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Agreeing extensions during the Covid-19 pandemic

Julie-Anne Luck

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www.9sjs.com

PI@9sjs.com

9 St John Street, Manchester, M3 4DN

DX Address: 14326 MANCHESTER 3

Tel: 0161 955 9000

Julie-Anne Luck notes new PD on agreeing extensions during the Covid-19 pandemic, and other important guidance

All practitioners should be aware of new Practice Direction 51ZA, which permits parties to agree extensions of up to 56 days without formally notifying the court (rather than the current 28 days), so long as that does not put a hearing date at risk.

Any extension of more than 56 days needs the permission of the court, and any such application for permission will be considered by the court on the papers.

The court is required to take into account the impact of the pandemic when considering such applications. Any order made on the papers must, on application, be reconsidered at a hearing.

PD 51ZA also amends PD 51Y (the 116th PD Update), by making it clear that a person seeking permission to listen to or view a recording of a hearing may do so by request and is not required to make a formal application under the CPR.

Practice Direction 51ZA is effective from 2nd April 2020, to 30th October 2020, but the position will remain under review.

Whilst the new PD undoubtedly applies to timetable extensions, an interesting point is whether it applies to other extensions, such as CPR 15.5 (which permits up to 28 day extensions for lodging a Defence).

Essentially, the new PD amends CPR 3.8, which provides:

- (3) *Where a rule, practice direction or court order –
 - a. requires a party to do something within a specified time, and
 - b. specifies the consequence of failure to comply,the time for doing the act in question may not be extended by agreement between the parties except as provided in paragraph (4).*
- (4) *In the circumstances referred to in paragraph (3) and unless the court orders otherwise, the time for doing the act in question may be extended by prior written agreement of the parties for up to a maximum of 28 days, provided always that any such extension does not put at risk any hearing date.*

Whilst the position is not entirely clear, my reading is that the new PD 51ZA probably applies to CPR 15.5. I reach this conclusion because the rules dictate both a time limit for entering a Defence, and the consequence where a Defendant fails to comply (namely that the Claimant can enter judgment).

See: <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/practice-direction-51za-extension-of-time-limits-and-clarification-of-practice-direction-51y-coronavirus>

Practitioners should also be aware that HHJ Bird, DCJ for Greater Manchester has issued guidance on “Covid-19 Orders, Temporary Procedures and Listing Priorities”. This is worth a read wherever you practice.

The DCJ guidance:

- Includes template Orders to be issued on cases and applications in civil work in Manchester after 31/3/20. These Orders make standard provision for the arrangements to be made when setting up a video hearing (see the FT and MT order at para.3), and when preparing an electronic bundle (see the same Order at paragraph 7). It should be noted that the template Orders specifically mandate the production of electronic bundles (see Jamie Hill’s helpful guidance on e-bundling [here](#)).
- Encourages parties to consider the template Orders as the starting point for any consent orders which concern electronic bundles or video hearings.
- Details listing priorities for civil work within the County Court.
- Provides a template listing questionnaire, which is to be completed for all applications or claims issued after 29/3/20.
- Considers appropriate platforms for video and telephone hearings.
- Encourages parties to consider whether applications can be dealt with on paper.

HHJ Bird’s guidance notes and template Orders can be found within the PDF which is to the Northern Circuit’s “Materials and Guidance for Remote Hearings in Civil Cases – 2 April 2020” – download it [here](#).