

ANNEX A

Guidance on pre-action procedure where no pre-action protocol or other formal pre-action procedure applies

1. *General*

1.1 This Annex sets out detailed guidance on a pre-action procedure that is likely to satisfy the court in most circumstances where no pre-action protocol or other formal pre-action procedure applies. It is intended as a guide for parties, particularly those without legal representation, in straightforward claims that are likely to be disputed. It is not intended to apply to debt claims where it is not disputed that the money is owed and where the claimant follows a statutory or other formal pre-action procedure.

2. *Claimant's letter before claim*

2.1 The claimant's letter should give concise details about the matter. This should enable the defendant to understand and investigate the issues without needing to request further information. The letter should include—

- (1) the claimant's full name and address;
- (2) the basis on which the claim is made (i.e. why the claimant says the defendant is liable);
- (3) a clear summary of the facts on which the claim is based;
- (4) what the claimant wants from the defendant;
- (5) if financial loss is claimed, an explanation of how the amount has been calculated; and
- (6) details of any funding arrangement (within the meaning of rule 43.2(1)(k) of the CPR) that has been entered into by the claimant.

2.2 The letter should also—

- (1) list the essential documents on which the claimant intends to rely;

- (2) set out the form of ADR (if any) that the claimant considers the most suitable and invite the defendant to agree to this;
- (3) state the date by which the claimant considers it reasonable for a full response to be provided by the defendant; and
- (4) identify and ask for copies of any relevant documents not in the claimant's possession and which the claimant wishes to see.

2.3 Unless the defendant is known to be legally represented the letter should—

- (1) refer the defendant to this Practice Direction and in particular draw attention to paragraph 4 concerning the court's powers to impose sanctions for failure to comply with the Practice Direction; and
- (2) inform the defendant that ignoring the letter before claim may lead to the claimant starting proceedings and may increase the defendant's liability for costs.

3. Defendant's acknowledgment of the letter before claim

3.1 Where the defendant is unable to provide a full written response within 14 days of receipt of the letter before claim the defendant should, instead, provide a written acknowledgment within 14 days.

3.2 The acknowledgment—

- (1) should state whether an insurer is or may be involved;
- (2) should state the date by which the defendant (or insurer) will provide a full written response; and
- (3) may request further information to enable the defendant to provide a full response.

3.3 If the date stated under paragraph 3.2(2) of this Annex is longer than the period stated in the letter before claim, the defendant should give reasons why a longer period is needed.