

ROYAL COURT OF JERSEY

RC17/05

Directions Hearings

1. The purpose of this practice direction is to provide guidance to parties on how to approach directions hearings before the Master of the Royal Court and the Royal Court.
2. This practice direction applies to the case where directions are required by rules of the Royal Court or by order of the Royal Court whether a hearing is fixed by the parties or by the Court of its own motion.

Timing of the first hearing for directions

3. For matters placed on the pending list, unless the parties have already fixed a date for directions or the Court has ordered otherwise, within 3 months of the matter being placed on the pending list the parties will be notified of the date when a directions hearing is to take place.
4. The parties will also be notified in any other case of the date for a directions hearing where the Court requires directions to be given.
5. Where the Court notifies the parties that a directions hearing is to take place, the parties shall be given at least 2 weeks' notice of the date fixed for the hearing for directions.
6. The directions hearing fixed will ordinarily be for between 30 minutes and 1 hour unless the Court considers that longer is required.
7. Nothing in this practice direction shall be taken as preventing any party from applying for directions at an earlier stage or the Court fixing an earlier hearing date, if the overriding objective (see Royal Court Rule 1/6), leads to such a hearing being required.

8. A party requiring a directions hearing shall fix a date for such a hearing in compliance with Rule 6/29(2) and Rule 20/1 of the Royal Court Rules 2004, as amended and practice direction RC05/10.

The parties' obligations

9. In relation to the hearing of any application for directions it is the duty of the parties to:-
 - a. consider what directions are required for the matters in issue;
 - b. endeavour to agree appropriate directions for the management of the case;
 - c. submit any agreed directions to the relevant judge for approval;
10. Where directions are not agreed, each party shall, at the same time as filing any written contentions pursuant to Practice Direction 13/01, set out what directions are required; together with a summary of the reasons why the particular direction is required and any supporting material the party wishes to rely on at the directions hearing.
11. If no contentions are to be filed, the parties shall still no later than 2 working days before the directions hearing set out for the other parties and the Court what directions are required in compliance with paragraph 10.

Scope of orders for directions

12. At a directions hearing the Court may make orders in relation to all or any of the following:-
 - a. Whether further pleadings are required;
 - b. Whether clarification of a party's case is required;
 - c. What discovery orders should be made including whether discovery should be limited;
 - d. Whether evidence is required from witnesses of fact and in what form;
 - e. What expert evidence might be required, having regard to the practice direction on expert evidence;

- f. Whether the matter in dispute is ready for a trial date to be fixed or whether a further directions hearing is required;
- g. Whether the action should be stayed to permit settlement discussions, mediation or any other forms of alternative dispute resolution to take place;
- h. Any cost budgets submitted where these are required;
- i. Production of a chronology

13. A specimen summons for directions is attached at Schedule 1;

14. All directions must be completed by a specified calendar date.

15. Following directions being given, all parties must take all necessary steps to ensure as far as possible that they will be able to adhere to any timetable set.

The approach of the Court

16. The Court will order directions appropriate to the needs of the case, the steps the parties have taken at the time directions are given and the overriding objective. In particular the Court will wish to ensure that the issues between the parties are identified and that the necessary evidence to resolve such issues is prepared and disclosed within an appropriate time frame and in a proportionate manner.

17. If any party or its adviser is unprepared for a directions hearing the Court may make such wasted costs orders as are appropriate.

Variation of directions

18. This paragraph deals with the procedure to be adopted where:-

- a. The parties are agreed on changes they wish to make to directions already given; or
- b. a party wishes to apply to vary a direction already given.

19. It is essential that any party who wishes to vary a direction takes steps to do so as soon as soon as possible and in particular before any time limit for compliance with the direction has expired.
20. Any such application shall be accompanied by an appropriate written summary and submissions setting out what steps have been taken to adhere to the timetable set, why the previous directions have not been complied with, what variation is sought and its impact on any directions previously given.
21. Before seeking a variation a party should endeavour to agree the variation with all other parties to the dispute.
22. In the absence of agreement the application should be made in sufficient time to permit the other parties to respond to the application including filing any written summary or submissions a party wishes to rely on.
23. The Court may require any written summary provided pursuant to paragraphs 20 or 22 to be verified on oath.
24. In respect of an agreed variation, the parties should be willing to attend to answer any questions the Court may raise or to attend on the Court if required to do so.

Failure to comply with directions

25. Where a party fails to comply with a direction given by the Court, any other party may apply for an order that the defaulting party should comply or for a sanction to be imposed or both.
26. Any such application may be heard at the same time as resisting any application for a variation pursuant to this practice direction.
27. In deciding what order to make where there has been a failure to comply, the Court will:-

- a. as far as possible endeavour to ensure that existing trial dates are not adjourned;
- b. direct that any steps required to be taken are taken in the shortest possible time;
- c. impose an appropriate and proportionate sanction for non-compliance;
- d. make such orders to costs as are appropriate including wasted costs orders against a party and/or a party's legal representative.

This practice direction will come into force on 1st June 2017 and Practice Direction RC05/31 is repealed

Schedule 1

FORM OF SUMMONS FOR DIRECTIONS

In the Royal Court of Jersey

Samedi Division

[enter Case No.]

BETWEEN [Click and type name] PLAINTIFF/REPRESENTOR

AND [Click and type name] DEFENDANT/RESPONDENT

SUMMONS FOR DIRECTIONS

Let all parties appear before the [Judicial Greffier/Master of the Royal Court] at the [Judicial Greffe], Royal Court, Royal Square, St Helier on the day of 20 , at o'clock in the noon on the hearing of an application for directions [pursuant to Rule 6/26 of the Royal Court Rules 2004,] as amended in the above named action that:-

1. This action be set down on the hearing list.
2. This action be consolidated with [action(s) – No. []]
3. The plaintiff have leave to amend the Order of Justice [or the defendant have leave to amend the answer [and counterclaim] or the plaintiff have leave to amend the reply [and answer to counterclaim] and to re-serve the amended pleading within days and that the opposite party have leave to serve an amended consequential pleading, if so advised, within days thereafter and that the costs of and occasioned and thrown away by the amendments be the defendant's [or the plaintiff's] in any event.

4. Any request by any party to obtain further information about another party's case shall be made by close of business on [].
5. Any response to any request for further information shall be provided by [].
6. The Plaintiff and the Defendant shall make discovery of all relevant documents to each other by provision of a List of Documents verified by affidavit by [].
7. There be inspection of the Documents within [] days of service of the List of Documents;
8. Signed, dated [and sworn] witness statements of fact [to stand as evidence in chief] shall be simultaneously exchanged by close of business on [].
9. Each party has permission to rely on the evidence of [one] expert in the field[s] of [].
10. [The reports of the relevant expert shall be exchanged simultaneously on [] or [the [plaintiff] shall provide its expert report(s) to the defendant on [] and the defendant shall provide its expert report(s) to the plaintiff on [].
11. Unless otherwise agreed by both parties' advocates, after consulting with the experts, the experts of like discipline for the parties shall discuss the case on a without prejudice basis by close of business on [];
12. A signed joint statement shall be prepared by the experts. Individual copies of such statements shall be signed by the experts at the conclusion of the discussion, or as soon thereafter as practicable and provided to the parties' advocates by [];
13. There will be conducted a pre-trial review at such time and in such manner as the Judicial Greffier/Master of the Royal Court may specify.
14. The estimated length of trial shall be [], and the estimated length of the pre-trial review shall be [1 hour].
15. The parties shall apply to the Bailiff's Judicial Secretary [within [] days of [] to fix a date for the trial of this action and the pre-trial review.
16. The pre-trial review shall take place no later than [] weeks before the date fixed for the trial of the action.
17. Where there is or will be any material non-compliance with any part of the orders set out herein, this matter must be referred back to the [Master] as soon as possible;
18. Liberty to apply.

Dated the day of 20 .

This summons was issued by

of

Advocate/Solicitor for the Plaintiff[s]

To

of

Advocate/Solicitor for the Defendant[s].

Greffier Substitute