**Case summaries**

This element explains the purpose and content of a case summary as well as providing and explaining an example.

**Civil procedure rules**

The main CPR which support the content of this element are:

- 29 PD 5.6-5.7

- 32 PD 27.5

**Introduction**

A case summary is a document which aims to assist a judge at a hearing with understanding the case and the issues they need to decide.

Case summaries can be produced for a variety of purposes. For example, in relation to a case management conference for a multi-track track matter, the parties should “consider whether a case summary will be useful” (29 PD 5.6). In the same context, the rules state that a case summary:

*“(a) should be designed to assist the court to understand and deal with the questions before it,*

*(b) should set out a brief chronology of the claim, the issues of fact which are agreed or in dispute and the evidence needed to decide them,*

*(c) should not normally exceed 500 words in length, and*

*(d) should be prepared by the claimant and agreed with the other parties if possible.”*

(29 PD 5.7).

A case summary will allow a judge to quickly understand the matter in front of them. This is particularly important if the judge is dealing with a large number of cases in close succession or has little time to prepare for the hearing concerned.

This is not the only context in which a case summary is mentioned in the CPR. In the context of trial, the trial bundle should include a case summary and/or chronology “where appropriate” (32 PD 27.5).

In addition to the CPR and PD requirements mentioned above, case summary procedure, content and related documents are often modified for claims proceeding in particular divisions or specialist lists.

There is a reminder of the High Court structure of the King's Bench and Chancery Divisions on the next slide.

You may recall that both the King's Bench Division and the Chancery Division have their own separate court Guides to help explain that particular Division's working practices to court users. These may modify or explain further some of the basic CPR and PD requirements for cases proceeding in each respective Division.

[Diagram showing KBD and ChD and the specialist courts and lists within them]

Several of the specialist courts and lists within the King's Bench and Chancery Divisions mentioned above have their own individual CPR, PD and specialist Guide, as the types of claim concerned require a modified procedure. For example, cases proceeding in the Commercial Court must additionally comply with CPR 58 and PD 58 and reference must also be made to the Commercial Court Guide rather than the (more general) King's Bench Guide.

Some examples of the different requirements are described below.

In the Chancery Division, the Chancery Guide states (see para 6.50) that the case management bundle, which is needed at every CMC/CCMC, must include an **agreed case summary** (not normally exceeding 2 pages) which should contain:

i. a short and uncontroversial description of what the case is about; and

ii. a short and uncontroversial summary of the material procedural history of

the case,

and an **agreed** **list of issues for trial** (not normally exceeding 3 pages).

These 2 documents together would be the equivalent of the case summary in a standard King's Bench Division claim.

The claimant is responsible for producing and filing these documents and if the contents cannot be agreed, the parties should consider the best way of clearly setting out the differences between them for the court, for example, by preparing composite versions setting out (if necessary, in different colours or highlighting) the elements which are not agreed.

The KB Guide (see para 9.106) and the Chancery Guide (see para 12.51) also provide that for most hearings (specifically trials in Chancery), a chronology, list of persons involved and list of issues should be prepared. The KB Guide indicates that the chronology should be agreed between the parties, and the Chancery Guide states that the chronology and list of issues should be agreed. These documents serve a similar purpose to a case summary as mentioned in the CPR (and, as seen above, may be prepared in addition to a case summary).

The Commercial Court has more detailed requirements, and these include a ‘case memorandum’ setting out the case and its history, and a list of issues including important matters not in dispute, which again perform the same role as the case summary would in other cases (58 PD 10.8, and sections D4 and D5 of the Commercial Court Guide, where the list of issues is referred to as the ‘List of Common Ground and Issues’).

**Key points**

The following are key points to remember in relation to a case summary:

- It is intended to be a neutral document, and the parties are expected to agree it. So it should be a fair reflection of the parties’ positions, and in most cases that will mean their positions as set out in the statements of case. It should be possible, from the statements of case, to identify what is agreed and what is in dispute;

- It is not a formal document in the way that particulars of claim or a defence are. The Commercial Court guide states the following in relation to the List of Common Ground and Issues, and this guidance will apply to case summaries generally:

*“[The List of Common Ground and Issues] is not intended to supersede the pleadings which remain the primary source for each party’s case. If at any stage of the proceedings, any question arises as to the accuracy of the List of Common Ground and Issues, it will be necessary to consult the statements of case, in order to determine what issues arise”* (Commercial Court Guide D5.5)

- It will generally be appropriate to tailor it to the particular hearing and to revise it over time (for example, matters initially in dispute may cease to be in dispute).

**Example**

The following slides set out an example of how to prepare a case summary. The example relates to a simple County Court claim, where the available evidence is clear at an early stage. (In High Court claims, for example, those proceeding in the Business and Property Courts which are more complex, the case summary will likely follow a different format given applicable specialist court guide requirements, the fact that the evidence is less likely to be precisely identifiable at an early stage and the other available documents at the CMC such as the disclosure review document.)

First, revisit the first page of this presentation which set out how a case summary should be prepared according to 29 PD 5.7 (or look at the PD itself).

Second, review the statements of case set out on the next page and consider how you would draft the case summary to be used at the first (costs and) case management conference in that dispute.

**IN THE COUNTY COURT MONEY CLAIMS CENTRE**

**Claim No. D20TA347**

**BETWEEN**

**PIOTROWSKI FOOD PRODUCERS LIMITED**

**CLAIMANT**

**and**

**HIGHCLOVE MOOR AGRICULTURE LIMITED**

**DEFENDANT**

**PARTICULARS OF CLAIM**

At all material times:

a. the Claimant is and was a manufacturer of chipped potatoes. In the furtherance of its commercial aims, the Claimant enters into contracts of sale and delivery with potato farmers (both in England and in the Republic of Ireland). Once the potatoes have been delivered to the Claimant’s factories, the Claimant then makes them into chips, which it packages and sells on to wholesalers or supermarkets; and

b. the Defendant is and was a farmer of potatoes, using two farm sites in Lincolnshire – respectively, the “Green Land” and the “Blue Land” (collectively: the “Farm Sites”) – to grow potatoes, which it would then sell at the end of the annual potato growing season.

By written agreement made on 4 March 2020, the Defendant, acting in the course of its business, entered into a contract with the Claimant for the sale and delivery of 100 tons of potatoes (the “Contract”). A copy of the Contract is attached to these Particulars of Claim. The Contract provided:

a. the Defendant would sell and deliver to the Claimant 100 tons of potatoes: clause 3(1)(a); and

b. the Defendant would ensure that on 2 September 2020, the said weight of potatoes would be delivered to the Claimant’s factory in Coventry for sale to the Claimant: clause 3(1)(b); whereas

c. the Claimant would pay to the Defendant the sum of £500 per ton of potatoes: clause 3(2)(a);

d. the Claimant would accept delivery of 100 tons of potatoes from the Defendant on 2 September 2020: clause 3(2)(b); and

e. the Claimant would upon delivery of the potatoes pay the total sum of £50,000 to the Defendant: clause 3(2)(c).

In breach of the Contract, the Defendant failed to deliver 100 tons of potatoes to the Claimant on 2 September 2020 or at all.

By reason of the Defendant’s breach of the Contract, the Claimant was forced to acquire 100 tons of potatoes from a different source, namely: The Border Farmstead Limited, a farm in the Republic of Ireland. The Border Farmstead Limited charged the Claimant £155,000. In consequence of the Defendant’s breach of the Contract the Claimant has suffered loss and damage:

**PARTICULARS OF LOSS**

(i) Difference between market price (signified by the Claimant’s contract with the Border

Farmstead Limited) and the Contract price on 2 September 2020: £105,000.

The Claimant also claims interest, pursuant to section 69 of the County Courts Act 1984 on the sum of £105,000, at the rate of 8% from 3 September 2020 until 22 May 2021 in the sum of £6,024 and continuing at the same rate up to the date of judgment or earlier payment at the daily rate of £23.00.

AND the Claimant claims:

(1) Damages;

(2) Interest pursuant to section 69 of the County Courts Act 1984 as detailed above;

(3) Such further or other relief as the Court sees fit to grant; and

(4) Costs.

ELIZABETH VAKOND

DENNING CHAMBERS

25 May 2021

[Statement of truth & name and address of solicitors would follow]

**IN THE COUNTY COURT MONEY CLAIMS CENTRE**

**Claim No. D20TA347**

**BETWEEN**

**PIOTROWSKI FOOD PRODUCERS LIMITED**

**CLAIMANT**

**and**

**HIGHCLOVE MOOR AGRICULTURE LIMITED**

**DEFENDANT**

**DEFENCE**

Unless otherwise indicated, in this Defence:

a. the Defendant uses the same terminology as the Claimant has employed in the Particulars of Claim; and

b. all references to paragraph numbers are to paragraphs contained in the Particulars of Claim.

Paragraph 1 is admitted.

It is denied that paragraph 2.a comprehensively sets out the terms of clause 3(1)(a) of the Contract. Pursuant to clause 3(1)(a), the Defendant promised to produce for the Claimant 100 tons of potatoes between 4 March 2020 and 2 September 2020 (a period of time defined in clause 2 of the Contract as the “Contractual Period”), which 100 tons of potatoes first would be riddled on a 4 ½ inch riddle and then would be sold and delivered to the Claimant. Otherwise, paragraph 2 is admitted.

Except that it is denied that the Defendant’s failure to produce for and deliver to the Claimant 100 tons of potatoes by 2 September 2020 constitutes a breach of the Contract, paragraph 3 is admitted. The Defendant was unable to produce at the Farm Sites or deliver to the Claimant the specific potatoes required under the Contract because of the failure of the potato crop at the Farm Sites. The failure of the potato crop was an intervening event giving rise to the frustration of the Contract, thereby excusing the Defendant from the performance of its obligations under the Contract.

In respect of paragraph 4:

a. it is denied that the Defendant breached the Contract: paragraph 4 of this Defence is repeated;

b. the Claimant is required to prove that it suffered the alleged or any loss; and

c. it is denied that any loss which the Claimant did, in fact, suffer was caused by the Defendant’s breach of the Contract: paragraph 4 of this Defence is repeated.

Further or alternatively the Claimant failed to mitigate its loss by taking any or any sufficient steps to acquire potatoes for a lower price than £155,000.

C WOLFENDEN

1 July 2021

[Statement of truth & name and address of solicitors would follow]

**Example**

What would you put in the case summary? What is agreed? What is in dispute? How would you articulate best what is in dispute? What sort of evidence do you think is likely to be required to resolve the issues in dispute? Clearly in practice you would need further information to know this, but for now, include evidence you would expect / hope to be available.

When you have thought about this, consider the example case summary on the next page.

**IN THE COUNTY COURT MONEY CLAIMS CENTRE**

**Claim No. D20TA347**

**BETWEEN**

**PIOTROWSKI FOOD PRODUCERS LIMITED**

**CLAIMANT**

**and**

**HIGHCLOVE MOOR AGRICULTURE LIMITED**

**DEFENDANT**

**CASE SUMMARY**

**Summary**

C is a manufacturer of chipped potatoes. D is a farmer of potatoes. C and D entered into a contract for the supply by D to C of 100 tons of potatoes. C alleges that, in breach of contract, D failed to deliver the potatoes. C claims £105,000, being the extra cost of purchasing potatoes from an alternative supplier, and interest. D denies breach of contract on the basis that the contract was frustrated by the failure of D's potato crop.

**Chronology**

4 March 2020: C and D enter into a contract in relation to the sale and delivery of 100 tons of potatoes

2 September 2020: Agreed date for delivery of potatoes

26 September 2020: C enters into a contract to purchase potatoes from a different supplier

25 May 2021: Proceedings served on D

1 July 2021: Defence served

15 July 2021: Reply

**Agreed facts**

C & D entered into a contract as attached to the Particulars of Claim.

D has not delivered any potatoes to C.

**Issues of fact in dispute and the evidence needed to decide them**

What was D's obligation to C?

Documentary evidence (the contract between the parties)

(If relevant) did D's potato crop fail?

Witness evidence from D's managing director.

Documentary evidence (email correspondence regarding the crop contemporaneous to its failure).

If so, what was the cause of the failure?

Witness evidence from D's managing director.

Evidence of expert in arable cropping. The parties propose that each be permitted to rely on the report one such expert, and the experts be permitted to give oral evidence at trial.

Documentary evidence (email correspondence regarding the crop contemporaneous to its failure).

Taking into account 2 and 3 above, what was the impact of these circumstances on performance of the contract / was the contract between C and D frustrated?

Witness evidence from C's managing director and finance director.

If D did breach the contract, what loss was caused to C?

Witness evidence from C's managing director and finance director.

Documentary evidence (correspondence and contractual documentation regarding the purchase from an alternative supplier).

Should C's recoverable losses (if there are any) be limited as a result of a failure to mitigate those losses, and if so, to what extent?

Witness evidence from C's managing director and finance director.

Evidence of expert in arable cropping

Documentary evidence (correspondence regarding the search for an alternative supplier).

**[end of case summary]**

**Example**

Did you note the following in relation the case summary?:

- The **length**. You may not have counted every word, but it is approximately 450 words – so you could add a small amount and still be within the 500 word limit, but not much.

- The initial **summary is short, uncontroversial** and based on the positions set out in the statements of case. It should therefore be agreeable to both sides.

- The **chronology** is appropriately brief in this case, but in many cases a longer chronology could be well justified.

- The **most words are spent on the list of issues and the evidence** to resolve those issues. At the case management conference, the court will be focused on directions and budgeting, and these aspects of case management are directed towards resolution of the issues in dispute, so you need to articulate what these are.

- The **language is straightforward** and unpretentious. The sentences are short. Appropriate abbreviations are used.

**Summary**

- Case summaries will generally be needed for case management conferences, and often for trials too.

- A case summary should:

(a) be designed to assist the court to understand and deal with the questions before it;

(b) set out a brief chronology of the claim, the issues of fact which are agreed or in dispute and the evidence needed to decide them;

(c) not normally exceed 500 words in length; and

(d) be prepared by the claimant and agreed with the other parties if possible.

- It should be an uncontentious document.

- It does not have a formal role in proceedings in the way that statements of case do.

- Court guides / specialist court rules set out additional rules.