

Email Communications with the Court

(Taken from Chancery Guide 2016 Ch. 6 paragraphs 6.21-6.32, Other communications with the court)

6.21 There have recently been some important changes in the use of emails to the court. On 3rd October 2016 PD51O was amended, as a step towards the increased use of electronic working by court users, and PD 5B (which enables parties to file certain documents by email and to use email to communicate with the court), was disapplied for all Rolls Building courts. The following subparagraph was added to paragraph 3.4 of PD51O:

“(2) The court will not accept submissions made by e-mail pursuant to Practice Direction 5B, except where expressly requested by the trial judge or the trial judge’s clerk; all electronic submissions must be made through Electronic Working.”

6.22 This wording proved to be unduly restrictive and a re-amended wording was agreed by the Civil Procedure Rules Committee on 6th October. This will come into effect in December 2016 or January 2017 when its Statutory Instrument is passed.

6.23 The new wording of paragraph 3.4 is to be as follows:

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

(2) In relation to any document required by the Rules, any Practice Direction or any order of the court to be filed, the court will not accept that document for filing if submitted by e-mail and any such document must be filed through Electronic Working (unless submitted on paper); but if a judge, Master or Registrar has requested or permitted the submission of such a document by email then it shall be so submitted as well as being filed through Electronic Working (or on paper).

6.24 The effect of this amendment is that “submissions”, that is all documents which are required by the rules or any practice direction to be filed on the court file, must be filed using Electronic Working, but such documents may also to be sent via email if the judge, Master or Registrar requests or permits.

6.25 Until the new wording comes into effect, the existing wording of 3.4(2) continues to apply and must be followed. However, this is subject to an important Practice Note, issued as an interim measure, which remains in force until the new wording comes into effect.

6.26 The Practice Note is here reproduced in full.

Practice Note to PD51O Paragraph 1

This Practice Note provides clarification as to the documents which will no longer be accepted as email attachments but which must be submitted via Electronic Working (unless submitted on paper). It operates while that Direction is in the form which came into force on 3rd October 2016.

The word “submissions” should be taken to mean all those documents which are required

by the rules or any practice direction to be filed on the court file. It does not mean normal day to day communications with the court such as those sending in draft orders or dealing with case management issues.

Nor (for the avoidance of doubt) does it mean documents such as skeleton arguments and chronologies which are submitted to any court for the determination of any hearing or paper application unless the court has directed that those documents be filed. Where any such document has been directed to be filed the parties must do so but may also (by way of exception to the Practice Direction) submit them by email to the listing officer or the judge's clerk in question.

The court may direct that any document which is not required to be filed should in fact be filed, in which case it becomes a "submission" for the purposes of the Practice Direction.

The expression "trial judge" shall include any judge, Master or Registrar who is determining any matter at an oral hearing or on paper.

Practice Note approved by the Acting Chancellor, Mr Justice Mann, in concurrence with the Judge in Charge of the Commercial Court, Mr Justice Blair, and the Judge in Charge of the Technology and Construction Court, Mr Justice Coulson, on this day, 12th October 2016

6.27 In effect the Practice Note anticipates the new wording of 3.4(2), so the practice regarding emails will not alter when the new wording comes into effect. The practice in the Chancery division will be as follows.

6.28 Normal day to day communications with the court such as sending in draft orders or dealing with case management issues do not generally need to be filed and will generally be accepted by email, as may documents such as skeleton arguments and chronologies which are submitted for any hearing or paper application,

6.29 If the court considers that an email (which is not a submission) contains information that should be placed on the electronic file then the clerk will either file the email or will request the party to do so. The document will then be treated as a submission.

6.30 If late submissions need to reach the court urgently (for example last minute filing for a hearing) they may be emailed, if this is acceptable to the judge, Master or Registrar, or the clerk. But it is essential that they are also filed using electronic working.

6.31 Paper documents in general will continue to be accepted by the court until April 2017. From that date, all claims will have to be issued on-line and all filing will have to be made using Electronic Filing. The circumstances in which documents in paper form will be permitted will then be very limited and will probably only include hearing and trial bundles, bundles of authorities and original documents such as wills. This will be a fundamental change in the way claims are dealt with.

6.32 Telephoning should not be used except in an emergency. Fax should not be used at all.