Obtaining further information: CPR 18

A party can obtain further information from the other party to clarify or give additional information in relation to any matter which is in dispute in the proceedings. In most instances whether or not a matter is “in dispute” will be apparent only from a reading of the statements of case and, therefore, the disputed matter will be often be contained or referred to in a statement of case. However, the court’s power is not limited to matters contained or referred to in a statement of case. Requests should be confined to matters which are reasonably necessary and proportionate to enable the party seeking clarification or information to prepare its own case or to understand the case it has to meet.

Examples of why a party wishes to request further information include:

To obtain admissions (although this is rare)

To obtain information which may reveal weaknesses in the other party’s case

To obtain information about facts which the other party needs to prove to make good their case

To acquire advance details of what a witness may say before exchange of witness statements.

To obtain clarification of the other party’s case (a common and useful function as it limits the other party’s ability to depart from it later)

To narrow the issues between the parties to save time and costs

In multi-track claims, directions setting out the time period for serving requests for further information and responses to them will usually be included in the directions at the first case management conference.

Making a request for further information

A party is expected to seek information from the other party on a voluntary basis first and should only make an application to the court if the request cannot be resolved (18 PD 1).

The party seeking information serves a written request on the other party stating a date for a response (allowing the other party a reasonable amount of time to respond).

The request should be concise and confined to matters which are **reasonably necessary and proportionate** to enable the requesting party to prepare its own case / understand the opponent's case.

The CPR contain instructions as to the format and layout of the request.

Responding to a request

The response must be written, dated and signed by the party or its legal representative and include a statement of truth (18 PD 2).

The response must be sent to the other party and filed at court.

If a party objects to providing a request, it must inform the party who made the request giving reasons for the objection and object within the timeframe set out in the request (18 PD 4). If the request can only be complied with at disproportionate expense, the reasons why must be explained, for example, the request is about matters that are irrelevant, disproportionate, not reasonably necessary or privileged.

Request to the court for further information

The court can order a party to clarify any matter which is in dispute in the proceedings or give additional information in relation to any such matter where or not the matter is contained or referred to in a statement of case (CPR 18.1)..

An application to the court would be appropriate where the other party has not responded or has responded with an objection to provide the information (18 PD 1.1).

The application should be made as an interim application (CPR 23 and18 PD 5). If, the other party has not responded after 14 days have passed, the application can be made without notice to the opponent and the court can deal with the application without a hearing.

If a court makes an order for further information, the party against whom the order made must file its response and serve its response on the other parties within the time specified by the court. The response must be verified by a statement of truth.

Restriction on the use of further information

The court can direct that further information given by a party to another party either voluntarily or pursuant to an order is not be to used for any purpose other than the current proceedings (CPR 18.2).

Summary

Parties are expected to make a voluntary request for further information before involving the court.

A request for further information can be made for any matter in dispute in proceedings; it does not have to be in relation to a matter contained in a statement of case.

The court may make an order for further information

The court may restrict the subsequent use of information provided in a response to a request for information.