (some with sub-lists) are all detailed below and a diagram is provided in Appendix A to this brochure.

1. Admiralty Court (QBD)
2. Business List (ChD) (with further choice of Financial Services and Regulatory or Pensions sub-lists available)
3. Commercial Court (QBD) (with the option to issue in the London Circuit Commercial Court instead in London, or a single option of issuing in the Circuit Commercial Court in other centres)

4. Competition List (ChD)
5. Financial List (ChD/QBD)
6. Insolvency and Companies List (ChD) (with further option of Insolvency or Companies sub-lists)
7. Intellectual Property List (ChD) (with further choice of Patents Court or IPEC)
8. Property, Trusts and Probate List (ChD)
9. Revenue List (ChD)
10. Technology and Construction Court (QBD)

On court documents, the division in which the court or list sits should be marked at the end of the name of the court or list.

## How do you choose the correct list?

The B&PCs Practice Direction explains how a claimant should select the appropriate court, list or sub-list in which to issue the claim. Other CPR Practice Directions, such as the Circuit Commercial Court Practice Direction and Technology and Construction Court Practice Direction indicate which work is suitable for which court, list or sub-list. The Chancellor's Advisory Note (Appendix C) contains a handy guide about what work is suitable for each court, list and/or sub-list.

## Where are the BPC centres located?

The B&PCs will initially be based at the Rolls Building, London; Leeds; Manchester; Bristol; Birmingham and Cardiff. It is anticipated that they will shortly be extended to Newcastle and Liverpool. In time, the B&PCs may be extended to other regions around the country.

## **What are the biggest differences?**

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The biggest difference lies in the naming of the courts and lists and in the increased cross-deployment of judges.

## **How should Court documents be headed?**

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The Business and Property Courts judges in Leeds have recently updated their Guidance Note relating to court orders. The annex to the Guidance Note provides detailed information about how court documents should be headed. There is a link to the full Guidance Note, including the annex, at Appendix D of this brochure. It is important for court users to note that the headings on court documents in claims which were issued before 2 October 2017 will remain unchanged and that, in those cases, the old forms of heading should continue to be used. Where, however, the court allocates a Chancery case issued before 2 October 2017 to one of the new lists then the appropriate new heading should thereafter be used.

For claims commenced on or after 2nd October 2017, the Advisory Note contains the following examples:

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
CIRCUIT COMMERCIAL COURT (QBD)**

For matters with sub-lists, the main list does not also need to be included. For instance:

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
PATENTS COURT (ChD)**

## **Will existing cases be transferred?**

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Documents in existing proceedings issued before 2 October 2017 will continue to be headed as they were before. However, in Chancery Division proceedings, cases may be allocated by the court to a list or sub-list of the Business and Property Courts in Leeds. Any allocation will be of the court's own motion or at a hearing when the case is next before the court. Parties should not make a separate application in this respect but should raise the matter (orally or on paper) before the Chancery court when the case is next before the court.

## **Will existing cases be re-numbered?**

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Any claim issued before 2 October 2017 will currently retain its existing claim number.

After the introduction of electronic filing in Leeds, claims issued in the B&PCs will be given a claim number which includes a prefix indicating the List in which it has been issued. Until then, claims will be numbered as they have been before.

## **Will the various court guides still be needed (i.e. Chancery, Circuit Commercial, Technology and Construction)?**

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The introduction of the B&PCs does not remove the requirement to comply with the court guides. For example, if you have a case in the Business List (ChD), you will need to ensure that you refer to the Chancery Guide. The guides are being updated to reflect the introduction of the B&PCs.

## **How does this fit in with the electronic filing system (CE-File) currently in place in the Rolls Building?**

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CE Filing will continue to be compulsory in the Rolls Building. It is anticipated that, during 2018, a form of CE-File will be available for the B&PCs in Leeds, with the intention that this too will become compulsory.

## **Cases with a regional connection should be issued in that region: what is a regional connection?**

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Guidance regarding a regional connection has been provided in the Practice Direction. In summary, a regional connection may be found if:

1. One or more of the parties has an address or registered office in the area;
2. One or more witnesses are in the area;
3. The location of the dispute is in the area;
4. The dispute involves land or other assets in the area;
5. The solicitors are in the area.

You are encouraged to refer to the Practice Direction for further guidance.

One of the reasons that the B&PCs have been introduced is to



ensure that cases are heard in the appropriate regional centres. Parties who issue in London rather than their appropriate local court are likely have their claim transferred to their local BPC.

The Practice Direction contains detailed provisions about the matters which the court must take into account when it considers whether to transfer a case from one location to another. Transfer will generally take place before detailed case management has occurred.

## **Will matters previously only heard in London, specifically the Competition List, now be heard in the regions?**

There is no reason for competition matters to be heard exclusively in London. If necessary, a specialist judge can be sent to the appropriate regional centre to hear the case. However, a claim in the Revenue List or Competition List which is issued in a regional BPC may still be dealt with in the Rolls Building, either for case management or even for trial, if an appropriate judge is not available in the regional BPC.

## **Does this mean that judges typically based in the Rolls Building will travel to the regions to hear cases, rather than parties travelling to London to ensure they are before an appropriate judge?**

Part of the purpose of the B&PCs is to continue and increase the flexible deployment of judges. Therefore, in appropriate cases a judge may be sent to a regional BPC to hear cases rather than the parties and their representatives travelling to London.

## **What will happen with County Court work?**

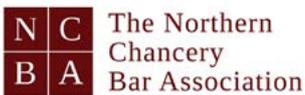
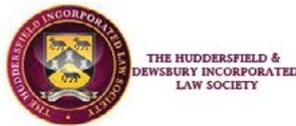
County Court work will continue to be heard in the appropriate County Court List. Guidance is available in the Practice Direction. Generally, the court will consider the value and complexity of the claims when considering whether a matter would be better placed within the County Court. Cases may be transferred as appropriate.

Practitioners should note that the Practice Direction makes clear that Business and Property work in the County Court will only be dealt with by judges with sufficient expertise. Paragraph 4.4 of the Practice Direction provides: "Judges specialising in the County Court Business and Property work must spend a minimum of 20 percent of their time handling Business and Property work, either in the Business and Property Courts or in the County Court".

The previous use of "Chancery Work" will be replaced, in most cases where the case would have been suitable for the B&PCs, with "Business and Property Work".

# Supporting Organisations

The following organisations are pleased to welcome and support the Business and Property Courts in Leeds



**And also in support:**

- Bradford Law Society
- The Halifax Incorporated Law Society Limited
- Keighley and Craven District Law Society
- Scarborough Law Society
- Wakefield & District Law Society

# About Leeds and Yorkshire



The Business and Property Courts in Leeds, together with the members of the local legal profession, are well placed to provide speedy, efficient and cost-effective justice to the community in Yorkshire and beyond. As Yorkshire's economy and businesses continue to grow, a local effective dispute resolution centre, with expert judges, served by an effective and cost efficient legal profession, is a key resource for the area.

## Yorkshire

Yorkshire's economy mirrors its size and diversity: with finance, legal, manufacturing, medical, digital, retail, food, agriculture and nuclear all strong sectors contributing to a healthy economy.

Yorkshire is home to a number of companies with strong growth and export potential – especially in manufacturing. As the largest of England's regions, and with a population of almost 6 million (equivalent to Scotland's total population), its economic output of £88 billion is significant – almost 7% of the UK's total economic output.

*(Source: Study in Yorkshire)*

The legal centre of Yorkshire continues to be the highly competitive Leeds market, with Sheffield the next largest. Hull, York, Bradford and Harrogate all feature firms that cater to a broad range of commercial and SME clients.

## Leeds

The Leeds economy is estimated to be worth £21.3 billion per annum and accounts for nearly a third of the Leeds City Region's total economic output. The city's economy has grown by 34% over the last decade, in line with the Leeds City Region as a whole. Over the next 10 years, the economy is forecast to grow by 21%, with financial and business services set to generate more than half of GVA growth over that period.

There are over 32,000 VAT-registered businesses in Leeds, a net increase of 4% in the business stock, with the rate of business formation at 85 per 10,000 head of working age population.

*(Source: Leeds City Council and ONS Business Demography).*

Leeds is the UK centre of excellence for legal services outside London – City of London advice at competitive prices, it is globally active with a hive of talent.

*The Leeds City Region is home to the largest provincial financial and professional services community in England. Within the financial and business service sector, there are 11 subsectors which employ more than 5,000 people, including head office activities, real estate, legal and accounting, computer programming and consultancy.*

There is a high concentration of accountancy firms and financial institutions serving a powerful client base. Leeds is also home to a vibrant tech economy and some of the UK's most valuable technology businesses, making it the digital capital of the North.

## Growth in the legal sector in Leeds

- Total employment in the Leeds legal sector has increased by 20% to 8,100 in the last five years.
- Leeds has experienced the fastest growth in the number of solicitors' firms of any major legal centre in the UK between 2010 and 2016.
- The legal sector is expected to generate output exceeding £300m in 2017.

*(Source: Business Register and Employment Survey 2016)*

*Law firms in Leeds advise many different types of clients including: individuals, SMEs, regional and national corporates, multinationals, governments, leading public sector organisations and charities.*

*(Source: Independent research from University of Leeds)*

Legal specialisms in Leeds include the following: Corporate and Commercial; Corporate Tax; EU and Competition; Fraud; Licencing; Dispute Resolution; Banking Litigation; Commercial Litigation; Debt Recovery; Finance; Insolvency and Corporate Recovery; Insurance; Professional Negligence; Contentious Trusts and Probate; Construction and Engineering; Property Litigation, Technology; Media and Telecoms; IT; Intellectual Property; and Sport.

# Judicial Profiles

## **Chancellor of the High Court: Sir Geoffrey Vos**

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Geoffrey Charles Vos was called to the Bar in 1977, and took silk (QC) in 1993. He was appointed as a Justice of the High Court assigned to the Chancery Division in October 2009, and knighted in November 2009. He sat also as a Patents Court judge. He was appointed as a judge of the Court of Appeal in England and Wales in October 2013.



He became a member of the Privy Council in November 2013. He was appointed as Chancellor of the High Court in October 2016. He was educated at Gonville & Caius College, Cambridge, and was elected as an Honorary Fellow of the College in November 2015. He was a Judge of the Courts of Appeal of Jersey and Guernsey between 2005 and 2009, and a Judge of the Court of Appeal of the Cayman Islands between 2008 and 2009. He will become Editor-in-Chief of the White Book on Civil Procedure (Sweet & Maxwell) from January 2018. Geoffrey Vos was Chairman of the Bar Council of England and Wales in 2007. He was Head of Chambers at 3 Stone Buildings from 1998 to 2009, and was appointed a Bencher of Lincoln's Inn in 2000. He was also Chairman of the Chancery Bar Association from 1999 to 2001. He was Chairman of the Trustees of the Social Mobility Foundation from January 2008 to April 2011. He sat on Alan Milburn MP's Panel on Fair Access to the Professions in 2009. He has been a trustee of the Slynn Foundation since 2009. He was Chairman of the European Committee of the Judges' Council between 2011 and 2016. He has been Chairman of the Judicial Pensions Committee since January 2013. He was President of the European Network for Councils of the Judiciary from January 2015 to June 2016.

## **Vice Chancellor: Mr Justice Barling**

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Sir Gerald Barling is a Justice of the Chancery Division of the High Court of Justice of England and Wales and is the current Vice-Chancellor of the County Palatine. He was called to the Bar by the Middle Temple in 1972 and elected a Bencher in 2001. In 1991 he was appointed Queen's Counsel. Before his appointment to the High Court in 2007, he was a Deputy High Court Judge and also sat as a Recorder on the Midland Circuit and as an Acting Deemster in the Isle of Man Court of Appeal. He was President of the Competition Appeal Tribunal from 2007-2013.



## **Presiding Judge of the North Eastern Circuit: Mr Justice Males**

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After studying law at St John's College, Cambridge, Stephen Males was called to the bar in 1978. He took silk in 1998.

He practised for over 30 years at the commercial bar and in addition to acting as an advocate was appointed as an arbitrator in over a hundred arbitrations. He was an Assistant Recorder and Recorder and a



Deputy High Court Judge sitting in the Administrative Court and Commercial Court. He was appointed to the High Court in 2012 and is currently a Presiding Judge of the North Eastern Circuit, spending half his time in the North East. In London he sits often in the Commercial Court and has tried many cases involving shipping and international trade law. He is a Bencher of Middle Temple. He is nominated to try cases in the Financial List.

# Judicial Profiles

## HHJ Raeside QC

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HH Judge Mark Raeside QC was called to the bar (Middle Temple) in 1982 and elected a bencher in 2012. He became a Fellow of the Chartered Institute of Arbitrators and a Certified Mediator in 2001 and was appointed Queens Counsel in 2002. He was Chairman of the RICS Appeal Committee (Misconduct) in 2007, and a Dubai Registered Arbitrator in 2010. He was the editor of "Hudson's Building Engineering Contracts" (Sweet & Maxwell 2012 Edition) whilst at Atkin Chambers. In 2013, he was appointed a Specialist Civil Judge Queens Bench Division and Chancery Division on the North-East Circuit. He was assigned as an appeal judge to the Tax and Chancery Chamber of the Upper Tribunals in 2014 and nominated to hear Court of Protection cases in 2016 when he also joined the pool of Judges to assist the JAC. Since 2014 he has taught on the Specialist Course at the Judicial College and now sits on the Judicial Library Committee.



## HHJ Davis-White QC

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HH Judge Davis-White QC was called to the Bar in 1984. He was appointed QC in 2003. His practice was grounded in the fields of company, insolvency and financial services law but also encompassed a broad commercial, regulatory and governmental practice. He was a member of the Attorney-General's Civil "A" panel, a Senior Decision Maker of the Guernsey Financial Services Authority and, in the latter part of 2016, was appointed to be a Judge (acting) of the High Court, Eastern Caribbean Supreme Court sitting in the Commercial Court in the British Virgin Islands. He was appointed a Recorder in 2009 and a Deputy High Court Judge sitting in the Chancery Division in 2013. Since December 2016 he has been a Specialist Chancery and Circuit Commercial Judge, principally based on the North Eastern Circuit. He is the lead Chancery Circuit Judge for the North Eastern Circuit. He was the joint author with Professor Sandra Frisby of *Kerr on Receivers and Administrators* (Sweet & Maxwell, 19th Edition) and is joint author, with Professor Adrian Walters, of *Directors Disqualification and Insolvency Restrictions* (Sweet & Maxwell).



## HHJ Klein

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HH Judge Klein was called to the Bar in 1992 and had a broad Chancery and Commercial practice; with a particular emphasis on commercial property and contentious private client disputes. He was a member of the Attorney-General's Regional Panel of Counsel from the inception of the Panel in 2000 until 2012. In 2010 he was appointed a Civil Recorder and, in the same year, was authorised to hear Chancery Business. In 2013 he was appointed a Deputy High Court Judge in the Chancery Division. Since February 2017 he has been a Specialist Chancery and Circuit Commercial Judge, principally based on the North Eastern Circuit. He is the lead Circuit Commercial Judge for the North Eastern Circuit. From 2010 until 2016 Judge Klein was a barrister member of the Inns Conduct Committee and since 2016 he has been a member of the Civil Procedure Rule Committee. Whilst at the Bar, Judge Klein was a contributing editor of the *Landlord & Tenant Factbook* (Sweet & Maxwell) and an author of *Butterworth's Property Insolvency*.



## HHJ Gosnell

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HH Judge Mark Gosnell was admitted as a Solicitor in 1981 and was a partner in a high-street practice in Lancashire. He specialised mainly in personal injury and clinical negligence work. He was appointed a Deputy District Judge in 1993 and a District Judge in 1998. Whilst a District Judge in Manchester, he specialised mainly in industrial disease, catastrophic injury and clinical negligence cases. He was also a Regional Costs Judge. He was appointed a Recorder in 2005 both in the criminal and civil jurisdictions. In October 2010, he was appointed Designated Civil Judge of Leeds and North Yorkshire and in 2012 he became DCJ of the Bradford and West Yorkshire group of courts. He is a course tutor on the Specialist Course at the Judicial College and has lectured extensively on topics such as case management, housing law and costs.



# Judicial Profiles

## HHJ Saffman

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HH Judge Saffman was admitted as a solicitor in 1977 having gained distinctions in his professional examinations. He was a senior partner and Head of Commercial Litigation and Insolvency of a Leeds firm of solicitors until 2001 when he was appointed a District Judge sitting in Manchester having been a Deputy District Judge since 1995. In 2004 he transferred to his hometown of Leeds.



He was a Chancery District Judge from 2001 to April 2013 when he was appointed to the Circuit Bench. He was sometime chair of the Chancery District Judges Group and was a member of the small team responsible for the redrafting of the Insolvency Practice Direction that came into effect in July 2014.

He has lectured on civil procedure, the Trusts of Land and Appointment of Trustees Act 1996 and directors disqualification and has contributed to legal periodicals on insolvency.

He is authorised to sit as a Judge of the High Court under section 9(1) Senior Courts Act 1981 in Chancery, TCC, Mercantile, QBD and Administrative Law and also sits as an Election Commissioner.

## District Judge Goldberg

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District Judge Jeff Goldberg was admitted as a solicitor in 1985 and was a Partner and Financial Director of a city centre commercial practice in Leeds for 14 years. He specialised in commercial litigation. He was also a non-executive Director of two substantial financial services companies prior to his full time appointment as a District Judge. He was appointed as a Deputy District Judge in 1998 and a full-time District Judge with Chancery authorisation in 2011.



## District Judge Kelly

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District Judge Siobhan Kelly was called to the Bar in 1995. She specialised mainly in clinical negligence and personal injury work, but also had a niche practice in public interest immunity work in the Crown and Family Courts. She was appointed as a Specialist Civil Recorder and Deputy District Judge in 2010 and as an Assistant Coroner between 2012 and 2016.



She was appointed as a District Judge in Leeds in 2014 and in the same year was authorised to hear Chancery and Commercial work. She is a Course Tutor on the specialist course at the Judicial College.

## District Judge Pema

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District Judge Anesh Pema was called to the Bar (Middle Temple) in 1994 and practised from 9 Woodhouse Square and then Zenith Chambers in Leeds in a broad civil practice. He was appointed as a Deputy District Judge in 2009 and has been a District Judge since 2013. He has been authorised to hear Chancery proceedings as a District Judge since 2013 and hears cases in all aspects of Chancery business and property matters. He is a contributing author to *Jordan's Civil Court Service*.

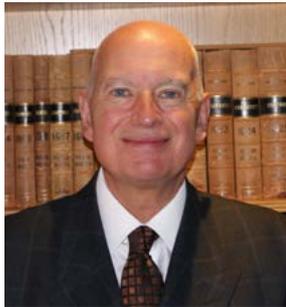


# Judicial Profiles

## District Judge Troy

District Judge Patrick Troy was appointed as a full time District Judge in 2011 originally in Newcastle and then in Leeds from 2013. He sat in the specialist Chancery jurisdiction from the outset with a particular specialism in TOLATA and Inheritance Act cases following on from his experience of some 25 years as a solicitor in that field.

He is a Course Tutor at the Judicial College primarily with regard to Financial Remedy Proceedings in Divorce but also within that dealing with any associated topics – whether by way of TOLATA or other trust issues.



## District Judge Jackson

District Judge Claire Jackson was called to the Bar in 2002, following a career in the City and in Whitehall. Whilst at the Bar she had a Chancery and Commercial practice with a particular specialism in insolvency and company law disputes. In 2013 she was appointed a Deputy District Judge and the following year was issued a Chancery ticket. In 2016 she was appointed a District Judge. She sits principally at Wakefield, Huddersfield and Leeds Court Centres.

Whilst at the Bar, Judge Jackson was the Specialist Insolvency Editor of *Jowitt's Dictionary of English Law* (3rd Edition). She was also a contributor and editor of the online *Westlaw Encyclopaedia* focusing on insolvency entries and a contributor to the *Enterprise Chambers Annotated Guide to Insolvency*.

Judge Jackson is a District Bench representative on the Civil Editorial Board for the Judicial Intranet.



## The Court Service Staff in Leeds



Back Row (from left to right) – Daniel Gaunt, Catherine Stewardson, Dominique Cole, Matthew Fletcher, Richard Marsland.

Front Row (from left to right) – Janet Gibbins, Hayley Chapman, Nada Sare, Bob Brown.

# Court Contact Details



## Telephone

Business & Property Court – 0113 3062461

Listing Officer – 0113 3062441

Leeds Urgent Court Business Officer  
(out of hours) – 07810 181828

London Urgent Court Business Officer  
(out of hours) – 0207 947 6260



## Goldfax

Business & Property Court – 0870 7617710

Listing – 0870 7617740



## Email

**Business & Property Court:**  
[orders@leeds.districtregistry.gsi.gov.uk](mailto:orders@leeds.districtregistry.gsi.gov.uk)

**Listing:**  
[hearings@leeds.countycourt.gsi.gov.uk](mailto:hearings@leeds.countycourt.gsi.gov.uk)

**Companies Court:**  
[leedscompanycourt@hmcts.gsi.gov.uk](mailto:leedscompanycourt@hmcts.gsi.gov.uk)

## Where documents are to be sent

### [orders@leeds.districtregistry.gsi.gov.uk](mailto:orders@leeds.districtregistry.gsi.gov.uk)

- Particulars of Claim
- Acknowledgments of Service
- Defences/ Reply to Defences
- Directions Questionnaires
- General documents to lodge (witness statements, notice of acting, statement of costs etc)
- General correspondence
- Draft orders for approval
- Costs budgets
- Applications (NB can only be emailed if the court fee is to be paid by PBA account or by debit/credit card. Also note the allowed amount of pages to send)
- Skeleton arguments etc for District Judge appointments and the applications day before the Specialist Circuit Judges

### [hearings@leeds.countycourt.gsi.gov.uk](mailto:hearings@leeds.countycourt.gsi.gov.uk)

- Listing Questionnaires
- Trial availability
- Correspondence relating to trials
- Transcript requests
- Skeleton arguments for trials/appeals
- Appellant's notice (if fee is to be paid by PBA account or by debit/credit card)
- Applications relating to trials/appeals (if fee is to be paid by PBA account or by debit/credit card)

### [leedscompanycourt@hmcts.gsi.gov.uk](mailto:leedscompanycourt@hmcts.gsi.gov.uk)

- All documents that are lodged for winding up petitions in the Companies Court i.e Statement of service, Law Gazette adverts, list of persons attending, witness statements, any other general correspondence (not involving a fee)

Users who wish to (a) file documents at court by email and/or (b) communicate with the court by email should refer to CPR PD 5B for guidance before sending any email.

If you send an email to the court you must not send a hard copy of that email or the attachment to the Court (CPR PD 5B para 4.1).

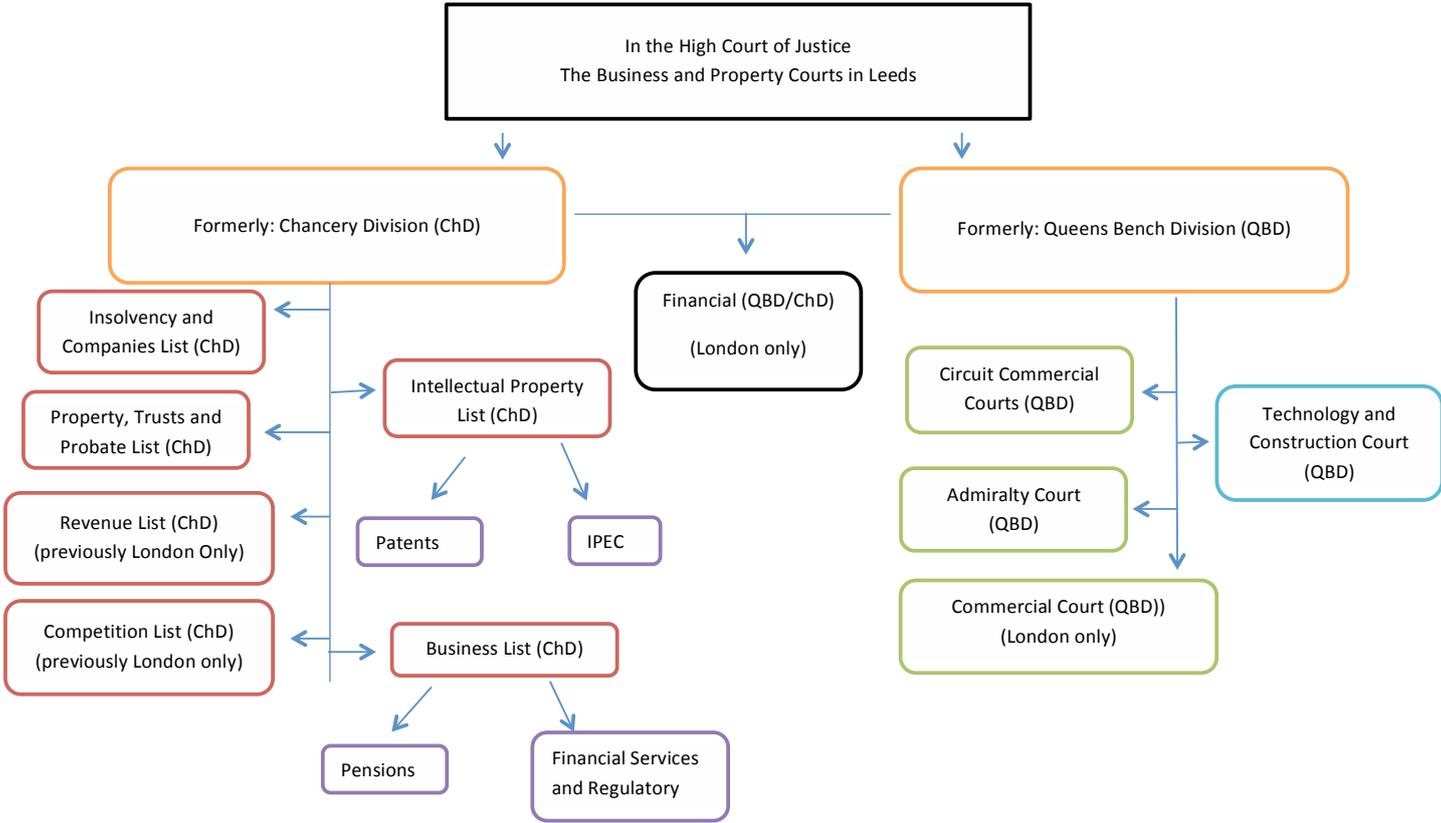
The total size of the email (and attachments) should not exceed 50 pages of printed paper and the total size must be less than or equal to 10 Mb.

**Further e-mail guidance can be found at:**

<https://www.justice.gov.uk/courts/email-guidance#canfile>

# Appendix A

## THE BUSINESS AND PROPERTY COURTS IN LEEDS



# Appendix B: Practice Direction

(The Practice Direction received ministerial sign off on 20 November 2017. There were no material changes between the draft Practice Direction and the final signed off version).

## **PRACTICE DIRECTION – BUSINESS AND PROPERTY COURTS**

### **Contents of this Practice Direction**

| <b>Title</b>  | <b>Number</b> |
|---|---------------|
| Scope   | Para. 1       |
| Starting proceedings  | Para. 2       |
| Transfers   | Para. 3       |
| Specialist work in the district registries and the County Court | Para. 4       |
| Appeals   | Para. 5       |

### **Scope**

- 1.1** The Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Circuit Commercial Court, and the Admiralty Court located in the Royal Courts of Justice, Rolls Building together with the Chancery Division of the High Court, the Technology and Construction Court and the Circuit Commercial Courts in the District Registries of the High Court in Birmingham, Bristol, Leeds, Manchester and Cardiff together constitute the Business and Property Courts.
- 1.2** The Business and Property Courts located at the Royal Courts of Justice, Rolls Building, are collectively described as the Business and Property Courts of England and Wales. Those Business and Property Courts in the District Registries of the High Court in Birmingham, Bristol, Leeds, Manchester, and Cardiff, are, respectively, described as the Business and Property Courts in Birmingham, the Business and Property Courts in Bristol, the Business and Property Courts in Leeds, the Business and Property Courts in Manchester, and the Business and Property Courts in Wales. In this Practice Direction the Business and Property Courts in Birmingham, Bristol, Leeds, Manchester and Cardiff are referred to together as the BPCs District Registries.
- 1.3** The work of the Business and Property Courts is divided and listed into the following courts or lists: the Admiralty Court, the Business List, the Commercial Court, the Circuit Commercial Courts, the Competition List, the Financial List, the Insolvency and Companies List, the Intellectual Property List, the Property, Trusts and Probate List, the Revenue List, and the Technology and Construction Court.

# Appendix B: Practice Direction

**1.4** The courts or lists of the Business and Property Courts include sub-lists, as follows:

- (1) The Pensions sub-list and Financial Services and Regulatory sub-list are sub-lists of the Business List;
- (2) The Patents Court and the Intellectual Property Enterprise Court are sub-lists of the Intellectual Property List.

**1.5** (1) The Business and Property Courts operate within and are subject to all statutory provisions and rules together with all procedural rules and practice directions applicable to the proceedings concerned.

(2) In particular, the following provisions of the CPR apply—

Part 49 (Companies Court)

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)

Practice Direction – Insolvency Proceedings

Practice Direction: Directors Disqualification Proceedings

Practice Direction PD51O (Electronic Working)

EU Competition Law Practice Direction

**1.6** This Practice Direction applies to cases in the Business and Property Courts or cases which are to be issued in those courts. In the event of inconsistency

# Appendix B: Practice Direction

between this Practice Direction and any other Practice Direction the provisions of this Practice Direction shall prevail.

1.7 Parties will also need to 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, and the Intellectual Property Enterprise Court Guide (where applicable).

## **Starting proceedings**

2.1 Starting proceedings in the Business and Property Courts is subject to CPR Parts 7 and 8.

### **2.2**

(1) A claimant wishing to issue a claim in the Business and Property Courts chooses which court, list or sub-list from within the Business and Property Courts in which to issue its claim, based (subject to sub-paragraph (2)) on the principal subject matter of the dispute.

(The courts, lists and sub-lists are set out in paragraphs 1.3 and 1.4.)

(2) In cases where different aspects of the dispute indicate that the case be issued in different lists, sub-lists or courts, the claimant must consider whether there are aspects requiring the expertise of a specialist judge and choose the list, sub-list or court in which the relevant specialist judges sit.

### **2.3**

(1) Before a claimant issues a claim in the Business and Property Courts, the claimant must determine the appropriate location in which to issue the claim.

(2) With the exception of claims started under Parts 58, 60, 61 and 62, claims which are intended to be issued in the Business and Property Courts and which have significant links to a particular circuit outside the South Eastern Circuit must be issued in the BPCs District Registry located in the circuit in question. If a claim has significant links with more than one circuit, the claim should be issued in the location with which the claim has the most significant links.

(3) A link to a particular circuit is established where—

(a) one or more of the parties has its address or registered office in the circuit in question (with extra weight given to the address of any non-represented parties);

# Appendix B: Practice Direction

- (b) at least one of the witnesses expected to give oral evidence at trial or other hearing is located in the circuit;
- (c) the dispute occurred in a location within the circuit;
- (d) the dispute concerns land, goods or other assets located in the circuit; or
- (e) the parties' legal representatives are based in the circuit.

## **2.4**

(1) In a claim issued in London in the following courts, a hearing may, where appropriate, take place in a court in a circuit—

- (a) the Commercial Court;
- (b) the Admiralty Court;
- (c) the Financial List;
- (c) the Technology and Construction Court.

(2) A judge of the Commercial Court may, where appropriate and subject always to available judicial resources, be made available to hear a claim issued in a Circuit Commercial Court.

**2.5** While any appropriate claim may be issued in any of the BPCs District Registries, the following are circumstances in which case management or trial may instead occur in the Business and Property Courts of England and Wales—

(1) Where a claim is issued in the Revenue List in one of the BPCs District Registries, Her Majesty's Revenue and Customs may nevertheless seek to have the proceedings case managed and/or tried in the Business and Property Courts of England and Wales, in accordance with CPR 30.3(2)(h) and Annex 1 of Practice Direction 66.

(2) A claim meeting the definition established in paragraph 1.1 of the EU Competition Law Practice Direction may be issued in an appropriate BPCs District Registry, but its case management and/or trial in the district registry in question will be dependent on an appropriate judge being made available in the district registry in question.

(3) A claim in the Intellectual Property List, which includes the Patents Court and the Intellectual Property Enterprise Court ("IPEC") (and includes the IPEC small claims track to which rule 63.27 applies), may be issued in an appropriate BPCs District Registry. However the case management and/or trial of a claim in the Patents Court or the IPEC in the BPCs District Registry in question will be dependent on an appropriate judge being made available in the district registry in question.

## **Transfers**

# Appendix B: Practice Direction

**3.1** (1) Subject to CPR 30.2, 30.5 and 59.3, the Business and Property Courts may, having regard to the criteria in 3.1(3), order proceedings in the Business and Property Courts of England and Wales or of a BPCs District Registry, or any part of such proceedings (such as a counterclaim or an application made in the proceedings), to be transferred—

(a) from the Business and Property Courts of England and Wales to the Business and Property Courts in a BPCs District Registry; or

(b) from the Business and Property Courts in a BPCs District Registry to the Business and Property Courts of England and Wales or to the Business and Property Courts in another BPCs District Registry.

(2) An application for an order under paragraph 1(b) must be made to the Business and Property Court from which the transfer is sought, and notified to the intended receiving Business and Property Court at the same time by the applicant, and must be consented to by the receiving Business and Property Court before any order for transfer is made.

(3) When considering whether to make an order under rule 30.2(4) (transfer between the Royal Courts of Justice and the district registries) when the proceedings are in the Business and Property Courts, the court must also have regard to—

(a) significant links between the claim and the circuit in question, considering the factors listed in paragraph 2.3(3) above;

(b) whether court resources, deployment constraints, or fairness require that the hearings (including the trial) be held in another court than the court into which it was issued;

(c) the wishes of the parties, which bear special weight in the decision but may not be determinative;

(d) the international nature of the case, with the understanding that international cases may be more suitable for trial in centres with international transport links;

(e) the availability of a judge specialising in the type of claim in question to sit in the court to which the claim is being transferred.

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**3.2** In addition to the provisions set out in CPR 30.3, the Business and Property Courts must have regard, when considering whether to make an order for transfer from the Business and Property Courts to a county court hearing centre:

(a) to the nature of the claim, in accordance with the guidance provided at paragraphs 4.2 to 4.5; and,

(b) to the availability of a judge specialising in the corresponding type of claim to sit in an appropriate court in the circuit;

**3.3** When considering the availability of a judge under paragraph 3.1(e), the listing office of the court to which the claim is being transferred will be consulted before the order is made by the court.

## **Specialist work in the County Court**

**4.1** Subject to any enactment or rule relating to the jurisdiction of the County Court, the County Court at Central London, Birmingham, Bristol, Cardiff, Manchester, Newcastle, Leeds, Liverpool, and Preston are appropriate venues for any cases which are suitable to be heard in the County Court which fall within the definition in paragraph 4.2 as the specialist work of the type undertaken in the Business and Property Courts.

**4.2** The specialist work of the type undertaken in the Business and Property Courts includes all the work that falls under the jurisdiction of the courts and lists that make up the Business and Property Courts, except for—

- (a) Claims for possession of domestic property and rent and mesne profits, or in respect of domestic mortgages;
- (b) Claims for possession of commercial premises or disputes arising out of business tenancies that are routine in nature;
- (c) Claims falling under the Trusts of Land and Appointment of Trustees Act 1996, unless combined with other specialist claims;
- (d) Hearings of unopposed creditors' winding-up or bankruptcy petitions or applications to set aside statutory demands;
- (e) Building claims, other than adjudication claims, of a value under £75,000;
- (f) Invoice and other straightforward business claims of a value under £75,000;
- (g) Boundary and easement disputes involving no conveyancing issues;
- (h) Claims to enforce a charging order;
- (i) Applications under the Access to Neighbouring Land Act 1992;

# Appendix B: Practice Direction

(j) Proceedings under the Inheritance (Provision for Family and Dependents) Act 1975.

**4.3** Claims issued in the County Court which are issued in the County Court at the hearing centres defined in paragraph 4.1 and relate to the specialist work of the type undertaken in the Business and Property Courts will be marked “Business and Property work” by the court upon allocation if they have not already been marked in that way by the claimant, and will be managed and heard only by judges specialising in this work.

**4.4** Judges specialising in the County Court Business and Property work must spend a minimum of 20 percent of their time handling Business and Property work, either in the Business and Property Courts or in the County Court.

## **Appeals in BPCs District Registries**

**5.1** Specific appeal slots will be created in listing in the BPCs District Registries to accommodate blocks of applications for permission to appeal and appeals which are to be heard by a Group A judge (as defined in PD52A) in accordance with PD52A.

**5.2** So far as possible these slots will be concomitant with the slots identified for cases listed in BPCs District Registries requiring a Group A judge as defined in PD52A to hear them and transferred cases referred to in paragraph 3.”.

# Appendix C: Advisory Note

(See Appendix B for published Practice Direction. Draft Practice Direction not included).

## **The Business and Property Courts**

### **Advisory Note**

*This note is likely to be updated on a regular basis*

#### **Introduction**

1. The Business and Property Courts (“B&PCs”) were launched in July 2017 and became operational on 2<sup>nd</sup> October 2017. They have been created as a single umbrella for specialist civil jurisdictions across England and Wales. In London, these specialist civil jurisdictions operate together in the Rolls Building on Fetter Lane, forming the largest specialist centre for financial, business and property litigation in the world.
2. Business and Property Courts have also been established in the five main centres outside London where specialist business similar to that in the Rolls Building is undertaken, namely, Birmingham, Bristol, Cardiff, Leeds and Manchester. They will also be established in Newcastle and Liverpool shortly. The main centre for the Business and Property Courts in Wales is in Cardiff, but judges of the courts will sit in other venues in Wales when appropriate and practicable. Specialist County Court cases that fall within the ambit of the B&PCs will internally be marked “Business and Property Courts Work” (encompassing what was previously “Chancery Business” for specialist work of a Chancery nature and TCC work in the County Court (CPR PD 60 para 3.2; 3.4 and CPR 60.4(c))) (please see paragraph 4.3 of the draft practice direction which is awaiting publication but is attached in its current draft form). The Mercantile Court has been renamed the Circuit Commercial Court, and Mercantile Judges are now Circuit Commercial Judges.
3. The Business and Property Courts are divided into separate specialist courts or lists, some of which are further subdivided into sub-lists. These courts and lists are dealt with in more detail below.

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4. Although the various specialist civil work has been brought together under one umbrella, the courts themselves will continue to operate in the same way as at present, applying the same practices and procedures under the Civil Procedure Rules and Insolvency Rules as before and retaining their own procedural Guides. The way in which cases are dealt with in each type of court will not change. Claims which have been proceeding in the Chancery Division before 2<sup>nd</sup> October remain under the control of the same Master (or Judge) as before until further order. The Practice Direction setting up the Business and Property Courts contains new provisions, particularly as regards issue and transfer of proceedings (see paragraphs 13 to 19).
5. The new arrangements will allow, over time, for greater flexibility in cross-deployment of judges with suitable expertise and experience to sit on appropriate business and property cases. It will also be simpler to issue claims in any of the B&PCs and to transfer claims between the Rolls Building and the other specialist centres.

## **Issuing Proceedings in the Business and Property Courts**

6. Presently electronic filing and issue is only available in London. For the time being, claim forms should continue to be issued in the same way as before in the other Business and Property Courts centres.
7. The new types of case numbers (available on CE-File) will not, however, be provided in the other centres until electronic filing begins in those centres in 2018.
8. Court users will at present, when issuing proceedings electronically on CE-File, see the heading “Business and Property Courts of England and Wales” on the system. They will then be asked to say which court or list, and if applicable, which sub-list, they wish their case to be assigned to. This will depend on the principal subject matter of the dispute. For example, if the dispute involves land, even if the land is for commercial use, it should be assigned to the Property, Trusts and Probate List. Similarly, a dispute about pensions should be assigned to the Business List, sub-list Pensions, even if professional negligence is also involved. Where several issues arise, involving different courts, lists or sub-lists, the user must consider whether

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there are issues requiring the expertise of a specialist judge and if so must select the court, list or sub-list in which the relevant specialist judges sit.

9. Cases issued in centres outside London, after 2<sup>nd</sup> October 2017 and before electronic filing becomes available outside London, should identify the list or court in which the claimant wishes the case to proceed, as above. Users issuing in the centres outside London will have to indicate on the claim form or to listing staff in those centres the court, list or sub-list to which their claim should be allocated.
10. Users must choose one of the following:
  - (1) Admiralty Court (QBD)
  - (2) Business List (ChD) (with further choice of Financial Services and Regulatory or Pensions sub-lists available)
  - (3) Commercial Court (QBD) (with the option to issue in the London Circuit Commercial Court instead in London, or a single option of issuing in the Circuit Commercial Court in other centres)
  - (4) Competition List (ChD)
  - (5) Financial List (ChD/QBD)
  - (6) Insolvency and Companies List (ChD) (with further option of Insolvency or Companies sub-lists)
  - (7) Intellectual Property List (ChD) (with further choice of Patents Court or IPEC)
  - (8) Property, Trusts and Probate List (ChD)
  - (9) Revenue List (ChD)
  - (10) Technology and Construction Court (QBD)
11. Once CE-File has been extended to the other centres, the user will also be asked to identify on CE-File the hearing centre in which they wish to issue the proceedings. In the meantime, users issuing in the centres outside London will have to issue in the centre on the circuit with which the claim has significant links. Links, as specified in the Practice Direction, are established where:
  - a. one or more of the parties has an address or registered office in the circuit (particularly if the party is non-represented);

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- b. at least one of the witnesses expected to give oral evidence is located within the circuit;
- c. the dispute occurred in a location within the circuit;
- d. the dispute concerns land, goods or other assets located in the circuit;  
or
- e. the parties' legal representatives are based in the circuit.

12. Claims with significant links to a particular circuit must be issued in the District Registry located in the circuit. Although a claimant must base a decision on any information available about links to a particular circuit, there is no obligation to make extra inquiries to determine whether there may be other links outside the claimant's current knowledge.

13. Care should be taken to ensure that any proceedings are brought in the correct court and hearing centre. If users are uncertain as to the availability of a specialist judge in an area they should contact the relevant Listing Office. It is important to note however that if a claim is issued in the wrong court, list or sub-list, or in the wrong hearing centre, this will not invalidate the issue of the claim. If there is such an error the court may remedy it by making an order under CPR rule 3.10(b).

## **The Constituent Courts and Lists**

14. In order to help users identify the correct court, list or sub-list in which to issue, a brief description of each one of the Business and Property Courts follows. The various examples of cases dealt with in each category are not exhaustive:

### **(1) Admiralty Court (QBD)**

The Admiralty Court deals with shipping and maritime disputes. This list deals with cases such as:

- collisions between ships
- disputes over the transport of cargo
- salvage of a ship, cargo or crew

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- disputes over goods supplied to a ship
- disputes over mortgages and other security over ships
- claims by passengers for injuries suffered
- claims by ship crew for unpaid wages
- claims by ship-owners to limit liability for loss or damage

The Admiralty Court deals with claims brought against the owner of a ship ('in personam' claims) and claims brought against the ship itself ('in rem' claims). The court can seize ('arrest') ships and cargos to prevent them being moved and can also sell them within England and Wales.

## **(2) Business List (ChD)**

The scope of the Chancery Business List is broad. It includes a wide range business disputes, often with an international dimension. Frequently these concern a business structure (company, LLP, LP, partnership etc), claims against directors for breach of fiduciary duty, or disputes about contractual arrangements between investors such as share purchase agreements. They also include claims in tort, such as conspiracy or fraud, claims for professional negligence (e.g. against solicitors, accountants, surveyors, valuers), claims for breach of contract, specific performance, rectification and injunctive relief as well as other equitable remedies.

The Business List also includes pensions claims, and a sub-list exists to reflect that. The sub-list covers all claims where pensions are the subject matter of the dispute. Many pension schemes, particularly occupational pension schemes, are established under a trust. Not all pensions cases however are brought under the court's trusts jurisdiction. For example, trustees and/or employers may bring claims for professional negligence against former advisers, or action taken under statutory powers, for example by the Pensions Regulator, or statutory appeals, for example from the Pensions Ombudsman.

The Business List also includes a Financial Services and Regulatory sub-list, to cover financial claims where the Financial Conduct Authority is a party, claims under the Financial Services and Markets Act 2000, and claims involving regulators (other than the Pensions Regulator).

## **(3) Commercial Court (QBD)**

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## **(a) Commercial Court**

The Commercial Court deals with complex cases arising out of business disputes, both national and international, encompassing all aspects of commercial disputes, in the fields of banking and finance, shipping, insurance and reinsurance and commodities. The Court also acts as a supervisory court for arbitration, dealing with the granting of freezing and other relief in aid of arbitration, challenges to arbitration awards and enforcement of awards.

This list deals with cases such as:

- disputes over contracts and business documents
- insurance and reinsurance
- sale of commodities
- import, export and transport ('carriage') of goods
- issues relating to international and commercial arbitration
- banking and financial services
- agency and management agreements
- sale and purchase of businesses and commercial share sale agreements
- oil, gas and energy disputes
- professional negligence in commercial circumstances

## **(b) Circuit Commercial Court (QBD) (formerly the Mercantile Court)**

Formerly known as the Mercantile Court, it deals with business disputes of all kinds apart from those which, because of their size, value or complexity, will be heard by the Commercial Court. As well as large cases, it also decides smaller business disputes. There are no restrictions on the size of claims which can be brought to the Circuit Commercial Court. The Court also acts as a supervisory court for arbitration, dealing most often with the challenges to arbitration awards and enforcement of awards. Cases will ordinarily be heard if they are of a genuine business nature and appropriate for the court. This list deals with cases such as:

- disputes over contracts and business documents
- insurance and reinsurance
- sale of goods
- import, export and transport ('carriage') of goods

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- professional negligence in commercial circumstances (eg solicitors and accountants)
- issues relating to arbitration awards
- restraint of trade
- banking and financial services
- agency and management agreements
- share sale agreements
- confidential information
- injunctions

#### **(4) Competition List (ChD)**

This list deals with claims brought under Article 101 and Article 102 of the Treaty on the Functioning of the European Union (“TFEU”), and also claims brought under the corresponding provisions of UK domestic law contained in Chapters I and II of Part 1 of the Competition Act 1998.

Article 101 (EU law claims) and Chapter I of Part 1 of the Competition Act 1998 (UK domestic law claims) prohibit agreements, concerted practices, or decisions by associations of undertakings whose object or effect is to prevent, restrict or distort competition.

Article 102 (EU law claims) and Chapter II of Part 1 of the Competition Act 1998 (UK domestic law claims) are aimed at preventing abusive behaviour by undertakings who hold a dominant position in a relevant geographic and product market (eg by imposing unfair prices or unfair trading arrangements).

A claim may be for an injunction to restrain an alleged breach or threatened breach of the competition rules, and/or for damages resulting from such a breach. Proceedings frequently involve consideration of economic or technical issues on which expert evidence is called. The procedure is governed by the Practice Direction on Competition Law (See further Ch.29 (7) of the Chancery Guide).

*(Note: claims such as those identified above may also be brought in the Competition Appeal Tribunal, whose jurisdiction was expanded by the Consumer Rights Act 2015 to bring it largely into line with that of the High Court. However, by virtue of the 2015 Act the Competition Appeal Tribunal has the exclusive*

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*jurisdiction over certain proceedings for collective redress for infringement of the competition rules.)*

Although a claim under paragraph 1 of the Practice Direction on Competition Law may be issued in any of the district registries with which it has significant links (see paragraph 7 above), its case management and/or trial will be dependant on the availability of a suitable judge.

## **(5) Financial List (ChD/Commercial Court - QBD)**

The Financial List is a specialist cross-jurisdictional list set up to address the particular business needs of parties litigating on financial matters. Disputes that are eligible for inclusion are those that principally relate to financial disputes of over £50m or equivalent, and which require particular market expertise or raise issues of general market importance. The list can deal with cases:

- generally worth more than £50 million
- which need expert judicial knowledge of financial markets
- which raise important issues for the sector

## **(6) Insolvency and Companies List (ChD)**

This list deals with both personal and corporate insolvency on the one hand, and companies work on the other hand.

Specifically, the work includes:

### *Insolvency*

- applications concerning company voluntary arrangements;
- administration applications and applications concerning administrations;
- petitions to wind up companies and partnerships;
- applications concerning the winding up of companies and partnerships (whether in members or creditors voluntary liquidation or following winding up by the court);
- applications concerning individual voluntary arrangements;
- bankruptcy petitions and applications concerning bankruptcy;

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- applications relating to transaction avoidance in both personal and corporate insolvency;
- applications under the Cross-Border Insolvency Regulations
- petitions and applications under the Insolvency Act 2016 or the Administration of Insolvent Estates of Deceased Persons Order 1986.

## *Directors' disqualification*

- claims for the disqualification of unfit directors;
- applications for permission to act as a director after disqualification.

## *Company law*

- unfair prejudice petitions/shareholder disputes;
- applications for the confirmation of a reduction of capital;
- applications concerning schemes of arrangement
- other claims and applications under the Companies Act 2006, FISMA 2000, or the Companies (Cross-Border Mergers) Regulations 2007

This list of examples is not exhaustive.

## **(7) Intellectual Property List (ChD)**

The following matters must be dealt with in either the Patents Court or the IPEC (multi-track):

- (1) claims under the Patents Act 1977
- (2) claims under the Registered Designs Act 1949
- (3) claims under the Defence Contracts Act 1958
- (4) claims relating to Community registered designs, semiconductor topography rights or plant varieties  
(collectively "registered rights claims")

Claims under the Trade Marks Act 1994 and the other intellectual property claims set out at paragraph 16.1 of Practice Direction 63 (collectively "general intellectual property claims") must be dealt with in either the Intellectual Property List generally or the IPEC.

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There is no lower limit on the value of claims that may be commenced in the Intellectual Property List. Where, however, the damages or sums payable on an account of profits are likely to be £500,000 or less, consideration should be given to issuing the claim in the IPEC.

## *Intellectual property claims outside London*

Intellectual property claims may be issued in B&PCs District Registries. However the case management and/or trial of a claim in the Patents Court or the IPEC in the B&PCs District Registry in question will be dependent on an appropriate judge being made available in the district registry in question.

## **(8) Property, Trusts and Probate List (ChD)**

This list covers a large amount of Chancery work which is separate from the Business List. The examples given below are not intended to be a definitive list. The Property list deals mainly with land, and the Trusts list with matters that fall within Part 64 of the CPR, i.e. the administration of estates and the execution of trusts, and with charities. The Probate list covers all matters which fall within Part 57 of the CPR.

### **Property**

- Landlord & Tenant residential
- Landlord & Tenant commercial
- Trespass/squatters
- Mortgages
- Land Registry
- Land – title, easements, restrictive covenants etc
- Orders for sale to enforce charging orders
- Trusts of Land and Appointment of Trustees Act 1996 (TOLATA)

### **Trusts**

- Variation of trusts
- Removal of trustees
- Claims against trustees for breach of trust
- Issues of construction/rectification

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Trustees/Personal Representatives seeking directions including Beddoe applications

Disputes about trust property

Applications for prospective costs order

Charities

Applications for administration order

## **Probate**

Contentious Probate claims

Rectification of wills

Substitution or removal of Personal Representatives

Inheritance Act

Presumption of Death Act

## **(9) Revenue List (ChD)**

Claims involving major points of principle relating to taxation where HMRC is a party. (This List does not include claims for the recovery of taxes or duties or where a taxpayer disputes liability to pay tax. Such claims fall within the Business list).

## **(10) Technology & Construction Court (QBD)**

This list can be divided into three areas of work as follows:

(a) **Adjudication disputes.**

These are claims to enforce or challenges to adjudicators' decisions arising out of the Housing Grants' Construction and Regeneration Act 1996 (as amended).

(b) **Public procurement.**

This concerns all kinds of public procurement (not limited to construction or engineering projects) and involves, amongst other things, applications to lift the automatic suspension, and challenges to tender evaluations and decisions to award contracts.

(c) **The General TCC list.**

This includes:

- Building and engineering disputes.

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- Claims by and against architects, engineers, surveyors, accountants and other specialised advisors relating to the services they provide.
- Claims involving issues that are technically complex.
- Claims relating to the design, supply and installation of computers, software and related network systems.
- Claims relating to the supply and provision of materials, goods, plant and other services.
- Claims by and against local authorities relating to their statutory duties concerning the development of land or the construction of buildings.
- Dilapidation claims as between landlord and tenant.
- Environmental claims, including pollution and reclamation.
- Nuisance claims relating to land use.
- Claims arising out of fires, explosions and other catastrophic events.
- Insurance disputes relating to construction, engineering and technology.
- Contractual disputes involving oil and gas installations, onshore and offshore, and ship building.
- Any arbitration claim under the Arbitration Act 1996, including challenges to decisions of arbitrators in construction and engineering disputes and/or application for permission to appeal and appeals in such cases.

## **Titles of Claims**

15. All claims issued in the Business and Property Courts must be titled as in the following examples:

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
PROPERTY TRUSTS AND PROBATE LIST (ChD)**

or

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN MANCHESTER**

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**BUSINESS LIST (ChD)**

or

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN WALES  
TECHNOLOGY AND CONSTRUCTION COURT (QBD)**

16. For claims which belong in one of the sub-lists, it is not necessary to include the overarching list/court in the title (although parties can do so if they would prefer to do so). The sub-list title suffices, as follows:

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
LONDON CIRCUIT COMMERCIAL COURT (QBD)**

or

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN BIRMINGHAM  
PATENTS COURT (ChD)**

or

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
COMPANIES COURT (ChD)**

17. When lodging an appeal to the Technology and Construction Court or the Patents Court, the case should be marked accordingly. For all other appeals to the Business and Property Courts, the title should be as follows:

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
APPEALS (ChD)**

or

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN BRISTOL  
APPEALS (ChD)**

18. When issuing proceedings, the general rule, which has not changed, is that below the title of the court in which the claim is issued, the title of the claim should contain only the names of the parties to the proceedings. There are however various exceptions. Examples include:

- (i) Proceedings relating to arbitrations

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- (ii) Proceedings relating to the administration of an estate should be entitled "In the estate of AB deceased"
- (iii) Contentious probate proceedings should be entitled "In the estate of AB deceased (probate)"
- (iv) Proceedings under the Inheritance (Provision for Family and Dependants) Act 1975 should be entitled "In the Matter of the Inheritance (Provision for Family and Dependants) Act 1975"
- (v) Proceedings relating to pension schemes should be entitled "In the Matter of the [ ] Pension Scheme"
- (vi) Proceedings in the Companies Court should be entitled "in the matter of [the relevant company or other person] and of [the relevant legislation]"
- (vii) A claim form to which Section I of Part 63 applies (patents and registered designs) must be marked "Patents Court" below the title of the court in which it is issued (PD 63 paragraph 3.1(a))
- (viii) a claim form to which Section II of Part 63 applies (e.g. copyright, registered trade marks, Community trade marks and other intellectual property rights) must, except for claims started in the Intellectual Property Enterprise Court (IPEC), be marked "Intellectual Property" below the title of the court in which it is issued (PD 63 paragraph 17). Claims relating to trade marks and Community trade marks must state the registration number of the trade mark
- (ix) proceedings under the Presumption of Death Act 2013 should be entitled "In the matter of an application for a declaration of the presumed death of [name]."

19. The new headings indicated above should be used throughout the Business & Property Courts for new cases issued after 2<sup>nd</sup> October 2017. The headings of orders made subsequently to 2<sup>nd</sup> October 2017 may (but are not required to) refer to the Business and Property Courts and the list or court in which the case would be were it to have been issued on or after 2<sup>nd</sup> October 2017, or they may continue to refer to the jurisdiction in which they were originally issued. A date will shortly be identified after which the headings of orders will be required to be in the new Business and Property Courts form.

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20. The daily cause list published in the Business and Property Courts will list all the courts and lists in alphabetical order, indicating for each court/list which judge is sitting (in order of seniority), at what time, and in which court room. Those Business and Property Courts centres that operate fewer courts and lists than the Business and Property Courts of England & Wales may list all Business and Property Courts cases in a single daily list, or divide the cases by court/list, as preferred.
21. Existing claims, issued before 2<sup>nd</sup> October 2017, will retain their claim numbers. These will not change at any stage.
22. All claims issued in London on or after 2<sup>nd</sup> October 2017 are given a claim number with a prefix that reflects the Court, List or sub-list in which they are issued, in accordance with the table below, which can be found on CE-File.

| List                              | Sub-List  | Pre-Fix |
|-----------------------------------|---|---------|
| Admiralty Court                   | Admiralty Court                                   | AD      |
| Appeals (ChD)*                    | Appeals (ChD)                                     | CH      |
| Business List                     | Business  | BL      |
|                                   | Financial Services and Regulatory                 | FS      |
|                                   | Pensions  | PE      |
| Commercial Court                  | Commercial Court                                  | CL      |
|                                   | London Circuit Commercial Court                   | LM      |
|                                   | Circuit Commercial Court (other than London)*     | CC      |
| Competition List                  | Competition List                                  | CP      |
| Financial List                    | Financial List                                    | FL      |
| Insolvency & Companies List       | Insolvency List                                   | BR      |
|                                   | Companies Court                                   | CR      |
| Intellectual Property List        | Intellectual Property                             | IL      |
|                                   | Intellectual Property and Enterprise Court (IPEC) | IP      |
|                                   | Patents Court                                     | HP      |
| Property Trusts and Probate List  | Property Trusts and Probate                       | PT      |
| Revenue List                      | Revenue List                                      | RL      |
| Technology and Construction Court | Technology and Construction Court                 | HT      |

\*NB: "Appeals (ChD)" is not a list in itself (and indeed does not exist in any centre other than London), but rather an option that can be selected on CE-File to lodge an appeal from Chancery-type cases decided in the County Court. TCC County Court

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cases will continue at present to be appealed through QBD appeals, although this may change when the centres outside London option an electronic filing system.

\*NB: outside London the “Commercial Court” list option will be replaced by the Circuit Commercial Court and no sub list will exist. The Circuit Commercial Court replaces the Mercantile Court, and in London it will be called the London Circuit Commercial Court. On the CE-File system the London Circuit Commercial Court appears as a sub-list of the Commercial Court (although strictly speaking it is not). The prefix for the Circuit Commercial Court other than the London Circuit Commercial Court will in due course be CC.

23. At present, case numbers in the centres outside London are not changing, and will only change once CE-File is introduced in those centres.

## **Claim Form marking**

24. All claim forms and all subsequent court documents relating to business or property work issued in the High Court must be marked “Business and Property Courts”; and all such claims issued in the County Court must be marked “Business and Property Courts Work” by court staff, for proper triage.

25. In addition:

- Claims in the Shorter Trials Scheme must be marked in the top right hand corner “Shorter Trials Scheme”.
- Where the claim is a probate claim, the claim form and all subsequent court documents must be marked at the top “In the estate of [name] deceased (Probate)”.
- A claim form to which Section I of Part 63 applies (patents and registered designs) must be marked “Patents Court” below the title of the court in which it is issued.

## **Transfer of Proceedings**

26. Cases that have specific links with a locality must be capable of being tried in that locality by a specialist judge. Therefore, although the transfer criteria in CPR rule 30.2 (transfer between the County Court and the High Court) and 30.5 (transfer between High Court Divisions and to or from a specialist list)

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continue to apply, new transfer rules set out in the Practice Direction will also apply alongside the existing criteria for a transfer order in CPR rule 30.3.

27. When considering whether to make an order for transfer between the Royal Courts of Justice and the District Registries when the proceedings are in the Business and Property Courts, the court must, in addition to the criteria in CPR rule 30.3, also have regard to:

(a) significant links between the claim and the circuit in question, considering the factors listed in paragraph 11 above;

(b) whether court resources, deployment constraints, or fairness require that the hearings (including the trial) be held in some other court than the court it was issued into;

(c) the wishes of the parties, which bear special weight in the decision but may not be determinative;

(d) the international nature of the case, with the understanding that international cases may be more suitable for trial in centres with international transport links;

(e) the availability of a judge specialising in the type of claim in question to sit in the court to which the claim is being transferred.

28. An application for a transfer from the Rolls Building to or from a B&PCs District Registry or from a B&PCs District Registry to another such District Registry or to the Rolls Building must be made to the court from which transfer is sought and must additionally be discussed with and consented to by the receiving court. It will be sensible practice for the parties to discuss transfer with the appropriate judge at the receiving court before they apply for an order for transfer. If the parties are uncertain about the availability of a specialist judge, they should discuss this with the Listing Manager at the receiving court.

29. In addition to the provisions set out in CPR 30.3, the Business and Property Courts considering whether to make an order for transfer from the Business and Property Courts to a county court hearing centre must have regard to:

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(a) to the nature of the claim, in accordance with guidance as to what business falls within the specialist work of the B&PCs, provided at paragraphs 4.2 to 4.5 of the Practice Direction; and,

(b) to the availability of a judge specialising in the corresponding type of claim to sit in an appropriate court in the circuit.

30. The following guidelines, which relate to transfers to a District Registry outside London, the County Court, or another Division of the High Court, are still relevant and should also be followed.

- Only cases which may properly be regarded as being suitable for management and trial in London will be retained there. All other claims will be transferred out. Active consideration will be given at all stages of the management of a claim to the appropriate venue for the claim to be managed and tried. If a case is suitable for transfer, it is generally preferable for it to be transferred before detailed case management has taken place, leaving the receiving court to case manage the claim in accordance with its usual approach.
- Consideration will be given, where relevant, to:
  - PD 29 paragraphs 2.1 to 2.6 which provide guidance for case management within the High Court in London;
  - Part 49 and PD 49A and PD 49B – Specialist Proceedings;
  - Part 57 – Probate and Inheritance;
  - Part 63 – Intellectual Property.
- Under PD 29 paragraph 2.2 a claim with a value of less than £100,000 will generally be transferred to the County Court unless it is required by an enactment to be tried in the High Court, it falls within a specialist list, or it falls within one of the categories specified in the list at PD 29 paragraph 2.6.
- The figure of £100,000 in PD 29 paragraph 2.2 accords with the current minimum value of money claims which may be issued in the High Court. It does not follow that money claims of over £100,000 (or over £300,000 (the value figure beyond which court fees do not increase)) will be retained. The

# Appendix C: Advisory Note

value of a claim is not a consideration which has greater weight than the other criteria set out in CPR rule 30.3(2) but it is likely to be a factor with considerable influence in making a decision about transfer to the County Court or a specialist list. Similarly, for probate and equity claims, the figures of £30,000 and £350,000 respectively are not determinative.

- If the value of the claim is ascertainable, the court will consider the possibility of transferring Part 7 claims with a value of less than £500,000. Factors which may point to retention of such claims in the High Court include complex facts and/or complex or non-routine legal issues or complex relief; parties based outside the jurisdiction; public interest or importance; large numbers of parties; any related claim; and the saving of costs and efficiency in the use of judicial resources.
- The availability of a judge with the specialist skills to deal with the claim is always an important consideration when considering whether or not to transfer it. There are for example two circuit judges at Central London County Court who are specialised in Chancery work, and the waiting times at Central London are likely to be shorter than in the High Court for a trial before a judge. The delay in having a case heard should also be a consideration when deciding whether to transfer a case to the County Court or not and regard will be had to listing information provided by the Central London CC Business and Property Court team. The order for transfer of a claim to Central London County Court, may include a direction that the case is considered to be suitable for trial only by a specialist circuit judge. Such a direction is not binding on the County Court but should be taken into account.
- PD 29 paragraphs 2.6(1), (3) and (7) indicates that professional negligence claims, fraud and undue influence claims and contentious probate claims are suitable for trial in the High Court, but it does not follow that claims within these categories should necessarily remain in the High Court. Less complex and/or lower value claims of these types are suitable for trial in Central London County Court, as Business and Property Court Work. Serious cases of fraud, however, should generally remain in the High Court. Certain professional negligence claims may be better suited to the Queen's Bench Division.

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- Part 7 and Part 8 claims may sometimes be dealt with more efficiently by a Master rather than transferring the claim, especially since the amendments to PD 2B which came into effect on 6 April 2015.
- Many claims under the Inheritance Act will be suitable for trial in the County Court and should generally be transferred to Central London County Court, Business and Property Court List unless the Master is willing to try the claim and it is efficient to do so. Inheritance Act claims by a spouse will usually be suitable for transfer to the Family Division. Where there is a related Probate claim, or other Part 7 claim, the overall scope of the issues before the Court should be considered and generally all related claims should either be retained in the High Court or transferred out. The County Court limit for probate claims is £30,000, but claims well above that figure should be transferred to the County Court nonetheless.
- Most claims relating to joint ownership under the Trusts of Land and Appointment of Trustees Act 1996 will be suitable for transfer to the County Court.

31. An application to transfer a case into the shorter trials scheme may be made to a Judge or, in the relevant list, to a Master.

Sir Geoffrey Vos  
Chancellor of the High Court  
13<sup>th</sup> October 2017

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

## ORDERS IN THE SPECIALIST CIVIL COURTS IN LEEDS

### GUIDANCE NOTE

#### Introduction

1. The coming into operation of The Business and Property Courts in Leeds on 2 October 2017 is an opportunity to remind court users about how they can assist the court in the production of orders, with a view to orders being produced as efficiently and quickly as reasonably possible.
2. This note applies only to the following:
  - a. Orders which are required to be produced following a hearing (whether in person or by telephone) before a High Court Judge, s.9 Judge or Deputy High Court Judge (“a Judge”) in one of the courts or lists of The Business and Property Courts in Leeds (which comprise the Chancery Division, the Technology and Construction Court and the Circuit Commercial Court (previously known as the Mercantile Court)). In this context, hearings include, for example, trials and applications in the applications list;
  - b. Draft consent orders which a Judge is asked to make without a hearing, in proceedings in The Business and Property Courts in Leeds;
  - c. Other draft orders which accompany an application notice, in proceedings in The Business and Property Courts in Leeds, where the applicant requests, in the application notice, that the application is to be determined without a hearing.
3. Nothing in this note is intended to, nor does anything in this note, alter the requirements of the Civil Procedure Rules or the Practice Directions. Court users are still required to comply with the Civil Procedure Rules and the Practice Directions. This note sets out the additional steps which the court expects users to take to assist it in the more efficient production of orders in The Business and Property Courts in Leeds.

#### Steps to be taken – Hearings

4. Where there is a hearing, the Judge will usually order one of the legally represented parties to serve a copy of the order on the other parties. If the Judge omits to do so, it is the responsibility of the parties to seek such an order from the Judge. It is the responsibility of the party who is required to serve the order to file a draft order.
5. Following the hearing, the party required to file the draft order must, at the same time, file confirmation from each of the other parties that they agree the form of draft order, unless the court orders otherwise. Such confirmation can be in the form of an email chain showing the agreement of the legal representatives of the parties or the parties themselves.
6. In rare cases, where agreement as to the form of draft order is not possible, it should be made clear, when the draft order is filed, to what extent there is agreement and to what extent there is disagreement, so that the Judge can consider how to resolve the dispute. If

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

the parties are agreed that the Judge may resolve their disagreement without a further hearing, that fact should also be confirmed to the court.

## Steps to be taken – Orders without hearings

7. In relation to:
  - a. Draft consent orders which a Judge is asked to make without a hearing, the filing party must, in addition to filing an electronic copy, also file a paper copy of the draft consent order in the form required by Part 40 of the Civil Procedure Rules and the filing party must otherwise proceed as if an electronic copy of the draft consent order had not been filed. Additionally, the parties must have agreed which party is to be the serving party;
  - b. Any other application where the applicant requests that it is to be determined without a hearing, the applicant must file an electronic copy of the draft order to assist the court. However, the applicant must also proceed as if an electronic copy of the draft order had not been filed. In drafting the order, the applicant is to assume that, if the court makes an order without a hearing, it will also order that the applicant is to be the serving party.

## Steps to be taken generally

8. Whenever a draft order is filed it must be filed as a Word attachment to an email; however else it is also filed.
9. It must comply with paragraphs 22.3 and 22.4 of the Chancery Guide (as amended, most recently, in October 2017). (A copy of the Chancery Guide is available at [www.judiciary.gov.uk/wp-content/uploads/2017/09/chancery-guide-bpcs-amendments-20171002.pdf](http://www.judiciary.gov.uk/wp-content/uploads/2017/09/chancery-guide-bpcs-amendments-20171002.pdf)). In particular, the draft order must:
  - a. Where the identity of the Judge and the date the order was made is known, state those details, immediately below that part of the heading which identifies the court; for example:

“HIS HONOUR JUDGE [NAME] SITTING AS A JUDGE OF THE HIGH COURT

[Date]”;
  - b. If made following a hearing, record, in the recitals, if the Judge heard from legal representatives, not only that fact, but their names; for example:

“Upon hearing Ms Eve Jones, counsel for the Claimant, and Mr Adam Smith, solicitor advocate for the Defendant”
  - c. If it is by consent, state that fact;
  - d. As the final paragraph in the body of the order, provide: “This order shall be served by [party] on the [party/parties];”
  - e. Contain, at the end of the draft order, the following text:

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

## “Service of order

The court has provided a sealed copy of this order to the serving party: [name of serving party’s solicitors], [postal address], [DX address, if available], [reference]”.

An example of these requirements is at paragraph 22.8 of the Chancery Guide.

10. Annexed to this guidance note, is a guide to the correct heading for court documents in the Business and Property Courts in Leeds. It is important to note that documents in existing proceedings (that is, those begun before 2 October 2017) will continue to be headed as they were before the coming into operation of the BPCs, unless and until, in the case of Chancery Division proceedings, they are allocated **by the court** to a list or sub-list of the Business and Property Courts in Leeds. Such allocation may be of the court’s own motion or at a hearing when the case is next before the court. Parties should not make a separate application in this respect but should raise the matter (orally or on paper) before the Chancery court when the case is next before the court.
11. As regards Tomlin Orders, if the document (the Schedule) recording the parties’ agreement is intended to be confidential, the parties can adopt the practice suggested in the Chancery Guide of identifying the document but not annexing it to the order. In such cases, both the document and where it is held must be clearly identified; for example:

“AND the parties having agreed the terms set out in a confidential [schedule/agreement] dated [date], copies of which are held by Smith & Co., the solicitors for the Claimant, and Jones LLP, the solicitors for the Defendant”.
12. Where it is possible to do so, the draft Tomlin Order should contain the following additional recital:

“AND the solicitors having certified that the only relief sought in this claim/counterclaim is the payment of money including any interest and costs, and that no ancillary relief has been sought at any stage”
13. The e-mail address for the filing of electronic versions of draft orders is [orders@leeds.districtregistry.gsi.gov.uk](mailto:orders@leeds.districtregistry.gsi.gov.uk). The subject line of the covering e-mail must contain the following information, in the following order:
  - a. Claim number;
  - b. Short title of the claim (for example; Smith v. Jones);
  - c. If the draft order relates to a hearing before a Judge which has already taken place, the following statement: “Draft order for approval – Hearing before [name of Judge] on [date]”.
14. If the draft order relates to an application for the making of a consent order without a hearing, the body of the e-mail must also contain the following information:
  - a. That attached to the email is a Word version of a draft consent order for a Judge’s approval;

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

- b. The date the application or request for the making of a consent order was filed at court;
  - c. How and when the fee for the application or request was paid.
- 15. If the draft order relates to any other application in respect of which the applicant has requested a determination by a Judge without a hearing, the body of the e-mail must also contain the following information:
  - a. That attached to the e-mail is a Word version of the draft order which accompanied an application which the applicant has requested, in the application notice, is dealt with without a hearing;
  - b. The date the application notice was filed;
  - c. How and when the fee for the application was paid.
- 16. The court is willing to return the sealed copy of the order as a PDF attachment to an email to the solicitors for the party ordered to serve the order. At present, the court is only able to do so if it receives an express written request from those solicitors for the court to return the sealed copy of the order in this way. If, therefore, those solicitors wish to receive the sealed copy of the order as a PDF attachment to an email (e.g. to assist with service of the order), the draft order, from whomever it is received by the court, must be accompanied by such a written request from the solicitors.
- 17. If, in a particular case, a party cannot comply with the guidance contained in this note or believes that compliance will be difficult, the party should contact the court by telephone, explaining the difficulty, and the matter will be referred to a Judge. The telephone number for this purpose is: 0113 306 2461.
- 18. More generally, if court users experience problems in applying the guidance, they should raise the matter with a member of the Court Users' Committee for The Business and Property Courts in Leeds.

HH Judge Mark Raeside QC

HH Judge Davis-White QC

HH Judge Klein

HHJ Judge Saffman

Updated 20 October 2017

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

## **ANNEX: HEADINGS FOR COURT DOCUMENTS IN THE BUSINESS AND PROPERTY COURTS IN LEEDS (WHERE PROCEEDINGS BEGIN ON OR AFTER 2 OCTOBER 2017)**

1. Court users will know that the BPCs PD says as follows:

“The work of the Business and Property Courts is divided and listed into the following courts or lists: the Admiralty Court, the Business List, the Commercial Court, the Circuit Commercial Courts, the Competition List, the Financial List, the Insolvency and Companies List, the Intellectual Property List, the Property, Trusts, and Probate List, the Revenue List, and the Technology and Construction Court.

The courts or lists of the Business and Property Courts include sub-lists, as follows:

- i. The Pensions sub-list and Financial Services and Regulatory sub-list are sub-lists of the Business List;
  - ii. The Patents Court and Intellectual Property Enterprise Court are sub-lists of the Intellectual Property List.”
2. Court users will also know that these courts, lists and sub-lists operate in either Chancery Division or Queen’s Bench Division; as follows:
    - a. QBD  
Commercial Court, Admiralty Court, Circuit Commercial Courts, Technology and Construction Court.
    - b. ChD  
Business List, Insolvency and Companies List, Intellectual Property List, Property, Trusts, and Probate List, Competition List, Revenue List.
    - c. QBD or ChD  
Financial List.
  3. Against this background, below are examples of the correct form of headings for court documents.

### All cases in the BPCs in the High Court – other than the CCC (for the present)

4. This is an example of a case in the Business List (but not one of its sub-lists):

Claim No.

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
BUSINESS LIST (ChD)

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

5. This is an example of a case in the Pensions sub-list of the Business List:

Claim No.

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
PENSIONS (ChD)

6. This is an example of a case in the Technology and Construction Court

Claim No.

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
TECHNOLOGY AND CONSTRUCTION COURT (QBD)

## Cases in the Circuit Commercial Court

7. CPR Pt.59 PD provides that, in the Circuit Commercial Court, the form of heading is as follows:

Claim No.

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
LEEDS DISTRICT REGISTRY  
CIRCUIT COMMERCIAL COURT

8. However, in the light of the Chancellor's Advisory Note, the following form of heading is equally acceptable:

Claim No.

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
CIRCUIT COMMERCIAL COURT (QBD)

9. It is expected that, in the near future, the Practice Direction will be amended to bring it into line with the Chancellor's Advisory Note.

# Appendix D: Orders in the Specialist Civil Courts in Leeds: Guidance Note

Cases in the County Court which are Business and Property Work (i.e. which were previously County Court Chancery Business or TCC County Court cases)

10. The heading should be:

Claim No.

IN THE COUNTY COURT AT LEEDS  
BUSINESS AND PROPERTY WORK

## Chancery Appeals

11. When lodging an appeal to the Technology and Construction Court or the Patents Court, the case should be marked accordingly. For all other appeals to or in the Business and Property Courts in Leeds, the title should be as follows:

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN LEEDS  
APPEALS (ChD)

# Appendix E: Practice note, The Business and Property Courts: by Practical Law Dispute Resolution



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## The Business and Property Courts

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Practice notes | **Maintained** | England, Wales

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### Scope of this note

This note provides an introduction to the [Business and Property Courts](#) (B&PCs), which came into operation on 2 October 2017.

Points outlined in this note include:

- Constituent courts, lists and sub-lists of the B&PCs.
- Advantages of the B&PCs.

# Appendix E: Practice note, The Business and Property Courts: by Practical Law Dispute Resolution

- Where to find the rules and guidance.
- Key procedural points to note, including:
  - the courts, lists and sub-lists;
  - issuing a claim;
  - determining the appropriate location or hearing centre;
  - transfers;
  - appeals; and
  - points to note for claims commenced before the B&PCs came into operation.
- The future.

## Constitution of the B&PCs

The Business and Property Courts is a new umbrella term for the specialist civil jurisdictions across England and Wales.

The B&PCs came into operation on 2 October 2017, in the following centres:

- Birmingham.
- Bristol.
- Cardiff.
- Leeds.
- London (the Rolls Building).
- Manchester.

It is expected that the B&PCs will be established in Liverpool and Newcastle shortly.

The [Practice Direction making document in respect of the 92nd CPR Update](#) received ministerial sign off on 20 November 2017, and is stated to have come into effect the day after it was signed (see [Legal update, Practice direction making document for 92nd CPR Update published](#)). This introduced Practice Direction - Business and Property Courts (PD).

There are different ways of referring to the B&PCs, depending on whether reference is being made to all of the B&PCs, the B&PCs in London, those located in District Registries (other than Cardiff) or the B&PCs in Wales.

- **The Business and Property Courts (B&PCs):** These constitute the Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Circuit Commercial Court (previously known as the London Mercantile Court), and the Admiralty Court in the Royal Courts of Justice, Rolls Building, together with the Chancery Division of the High Court, the Technology and Construction Court and the Circuit Commercial Courts in the District Registries of the High Court in Birmingham, Bristol, Leeds, Manchester and Cardiff (see paragraph 1.1 of the PD).
- **The B&PCs of England and Wales:** These constitute the B&PCs located at the Royal Court of Justice, Rolls Building (see paragraph 1.2 of the PD).
- **The B&PCs in Wales:** The Advisory Note explains that the main centre for the B&PCs in Wales is Cardiff, but that judges of the courts will sit in other venues in Wales, where appropriate and applicable (see paragraph 1.2 of the PD).
- **The BPCs District Registries:** These constitute the B&PCs in the District Registries in Birmingham, Bristol, Leeds, Manchester and Cardiff (see paragraph 1.2 of the PD).
- **A specific BPC District Registry:** When referring to a specific court, the correct format is: the B&PCs in Birmingham, or the B&PCs in Bristol, for example. When referring to Cardiff, though, it should be described as the B&PCs in Wales (see paragraph 1.2 of the PD).

# Appendix E: Practice note, The Business and Property Courts: by Practical Law Dispute Resolution

## Advantages of the B&PCs

A press release announcing the plan to launch the B&PCs was issued in March 2017 ([Judiciary: Business and Property Courts: Media Release \(13 March 2017\)](#)). At that time, it was hoped that the B&PCs would come into operation in June 2017, but the launch was delayed due to the unexpected calling of the general election.

An explanatory statement published on 18 May 2017 (see [Legal update, Explanatory statement on the Business and Property Courts](#)) identified the following expected benefits of the B&PCs:

- **An intelligible name:** “Business and Property Courts” is intended to be a user-friendly understandable umbrella term for UK plc’s national and international dispute resolution jurisdictions. Legal services providers will be able to convey to international and domestic clients an all-encompassing picture of the courts’ offering. The B&PCs will continue to offer the best court-based dispute resolution service in the world, served by a top-class, independent specialist judiciary.
- **Regional B&PCs joined up with London:** The B&PCs are a single umbrella for business specialist courts across England and Wales. A “super-highway” between the B&PCs at the Rolls Building and those in the regions will ensure that international businesses and domestic enterprises are equally supported in the resolution of their disputes.
- **Flexible cross-deployment of judges:** The B&PCs facilitate the flexible cross-deployment of judges with suitable expertise and experience to sit in business and property cases across the courts.
- **Familiar procedures:** The B&PCs build on the reputation and standing of the Commercial Court, the TCC and the courts of the Chancery Division, while allowing for the familiar procedures and practices of those jurisdictions to be retained.

Similar messages were given by senior members of the judiciary at launch events in London and Leeds (see [Blog post, On the “super-highway” to more joined up and competitive courts across England and Wales](#)).

Emphasis has also been placed on the potential benefits for the regions, noting Briggs LJ’s statement (in the context of his Civil Courts Structure Review) that “no case should be too big for the regions” (see [Legal update, Briggs LJ’s Civil Courts Structure Review: Final Report and recommendations](#)). Assurances have been given of a financial commitment to have a critical mass of specialist judges in each of the regional centres, and judges have been, and are being, recruited. However, it is noteworthy that one of the key factors that will influence the appropriate location for a case to be issued (and subsequently managed and tried) will be the availability of a suitably qualified judge. The PD expressly recognises that there will not always be suitably qualified judges to case manage and try certain specialist claims issued in the BPCs District Registries (notably certain competition and intellectual property claims: see paragraphs 2.5(2) and (3) of the PD). However, whereas, previously, it was not envisaged that Financial List cases, for example, would ever be heard elsewhere than in London, there is now a procedure in place providing for consideration of whether a particular case warrants a hearing outside London.

## Relevant rules and guidance

### Specific B&PCs practice

There are two key sources of procedural guidance specifically on B&PCs practice:

- **Practice Direction – Business and Property Courts (PD).** Due to delays in securing ministerial sign off of the PD, it was initially circulated in draft (see [Legal update, Making document for 92nd CPR Update circulated in draft](#)). This was a pragmatic step to assist practitioners. The PD finally received ministerial sign off on 20 November 2017, and is stated to have come into force the day after it was signed. The final version of the PD is identical to the previously circulated draft, save for one correction of a minor typo in paragraph 5.1 (simply deleting the word “that” before “PD52A”). The

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PD will be added, in the general list of un-numbered practice directions on the Justice website, after Practice Direction – Solicitors negligence in right to buy cases.

- **The Business and Property Courts Advisory Note, by Sir Geoffrey Vos, Chancellor of the High Court, dated 13 October 2017** (see [Legal update, Business and Property Courts updated advisory note](#)).

The PD is the best starting point, whilst the Advisory Note fleshes out the detail.

The Advisory Note has already been updated to respond to queries raised by practitioners, and is headed up with the statement, “This note is likely to be updated on a regular basis”. This suggests that there will be a pragmatic approach, and that procedures will be tweaked, or clarified, to address any issues that come to light as the courts start to operate. This is encouraging, as the Advisory Note can be a more agile vehicle for communicating changes.

Practitioners with cases in the B&PCs in Leeds should also note the specific guidance note, [Orders in the specialist civil courts in Leeds](#) (see [Legal update, Guidance note on orders in the Business and Property Courts in Leeds](#)).

## **CPR and relevant Court Guides apply**

Paragraph 4 of the Advisory Note makes the point that, although the work of the specialist courts has been brought under one umbrella, the courts themselves will continue to operate as they did previously, applying the same practices and procedures under the CPR and retaining their own procedural approaches.

The B&PCs operate within, and are subject to, all statutory provisions, rules and practice directions applicable to the proceedings concerned: for example, CPR 58 in respect of the Commercial Court, CPR 59 in respect of the Circuit Commercial Courts (previously known as mercantile courts) and CPR 63A regarding Financial List cases (see paragraph 1.5 of the PD). Paragraph 2.1 of the PD notes that starting proceedings in the B&PCs is subject to CPR 7 and 8.

It is also essential to check the relevant court guide. Paragraph 1.7 of the PD highlights the need for parties to “give careful consideration to the Chancery Guide, the Admiralty and Commercial Courts Guide (now known as the Commercial Court Guide), the Technology and Construction Court Guide, the Financial List Guide, the Circuit Commercial Court Guide, and the Intellectual Property Enterprise Court Guide (where applicable)”. (See [Court guides](#).)

The Chancery Guide has already been partially updated to reflect the launch of the B&PCs.

## **The court lists and sub-lists**

The work of the B&PCs is divided into lists, some of which have sub-lists, as follows (see paragraph 10 of the PD and paragraph 22 of the Advisory Note):

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| List/sub-lists (where applicable)  | Claim number prefix for claims issued electronically                               |
|--|--|
| Admiralty Court (QBD)  | AD   |
| Business List (ChD):   |  |
| <ul style="list-style-type: none"> <li>• <i>Business</i></li> <li>• <i>Financial Services and Regulatory</i></li> <li>• <i>Pensions</i></li> </ul>   | <ul style="list-style-type: none"> <li>• BL</li> <li>• FS</li> <li>• PE</li> </ul> |
| Commercial Court (QBD):  |  |
| <ul style="list-style-type: none"> <li>• <i>Commercial Court</i></li> <li>• <i>London Circuit Commercial Court</i></li> <li>• <i>Circuit Commercial Court (other than London)</i></li> </ul> | <ul style="list-style-type: none"> <li>• CL</li> <li>• LM</li> <li>• CC</li> </ul> |
| Competition List (ChD)   | CP   |
| Financial List (ChD/QBD)   | FL   |
| Insolvency and Companies List (ChD):   |  |
| <ul style="list-style-type: none"> <li>• <i>Insolvency List</i></li> <li>• <i>Companies Court</i></li> </ul>   | <ul style="list-style-type: none"> <li>• BR</li> <li>• CR</li> </ul>               |
| Intellectual Property List (ChD):  |  |
| <ul style="list-style-type: none"> <li>• <i>Intellectual Property</i></li> <li>• <i>Intellectual Property and Enterprise Court (IPEC)</i></li> <li>• <i>Patents Court</i></li> </ul>         | <ul style="list-style-type: none"> <li>• IL</li> <li>• IP</li> <li>• HP</li> </ul> |
| Property, Trusts and Probate List (ChD)  | PT   |
| Revenue List (ChD)   | RL   |
| Technology and Construction Court (QBD)  | HT   |

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The PD (paragraph 10) and Advisory Note (the second footnote to paragraph 22) both explain that, as far as the Commercial Court is concerned, in London it is possible to issue in the Commercial Court or in the London Circuit Commercial Court (formerly the London Mercantile Court). Outside of London, there is only the option to issue in the Circuit Commercial Court. This reflects the fact that the Commercial Court is a statutory court, established, by statute, in London (and is the reason why the mercantile courts were originally introduced for cases outside London). We understand that, at least in part, the renaming of the mercantile courts as Circuit Commercial Courts is intended to highlight the close links between the Commercial Court and the Circuit Commercial Courts. The PD also provides for cases issued in the Commercial Court to be heard in District Registries, if resources allow.

## Issuing a claim

### Selecting the appropriate list

For claims issued electronically using CE-File (which will be the case for all claims issued in the Rolls Building Courts by professional users of the court), once B&PCs is selected, drop-down options detailing the associated lists and sub-lists will appear. The drop-down list in CE-File also includes “Appeals (ChD)”. This is not an actual list (and only applies to London). This option should be used when lodging an appeal from Chancery-type cases decided in the County Court (see paragraph 22 of the Advisory Note). Appeals can be heard outside London but cannot be lodged on CE-File in that list.

CE-File is not yet available in the District Registries so, for the time being, claims in the B&PCs outside of London should continue to be issued in the same way as previously (manually). It is hoped that CE-File will be extended to the regional B&PCs during 2018. It will be necessary to indicate on the claim form (or to tell listing staff) the appropriate court, list or sub-list, when issuing in the District Registries.

Paragraph 14 of the Advisory Note describes each of the constituent courts, and gives non-exhaustive examples of the types of cases that they deal with. This is designed to help users to identify the correct court, list or sub-list in which to issue.

Paragraph 2.2 of the PD provides guidance on selecting the appropriate list. The approach should be to:

- **Consider the “principal subject matter of the dispute”**(paragraph 2.2(1) of the PD). The Advisory Note expands on this explaining, for example, that a dispute about pensions should be assigned to the Business List and then the Pensions sub-list, even if it also involves professional negligence.
- Where several issues arise, consider whether there are aspects requiring the expertise of a specialist judge and, if so, select the appropriate list in which such judges sit (paragraph 2.2(2) of the PD).

All claims issued in London on or after 2 October 2017 will be given a claim number with a prefix that reflects the court, list or sub-list in which it has been issued. Case numbers for cases outside London will remain unchanged for the time being but will change once CE-File is introduced in those centres, which is expected to be during 2018 (*paragraph 23, Advisory Note*).

Cases that were issued electronically before 2 October 2017 will have been transferred, in CE-File, to the appropriate B&PCs list but will retain their original claim numbers.

For detailed guidance on e-filing, see [Practice note, Electronic working and the Courts Electronic Filing system](#).

### Determining the appropriate location or hearing centre

Before issuing, it is necessary to determine the appropriate location for the claim.

Paragraph 2.3 of the PD provides guidance.

The key is to consider whether the claim has “significant links” with any circuit.

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Paragraph 2.3(3) of the PD explains that a link to a particular circuit will be established where:

- One or more of the parties has its address or registered office there. Interestingly, extra weight is placed on the address of any non-represented parties.
- At least one of the witnesses expected to give oral evidence at trial (or other hearing) is located there.
- The dispute occurred there.
- The dispute concerns land, goods or other assets located there.
- The parties' legal representatives are based there.

Paragraph 2.3(2) of the PD provides that (save for B&PCs claims issued under CPR 58 (Commercial Court), CPR 60 (Technology and Construction Court Claims), CPR 61 (Admiralty Claims) and CPR 62 (Arbitration Claims)), claims which have "significant links" to a circuit outside the South Eastern Circuit **must** be issued in the BPCs District Registry located in the circuit in question. This is to emphasise that issuing in London as an alternative is not an option unless the case has significant links to London as well.

The Advisory Note provides that, although a claimant must base a decision on "any information available" about links to a particular circuit, there is no obligation to make extra inquiries to determine whether there might be other links outside the claimant's current knowledge (see paragraph 12).

If the claim has significant links with more than one circuit, the claim "should" (interestingly, this is not mandated) be issued in the location with which the claim has the most significant links.

Paragraph 13 of the Advisory Note highlights the need for care to ensure that proceedings are brought in the correct court and hearing centre. It states that, if court users are uncertain about the availability of a specialist judge in a particular area, they should contact the relevant listing office. Importantly, it goes on to add that issuing a claim in the wrong court, list or sub-list (or in the wrong hearing centre) will not invalidate the issue of the claim. This provides some comfort, particularly if there are limitation issues in a case. Paragraph 13 also notes that, if there is such an "error", the court may correct it by making an order for transfer (under CPR 3.10(b)).

## Action headings

Paragraph 15 of the Advisory Note provides guidance on titling claims in the B&PCs. It sets out a number of examples for cases in London, in the District Registries (other than Cardiff), and in Wales, and in different lists, including the following:

A claim in London concerned with probate issues should be titled as follows:

IN THE HIGH COURT OF JUSTICE  
  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
  
PROPERTY TRUSTS AND PROBATE LIST (ChD)

A claim in the Patents Court list in Birmingham should be titled as follows:

IN THE HIGH COURT OF JUSTICE  
  
BUSINESS AND PROPERTY COURTS IN BIRMINGHAM  
  
PATENTS COURT (ChD)

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A claim in the Companies Court in London should be titled as follows:

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

COMPANIES COURT (ChD)

The Advisory Note states that, where a claim falls within a sub-list, it is sufficient simply to refer to the relevant sub-list (although parties can include the overarching list in the title if they prefer). We understand that concerns had been voiced regarding the title “Insolvency and Companies List, Companies Court” given that, often, cases in the Companies Court do not involve insolvent companies. For that reason, it was decided to allow a degree of flexibility. However, the recommended course of action is to include details of both the overarching list and sub-list, unless there is a good reason not to.

Paragraph 15 notes that, generally, only the name of the parties should appear below the title of the court in which the claim is issued, but there are a number of exceptions (and it gives examples, including proceedings relating to arbitration, administration of an estate or pension schemes). This does not change what was existing practice, but it is helpful to have a list of all of the “exceptions” in one place.

It is important to note that:

- The new headings should be used, throughout the B&PCs, for all new cases issued after 2 October 2017.
- The current position is that headings of orders made after 2 October 2017 may refer to the B&PCs and the list in which the case would have been if issued on or after 2 October, or they can continue to refer to the jurisdiction in which they were originally issued. However, the Advisory Note states that a date will “shortly” be identified after which the headings of all orders must be in the new B&PCs format.

Court forms are being updated to reflect the introduction of the B&PCs. We understand that it is hoped that they will be published by the end of the current legal term. In the meantime, court forms can be manually amended to reflect the new format (although we assume that the courts will adopt a pragmatic approach until the new forms have become available).

## Case management hearings and trial

The PD provides that hearings relating to claims issued in the B&PCs in the Commercial Court, Admiralty Court, Financial List or Technology and Construction Court may, “where appropriate”, take place in a circuit court (*paragraph 2.4(1)*). Unlike in relation to transfers, there is no guidance as to when this would be appropriate.

The reverse might also apply. Paragraph 2.5 of the PD sets out specified circumstances where case management or trial of a claim issued in a District Registry might take place in London. These relate to claims in the Revenue List, certain competition claims, and certain claims in the Intellectual Property List. For those competition and IP claims, where the case management and trial take place will depend on whether a judge with the appropriate expertise can be made available in the relevant District Registry, but every effort will be made to have the hearing in the District Registry. It is noteworthy that one of the current B&PCs Supervising Judges is an IP specialist, for example, and therefore available to sit on IP cases in the District Registries.

## Transfers

Paragraphs 3.1 to 3.3 of the PD provide for the transfer of proceedings (or parts of proceedings, such as counterclaims or applications):

- From the B&PCs of England and Wales (in London) to the BPCs District Registries.

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- From a BPCs District Registry to the B&PCs of England and Wales (in London) or to a different BPCs Registry.

Parties wanting to transfer a case from a BPCs District Registry must apply to the District Registry from which the transfer is sought, and, at the same time, give notice to the intended “receiving” B&PC. This is so that the receiving B&PC can discuss the merits of the transfer with the original B&PC in which the case was issued.

It is important to note that, for B&PCs cases, the PD adds a gloss to CPR 30.2(4) (which sets out the rules on transferring cases between the Royal Courts of Justice and the District Registries).

In such cases, when considering whether to make an order for transfer, the court must have regard to the following factors:

- Significant links (by reference to paragraph 2.3(3) of the PD) between the claim and the circuit in question.
- Whether court resources, deployment constraints or fairness require that the hearings (including the trial) be held in a court other than where it was issued.
- The wishes of the parties. Interestingly, the PD notes that this will have “special weight” but “may not be determinative”.
- The international nature of the case, as international cases may be more suitable for trial in centres with international transport links.
- The availability of a judge with the necessary specialism in the court to which the claim is being transferred. The listing office in that court will be consulted before any order is made.

The Advisory Note suggests that it will be sensible practice for parties wanting to apply for a transfer to discuss it with the appropriate judge at the receiving court before applying for an order. Further, if they are uncertain about the availability of a suitably specialist judge, this should be discussed with the listing manager at the receiving court.

The PD also supplements the criteria in CPR 30.3 insofar as transfers from the B&PCs to County Court hearing centres are concerned, adding the requirement to consider the following points:

- The nature of the claim (by reference to the guidance regarding the specialist work in the County Court set out in paragraph 4.2 of the PD).
- The availability of a judge specialising in the relevant type of claim to sit in an appropriate court in the circuit.

The Advisory Note also sets out details of the guidelines which relate to transfers to a District Registry outside London, the County Court or another division of the High Court, noting that they are “still relevant and should also be followed” (see paragraph 30).

Some key points to note include:

- Only cases which may properly be regarded as suitable for management and trial in London will be retained there. All other claims will be transferred out.
- Claims with a value under £100,000 will generally be transferred to the County Court (*PD 29.2.2*). That does not mean that money claims over £100,000 will be retained. The value of a claim does not have greater weight than other criteria in CPR 30.3(2) but is likely to have “considerable influence” when deciding whether to transfer to the County Court or a specialist list.
- Where the value of a claim is unascertainable, consideration will be given to transferring Part 7 claims with a value below £500,000. However, the following factors might support retention of claims in the High Court:
  - complex facts, complex or non-routine legal issues, or complex relief;
  - parties based out of the jurisdiction;
  - public interest or importance;

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- large numbers of parties;
- any related claim; and
- saving of costs/efficiency in the use of judicial resources.

Although PD 29.2.6 indicates that professional negligence claims, fraud and undue influence claims, and contentious probate claims, are suitable for trial in the High Court, it does not follow that they should necessarily remain in the High Court. For example, less complex or lower value claims such as this are suitable for trial in the County Court at Central London as B&PCs work.

## Claims commenced before the B&PCs came into operation

Although mentioned in passing earlier in this note, it is worth highlighting the following points:

- All claims issued in London (using CE-File) on or after 2 October 2017 will be given a claim number with a prefix that reflects the court, list or sub-list in which it has been issued. Cases that were issued electronically before 2 October 2017 will have been transferred, in CE-File, to the appropriate B&PCs list but will retain their original claim numbers. Case numbers for cases outside London will remain unchanged for the time being but will change once CE-File is introduced in those centres, which is expected to be during 2018 (paragraph 23, Advisory Note).
- New format action headings should be used, throughout the B&PCs, for all new cases issued after 2 October 2017. Headings of orders made after 2 October 2017 may refer to the B&PCs and the list in which the case would have been issued on or after 2 October, or they can continue to refer to the jurisdiction in which they were originally issued. However, it has been stated that a date will “shortly” be identified, after which the headings of all orders must be in the new B&PCs format.

## Specialist County Court business relating to the B&PCs

The PD includes special provisions in respect of the following County Court hearing centres:

- The County Court at Central London.
- Birmingham.
- Bristol.
- Cardiff.
- Manchester.
- Preston.

Subject to any other enactment or rule, these are appropriate venues for cases suitable to be heard in the County Court which relate to specialist work of the type undertaken in the B&PCs. Paragraph 4.2 explains that this will include all work under the jurisdiction of the courts and lists making up the B&PCs, except for the matters detailed in sub-paragraphs (a) to (i). The exceptions include (but are not limited to) the following:

- Hearings of unopposed creditors’ winding-up or bankruptcy petitions or applications to set aside statutory demands.
- Invoice or other straightforward business claims valued under £75,000.
- Claims to enforce charging orders.

Claims issued in the specified hearing centres, which relate to specialist work of the B&PCs, will be managed and heard only by judges specialising in such work.

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## Appeals

The drop-down list in CE-File includes “Appeals (ChD)”. This is not an actual list (and only applies to London). This option should be used when lodging an appeal from Chancery-type cases decided in the County Court (see paragraph 22 of the Advisory Note). Appeals can be heard outside London but cannot be lodged on CE-File in that list.

Paragraph 5.1 of the PD notes that specific appeal slots will be created in listing in the BPCs District Registries to accommodate blocks of applications for permissions to appeal and appeals to be heard by a Group A judge (in accordance with PD 52A).

## Procedural queries

If you have any queries regarding B&PCs procedures, do feel free to contact us using [Ask: Dispute Resolution](#), and we will do our best to assist.

Where there is no clear answer, we will take things up with Vannina Etori, Legal Adviser and Private Secretary to the Chancellor of the High Court, who has confirmed that she is willing to consider queries concerning any important points not already covered in the rules, the PD, or the Advisory Note.

We will keep this note updated to include answers on any queries raised through this route.

## The future

### Disclosure reform

It is worth noting that it now seems likely that the B&PCs will be the testing ground for radical changes to the current disclosure process in civil litigation.

A press release published on 2 November 2017 details proposals for a mandatory disclosure pilot scheme to run for two years in the Business and Property Courts with a view to achieving a wholesale cultural change in the disclosure process (see [Legal update, Consultation on proposals for a disclosure pilot scheme in the B&PCs, aimed at achieving “wholesale cultural change”](#)).

Feedback on the proposals is sought by 28 February 2018, and the proposed pilot is expected to be submitted to the Civil Procedure Rules Committee for review and approval in March or April 2018.

### Proposed new CPR Part on the B&PCs

[Papers from the 6 October 2017 CPRC meeting](#), which became publicly available on 7 November 2017, refer to the need for “further work” on the rules, and outline plans to add a new Part on the B&PCs in the CPR (along the lines of CPR 58 (Commercial Court)).

The supporting memo put to the CPRC explains that (like rules for other specialist courts such as the Commercial Court and TCC) the new Part would include an “enabling rule” along the following lines:

“These Rules and their practice directions apply to claims in the [specialist court or list] unless this Part or a practice direction provides otherwise.”

The new Part would link to the PD. The important point is that the addition of enabling wording would allow the PD to contain provisions different from the general rules in the CPR. The memo identifies a number of areas where this will be of particular benefit:

- **Transfers between B&PCs:** It was originally intended that decisions on the transfer of cases between different B&PCs should be made by the “receiving court” but, as that was contrary to CPR 30.2(6), it was not possible to make that provision in the PD. An enabling rule for the B&PCs will allow this approach.

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- **Electronic working:** The Electronic Working PD is currently a pilot (PD 51O). It contradicts a number of provisions in the rules, but that works because it is in the context of a pilot scheme. The pilot ends in November 2017, so “a single comprehensive provision” in respect of electronic filing using CE-File is required. Although CE-File is currently only in the B&PCs of England and Wales (the Rolls Building courts), it is hoped to extend it to all of the B&PCs “very soon”. The new Part and enabling rule could be used for this.
- **Other provisions:** A number of other initiatives that specifically relate to the B&PCs (for example, any permanent scheme that is introduced based on the Shorter and Flexible Trials Pilot Schemes (once the pilots end in October 2018), and the proposed disclosure pilot scheme) could also be implemented through the new Part on the B&PCs.

The minutes of the 6 November meeting record that the CPRC is supportive of the proposal, and work has started on drafting the new Part. This is a space to watch, and we will report on further developments

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## Resource History

Updated to refer to guidance on titling of claims.

Updated to refer to some guidance on the titling of claims: specifically whether it is preferable to include the name of both the overarching list and sub-list although the Advisory Note provides for some flexibility on this point.

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Final sign off of the Practice Direction for the Business and Property Courts.

This Practice Note has been amended to reflect the fact that the Practice Direction for the Business and Property Courts received ministerial sign off on 20 November 2017.

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### Related Content

#### Topics

- [Case Management](#)
- [Construction Litigation](#)
- [Starting a Claim](#)
- [Court Proceedings - Pensions](#)

#### Practice Note: Overview

- [Technology and Construction Court \(TCC\)](#) • Maintained

#### Glossary

- [Business and Property Courts](#) • Maintained

#### Legal update: archive

- [Business and Property Courts updated advisory note](#) • Published on 18-Oct-2017
- [Guidance note on orders in the Business and Property Courts in Leeds](#) • Published on 01-Nov-2017
- [Explanatory statement on the Business and Property Courts](#) • Published on 26-May-2017
- [Briggs LJ's Civil Courts Structure Review: Final Report and recommendations](#) • Published on 27-Jul-2016
- [Consultation on proposals for a disclosure pilot scheme in the B&PCs, aimed at achieving “wholesale cultural change”](#) • Published on 02-Nov-2017

# Practical Law Dispute Resolution blog

On the “super-highway” to more joined up and competitive courts across England and Wales

(First appeared on the Practical Law Dispute Resolution blog on 12 July 2017)



THOMSON REUTERS



by Beverley Barton  
Senior Editor at Practical  
Law Dispute Resolution



## On the “super-highway” to more joined up and competitive courts across England and Wales

4 July saw the launch of the Business and Property Courts in London. This was the first of a series of launches, with Birmingham, Leeds, Manchester, Bristol and Cardiff following.

I was fortunate to attend the London launch, and the event in Leeds with Raichel Hopkinson, on 10 July, (which Thomson Reuters was delighted to sponsor).

### London

A galaxy of judges attended the London event, and there were presentations by The Right Honourable David Lidington MP (the recently appointed Lord Chancellor), Sir Geoffrey Vos (Chancellor of the High Court of England and Wales), Sir Brian Leveson (President of the Queen’s Bench Division), Sir Peter Coulson (Judge in charge of the Technology and Construction Court (TCC)) and Lord Thomas of Cwmgiedd (the Lord Chief Justice of England and Wales), plus a representative of TheCityUK.

David Lidington described the launch of the new courts as “a landmark event”. He recognised the huge contribution made to the economy by the legal services sector, and the need to safeguard the position of the English courts, particularly in the face of Brexit. His speech has been published in full on the Gov.uk website.

I took a number of key messages from the judicial presentations, which explain the rationale for introducing the Business and Property Courts of England and Wales (B&PCs), and the potential benefits:

- The initiative is very much judge-led, which was clear from the huge number of judges in attendance and the number of judicial addresses, and is strongly supported by the judges

of all the constituent courts under the new umbrella of the B&PCs.

- A key driver for the introduction of the B&PCs is the need to respond to the increasing competitive threat from other jurisdictions, and to retain the “world class” status enjoyed by our courts. The Rolls Building is the largest dispute resolution centre in the world. From 2015 to 2016, 32% of parties to claims issued in the Rolls Building were from outside the UK, with that proportion rising to as high as 66% of parties in the Commercial Court were from outside the UK.
- It is hoped that the new “umbrella” will give a much clearer understanding (both nationally and internationally) of what the courts actually do – and that a move away from language that “only lawyers understand” will be helpful. Sir Geoffrey Vos noted that, unfortunately, lawyers have a tendency to use words that others can’t understand – it can be quite a challenge, for example, to explain exactly what “Chancery” means. The new courts will do “just what it says on the tin” and deal with all business and property work litigated in the country.
- The strength of the individual “brands” of the Commercial Court, the Admiralty Court, the Patents Court and the TCC, for example, is also recognised, so those names will also continue to be used. The “Mercantile” brand will disappear and be replaced by “Circuit Commercial Courts”, which will highlight those courts’ links to the Commercial Court and therefore make it clearer what work they undertake.
- Great emphasis was placed on the important contribution to the British economy made by the legal sector (very conservatively estimated at £26 billion per year, without taking account of the benefit for other related services – for example, provided by accountants, and actuaries), and the need to preserve the standing of the English courts, England as a preferred jurisdiction for dispute resolution, and ease of enforceability of English judgments, particularly post-Brexit. Reference was made to a brochure (available online)

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(First appeared on the Practical Law Dispute Resolution blog on 12 July 2017)

which explains the benefits of UK legal services, post-Brexit, and it was stated that these messages are being promoted internationally (for example, through embassies).

- The President of the Queen’s Bench Division read out a quote on the White Book that bemoaned the complexity of procedures and how the costs of running cases can exceed the costs in dispute. The twist was that this quote related to the 1895 edition of the White Book! He said that, today, we still face the challenge of modernising procedures – it is a constant battle – and disclosure is the issue over which most complaints are received. He explained how this initiative was a step in the direction of modernisation of the court system and made a rousing call for further procedural modernisation.
- The “go live” date for the new courts is 2 October 2017. From that date, it will be possible to list cases in the B&PCs in London using CE-File (there will be drop-down options for the various lists and sub-categories of work).
- The specialist courts and lists in the B&PCs, will comprise:
  - the Commercial Court (covering all its existing subject areas of shipping, sale of goods, insurance and reinsurance and so on);
  - the Circuit Commercial Court;
  - the Admiralty Court;
  - the Technology and Construction Court (covering all its traditional areas of major technology and construction cases);
  - the Business List;
  - the Insolvency and Companies List;
  - the Financial List (covering banking and financial markets);
  - the Competition List;
  - the Intellectual Property List (including the Patents Court and the Intellectual Property Enterprise Court (IPEC));
  - the Revenue List; and
  - the Property, Trusts and Probate List.

Useful information will be made available online, on the Judiciary website. The website will include judicial biographies, judgments, cause lists and other information about the London and regional B&PCs. There is already some preliminary information on the B&PCs online.

A Practice Direction is expected in due course, hopefully by 2 October (although that is not yet certain). The Practice Direction will clarify a number of procedural points: for example, on choice of lists, arrangements for transfer of cases into and within the B&PCs, and the definition of what constitutes “specialist work” in the County Court (updating the “Hart Lloyd guidelines”).

It is hoped that electronic filing might be ready in the regions by Spring 2018 (although that is not a firm date). In the meantime, cases will continue to be issued “manually” in the regional B&PCs, albeit in the relevant courts and lists. Nevertheless, the transfer of cases from London and the regional centres will be facilitated and supported by regional staff access to CE-File.

## Leeds

At the Leeds event, on 10 July, presentations were given by Sir Geoffrey Vos, Sir Alastair Norris, Sir Peter Coulson and Sir Gerald Barling (as well as a few brief words from me, and from Sue Harris, the immediate past president of the Leeds Law Society).

The judges reiterated the key messages from the London event, emphasising the need to respond to competitive threats from other jurisdictions, and to be more outward-looking and pro-active, if UK plc is to thrive post-Brexit, and, crucially for the regional B&PCs, the fact that no case should be too big to be tried in them.

However, the following points were also made:

- In regional specialist courts, it is possible to have high quality justice at lower cost and greater speed than in London. That message needs to be communicated.
- The launch of the B&PCs is of crucial importance to an area such as Leeds, which has a rapidly rising population and is now the fourth largest urban centre in the UK.

# Practical Law Dispute Resolution blog

On the “super-highway” to more joined up and competitive courts across England and Wales

(First appeared on the Practical Law Dispute Resolution blog on 12 July 2017)

- Progress with the new courts will be incremental. It is recognised that the local “court estate” does not benefit from the same facilities as the Rolls Building, but “Rome was not built in a day” and, as the new courts are used, further investment in the infrastructure can follow.
- The new court in Leeds will be known as “The Business and Property Courts in Leeds” (rather than the Leeds Business and Property Courts), and the same format will apply for the other regional B&PCs.
- One of the biggest advantages of the changes will be increased connectivity between the Rolls Building specialist jurisdictions and the regions, with the introduction of a “super-highway” between London and the regional courts. The aim is to provide excellent, equal dispute resolution services across England and Wales. There will be a critical mass of judges in each centre, so as to achieve this.
- Cases with a regional connection should stay in the regions, where the waiting lists are considerably shorter: for example, where the parties are local, the subject matter or the witnesses are local.
- In answer to a question from the audience, it was emphatically confirmed that it should be possible to issue competition-related cases in the regional B&PCs (rather than them being required to be listed in London, as currently) and that that will be clarified in the PD.

Based on what I have heard so far, I genuinely believe that this development will have the greatest potential impact in the regions.

Cynics might say that the proposals are aimed at clearing certain cases from London so that the judges there can focus on the really big, specialist cases. However, repeated references were made to Briggs LJ’s statement (following his Civil Courts Structure Review) that “no case should be too big for the regions”, and there seems to be a real commitment to ensure that key commercial centres throughout England and Wales have access to high quality judicial services, locally. This is made most clear from the financial commitment to have a critical mass

of specialist judges in each of the regional centres. These judges have and are already being recruited.

What has been described as the new “super-highway”, providing more flexibility for deployment of judges, should lead to more cases being dealt with in the regions.

## Final thoughts

It will be interesting to see how the landscape changes over coming months and years.

Although, undoubtedly, there will be challenges – for example, with some of the regional court centres lacking the resources of the Rolls Building – there will, no doubt, also be opportunities.

It seems possible that increased access to specialist judicial expertise at a local level, combined with initiatives to streamline procedures (such as those based on the Shorter Trials pilot scheme, and the forthcoming fixed costs pilot scheme, which will apply in the Leeds District Registry amongst other places) might encourage small and medium sized enterprises (SMEs), for example, to bring cases that, up to now, they would have hesitated to bring due to concerns over costs.

Only time will tell but it does seem that local practitioners, by using the new regional Business and Property Courts, have the chance to shape the future – and that there is a strong will – at both governmental and judicial level, and to make this work.

It is definitely a space to watch with interest, and I plan to do a follow up piece next year, with some thoughts (based on feedback from users of the Business & Property Courts) on what has actually changed in practice.

