

CHECKLIST

The following guidelines are issued with a view to making the decision-making process as cost-effective and efficient as possible. Those objectives should be borne in mind in applying them.

1. Arbitrations on documents alone

(a) The parties should consider at the outset whether the case is suitable to be decided without an oral hearing (see Second Schedule paragraph 8).

(b) If the arbitration is to be decided on documents alone, the parties should consider how best to present the case to the tribunal. In particular they should consider amalgamating the documents which each party has provided into a single chronological bundle. They should also take into account such matters referred to in paragraphs 2-4 below as may be relevant in the particular case.

2. Factual evidence

(a) Witness statements should always be in numbered paragraphs, and should contain margin cross-references to where documents appear in other bundles.

(b) Consideration should be given to supplementary witness statements picking up the paragraph numbering from the initial statement, so that the two can be read as one continuous document.

(c) The parties should seek to agree well in advance of any hearing whether or not the witness should be required to give oral evidence.

(d) The parties should seek to agree whether all or some of a witness' statement may stand as evidence in chief. Unless otherwise agreed or ordered by the tribunal, the witness statement shall stand as evidence in chief.

(e) If a witness is to give oral evidence through or with the assistance of an interpreter, a copy of that witness' statement in his own language should be available. (The same applies to any critical document upon which the witness may be examined).

(f) In a substantial case involving a number of witnesses, it makes sense to have separate bundles of the claimants' and respondents' witness statements respectively.

3. Expert evidence

(a) Paragraphs 2(a)-(d) above are repeated.

(b) The reports of the claimants' and respondents' respective experts should normally be in separate bundles, unless they are not voluminous.

(c) If the reports annex documents (and this practice is to be discouraged, save as to documents adduced by experts themselves), documents that appear elsewhere should not be duplicated here.

(d) Experts should be instructed that, when giving evidence, they should ensure that the version of any report or document to which they may wish to refer bears the same numbering as that before the tribunal. Reports should contain margin cross-references to where documents appear in other bundles.

(e) Without prejudice to the tribunal's power to require experts to give evidence simultaneously ("hot-tubbing"), the parties should seek to agree whether such would be appropriate.

4. Documents for hearing

(a) Serious effort must be made to ensuring the elimination of unnecessary documents and the inclusion of only one copy of any document (with particular attention to emails). Only documents relevant to the issues (as distinct from loosely touching on the case) should be included.

(b) Where documentation is at all substantial, a core bundle should normally be produced, containing the documents essential to the disputes. Sufficient space should be allowed for the insertion of as many pages again as it presently contains.

(c) Consideration must be given to the orderly presentation of documents, e.g. by topic or chronologically. The default position is that documents should be presented chronologically.

(d) Bundles should be paginated consecutively. Although flags or dividers can be useful in moderation, they should not replace or interrupt consecutive pagination and individual documents should not be separated by dividers unless they are very substantial. A 5cm-thick ring binder should contain no more than 300 sheets, and *pro rata*.

(e) Bundles should be clearly marked with a large letter or number on both the spine and the left-hand inside cover. Each bundle should have its own unique letter or number, i.e. wherever possible avoid A(1), A(2) etc., although such denominations may be appropriate where, e.g., what is effectively one bundle is divided because of size.

(f) Photographs should be reproduced to the highest possible quality in the bundles, and originals should be available at a hearing whenever possible.

(g) In a substantial case, consideration should be given to the tribunal receiving bundles in A5 rather than A4 format, but the tribunal must be consulted on any such proposal.

(h) Where an unstructured document is liable to be subject to close analysis, thought should be given to adding line or paragraph numbers.

(i) There should be no bundles of solicitors' correspondence unless it is certain that such correspondence is going to be referred to at the hearing, in which event only what is relevant should be included.

5 Skeleton arguments

(a) The parties should seek to agree whether skeleton arguments are to be exchanged consecutively or concurrently.

(b) Skeleton arguments should be in numbered paragraphs.

(c) The skeleton argument of the party who is opening the proceedings should (a) contain sufficient detail that no more than a brief oral presentation will be required; (b) be accompanied by a *dramatis personae*, chronology and agreed timetable for the presentation of argument and the calling of witnesses (c) identify any documents or authorities which it is desired that the tribunal read in advance of the hearing and (d) give an estimate of the amount of time which pre-reading is likely to involve.

(d) Assuming that the skeleton arguments and other documents relevant to the tribunal's understanding (a) reach the tribunal no later than two working days before the hearing and (b) do not involve an inordinate amount of time to absorb, the parties are entitled to assume that such have been read by the tribunal.

6. Transcripts

(a) Transcripts should be paginated consecutively, with dividers for each separate day

(b) See para. 4(g) above