

TCC Pilot Schemes

Practice Direction 51N introduces '[Shorter and Flexible Trials in Pilot Schemes](#)' ("the Pilot Schemes") and these Pilots – which will operate in all of the Rolls Building courts including the TCC – will run from 1st October 2015 for two years to 30 September 2017.

For practitioners and parties using the TCC, the Pilot Schemes are a welcome and thoughtful response to concerns over the ever-increasing cost and resources required to have disputes dealt with in Court.

Where STS not Suitable

The Shorter Trials Scheme ("STS") will not normally be suitable for cases described in paragraph 2.3 of the Practice Direction. This includes:

- Cases including an allegation of fraud or dishonesty.
- Cases which are likely to require extensive disclosure and/or reliance upon extensive witness or expert evidence.
- Cases involving multiple issues and multiple parties, save for Part 20 counterclaims for revocation of an intellectual property right.
- Public procurement cases.

Allocation

Trials under the STS will be no more than 4 days including time (see paragraph 2.4) and all STS claims will be allocated to a designated judge "...at the time of the first case management conference (CMC) or earlier if necessary..."

In the TCC context, it is will of great interest to practitioners and parties alike to see how the criteria in paragraph 2.3 are interpreted and, in particular, what degree of complexity, disclosure and evidence will be regarded as too much for the STS.

It is expected that the TCC will take a robust approach where parties, at the first CMC, emphasise the need for extensive disclosure and witness evidence in cases where a more efficient approach is likely to be appropriate.

Commencing and Transferring Proceedings.

Guidance is provided on these topics in paragraphs 2.8 to 2.15 of the Practice Direction.

Proceedings under the STS – Some Points to Note

The detailed provisions of the Practice Direction give excellent guidance as to how the STS will be operated in practice.

- The pre-action protocols do not apply but a letter of claim should be sent and responded to within 14 days. This requirement will apply in most cases.
- Cost budgeting will not apply unless the parties agree to it. Costs are dealt with on a summary assessment basis at the end of the proceeding.
- Pleadings should be no longer than 20 pages and core documents should be attached.
- The CMC will take place 12 weeks after the acknowledgement of service.
- Standard disclosure will not apply.
- Documents provided by the parties – with pleadings -- should be limited to those relied upon by either party.
- Trial date will be fixed no more than eight months after the CMC. As explained above, the trial will be no more than 4 days and this will include reading time.
- Evidence is to be limited and given in writing. Any oral evidence that is deemed necessary will be limited to identified issues.
- Timetables will be strictly adhered to but the parties can agree a 14-day extension for the defence and a seven-day extension for any other deadline.

Conclusion

The Pilot Schemes, and the STS in particular, ought to be welcomed and embraced by those using the TCC. With a background and training in adjudication, expert determination and short-form arbitration procedures, construction & engineering professionals and lay clients are well placed to use the STS to substantially reduce the overall cost and burden of litigation in their field. The Pilot Schemes will of course represent a challenge, both for users of the TCC and its Judges. It is a challenge which the TCC's users and its dedicated team of expert Judges are well capable of meeting. Exciting and interesting times ahead.

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