



C O M P U T E R F O R E N S I C S L A B

London digital forensics & e-discovery · Established 2007

PD 57AD Explained for Litigation Lawyers

Purpose, Duties, Workflow, Cooperation and Technology

Practice Direction 57AD governs disclosure in the Business and Property Courts, and it is less a set of rules than a change of culture: duty-led, issue-based, cooperative and openly technological. This guide explains what it is for, what it obliges parties and their lawyers to do, how the workflow actually runs from preservation to certificate, what cooperation means in practice, and what the regime quietly assumes about your command of the client's data.

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§ ABOUT THE AUTHOR

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Computer Forensics Lab is a London-based digital forensics and electronic disclosure practice established in 2007. Its eDiscovery arm, **e-discovery.uk**, supports solicitors and counsel through the PD 57AD lifecycle daily: preservation and identification logged as the chain of custody opens, Disclosure Review Documents completed from measured data rather than guesswork, search proposals exchanged with hit reports, and productions delivered to specification with certificates that summarise records. This guide is the practice's working explanation of the regime, written for lawyers who need to run it rather than cite it.

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ISO 17025-ALIGNED PROCEDURES

ISO 27001-ALIGNED SECURITY

ACPO / NPCC DIGITAL EVIDENCE PRINCIPLES

PD 57AD / DRD EXPERIENCE

CPR PART 35 EXPERT REPORTS

FULL CHAIN-OF-CUSTODY DOCUMENTATION

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Executive summary

THE HEADLINE ANSWER: WHAT PD 57AD IS

Practice Direction 57AD is the disclosure regime of the Business and Property Courts of England and Wales. Piloted from 2019 as the Disclosure Pilot Scheme (PD 51U) and made permanent in October 2022, it replaces the old default of standard disclosure with a duty-led, issue-based system: express duties (preservation, disclosure of known adverse documents, honesty, cooperation) that bind parties and their lawyers from the moment litigation is contemplated; a two-stage structure of Initial Disclosure with statements of case and Extended Disclosure only where requested and justified; disclosure ordered issue by issue from a menu of five Models rather than one-size-fits-all; a jointly completed Disclosure Review Document that forces the technology conversation (sources, custodians, date ranges, search methods, analytics) into the open before the case management conference; and teeth, in the form of adverse orders and costs consequences for parties who fail to cooperate or comply.

- **It is a culture, enforced.** The stated aims are proportionality, cooperation and the end of reflexive, leave-no-stone-unturned disclosure; the mechanisms (duties, Models, the DRD, sanctions) all serve that culture, and courts have shown willingness to penalise parties who treat it as the old regime with new forms.
- **The duties arrive before the claim form.** Preservation obligations, including notifying employees, former employees and third parties and obtaining written confirmation of steps taken, run from when proceedings are contemplated, and legal representatives carry personal duties alongside their clients.
- **Known adverse documents are disclosable regardless of any search or Model.** This duty is the regime's moral core and its most dangerous trap: it does not depend on what any keyword catches, and it continues until the proceedings end.
- **The DRD is a data document.** Section 1 needs a disciplined list of Issues for Disclosure; Section 2 cannot be completed honestly without a data map, volume estimates and a considered position on search methods and analytics, which is why the regime is, in practice, a technology mandate.
- **This guide sits in a series.** The workflow PD 57AD demands is the workflow this series teaches: strategy, sources, custodians, control, searches, assessment and the first client meeting each have a dedicated companion guide.

What PD 57AD is for: the problem and the culture change

The old default, standard disclosure under CPR 31.6, asked every party in every substantial case to search for and disclose the documents that supported or undermined anyone's case. Drafted for lever-arch files, it met the data explosion badly: by the mid-2010s, commercial parties were spending fortunes searching terabytes to disclose material nobody read, disclosure had become a settlement weapon priced in review hours, and judges were openly describing the exercise as disproportionate in case after case. The Disclosure Working Group, chaired by Sir Geoffrey Vos, concluded that tinkering would not fix a culture, and designed a replacement around three ideas:

- **Duties, not just orders.** The core obligations (preserve, disclose what you know is adverse, be honest, cooperate, avoid document dumping) are stated as freestanding duties owed to the court, binding from contemplation of proceedings and enforceable directly, rather than arising only when an order is made.
- **Issues, not cases.** Disclosure is scoped issue by issue, through an agreed List of Issues for Disclosure, with a Model chosen per issue from a menu running from no disclosure at all to full train-of-inquiry search. The question is never "what does this case get?" but "what does this issue need?"
- **Openness about method.** The DRD obliges each party to describe its data, propose its searches and disclose its intended use of technology, and obliges both to discuss all of it before the CMC, so that scope is negotiated on facts and the court adjudicates real disagreements rather than rubber-stamping boilerplate.

Read everything that follows through that lens: the regime rewards parties who arrive informed, specific and cooperative, and it is structurally hostile to the two old vices, the keyhole and the landslide, that our companion guide on reasonable searches dissects.

Where it applies, and where it does not

- **It applies** to proceedings in the Business and Property Courts (the Commercial Court, Chancery Division, Technology and Construction Court and the other specialist courts under that umbrella), in the Rolls Building and the B&PC district registries, to new and existing proceedings alike.
- **It does not apply** (or applies with modifications) to certain excluded categories set out in the Practice Direction itself, including proceedings within fixed regimes of their own: for example, Part 8 claims sit outside the Extended Disclosure machinery, the Shorter and Flexible Trials Schemes, the Intellectual Property Enterprise Court and certain specialist lists carry their own disclosure provisions, and public law, competition and admiralty proceedings have tailored treatments. Always check the current text of paragraph 1 against your court and list.
- **Outside the B&PCs** (County Court, most Queen's/King's Bench work outside the Rolls Building), CPR Part 31 and PD 31B continue to govern, which is why the two regimes are covered side by side in our companion guide *Electronic Disclosure Explained*. The practical skills are identical; the forms and defaults differ.
- **Different jurisdictions, different rules:** Scotland (recovery of documents, commission and diligence) and Northern Ireland (discovery) run distinct systems; arbitration is governed by the tribunal's directions and any adopted soft law (IBA Rules, Prague Rules) rather than the CPR; criminal disclosure runs under the CPIA 1996 and the Attorney General's Guidelines; and tribunals (employment especially) order disclosure flexibly by reference to the overriding objective. This guide is England & Wales civil unless stated.

§ 0 4 · OBLIGATIONS

The duties: parties and their lawyers

Paragraph 3 states the duties expressly, and they are best read as a job description the court will mark you against:

PARTY DUTIES	WHAT THEY MEAN IN PRACTICE
Preserve documents once proceedings are contemplated	Immediate hold, suspension of deletion and retention timers, leaver-pipeline freeze, notices to employees, relevant former employees and third parties, and written confirmation that steps have been taken (paragraph 4's machinery)
Disclose known adverse documents	Regardless of Model, search or order; see §5
Comply with disclosure orders	Search and produce as ordered, to the timetable, in the ordered form
Undertake any search responsibly and honestly	A real search, honestly described; the disclosure certificate is where this duty is personally signed for
Act honestly in disclosure and review	No selective suppression, no misdescription, no games with families or formats
Avoid providing irrelevant documents	Document dumping (drowning an opponent in noise) is itself a breach, not a safe harbour

Legal representatives' duties run alongside: to take reasonable steps to preserve documents within the client's control (advising the client is necessary but not sufficient; the steps must actually be pursued), to take reasonable steps to ensure the client understands and performs its duties, to liaise and cooperate with the other side's representatives so as to promote the reliable, efficient and cost-effective conduct of disclosure, and to act honestly. These are personal professional obligations, and the certificate signed at the end certifies compliance with them.

Sanctions (paragraph 20 and the court's general powers) include adverse costs orders, orders compelling performance, adjournment with consequences, and in serious cases strike-out or contempt exposure; and short of formal sanction, judicial displeasure at a party's disclosure conduct colours everything else in the case. The duties continue until proceedings conclude, and the preservation duty in particular does not expire when the certificate is signed.

Known adverse documents

A document is adverse if it contradicts or materially damages the disclosing party's version of events on the issues, or supports the other side's; it is a *known* adverse document if the party is actually aware of it (for companies, awareness is assessed through the people with accountability for the events, including those who have since left). Three practical consequences:

- **The duty is search-independent.** Model A or B on an issue, a narrow date range, terms that never touched the document: none of it matters. If someone whose knowledge counts knows the damaging email exists, it must be disclosed, within the timetable the regime sets once Extended Disclosure is (or is not) ordered.
- **The duty is continuing.** A damaging document surfacing in month nine (in a witness's drawer, in the merits sample, in a collateral dispute) triggers the duty then; the safe internal culture is one where review teams and clients know that adverse finds route to the lawyers, not to quiet hope.
- **The duty needs client education, in writing.** The single most useful paragraph in an early client letter explains this duty in plain language, because clients raised on instinct ("we only hand over what helps us" or "if the search missed it, we are fine") will otherwise manage you into breach. The first eDisclosure meeting (companion guide, question set H and I territory) is where the education starts.

The workflow, stage by stage



Figure 1 · The PD 57AD lifecycle. The clock that matters most runs earliest: preservation duties are live before proceedings begin, and the DRD timetable is anchored to the final statement of case, not to anyone's readiness.

STAGE AND TIMING	WHAT HAPPENS
Contemplation of proceedings	Preservation duties attach: hold, suspensions, notices (employees, relevant former employees, third parties), written confirmation obtained; the day-one machinery of our strategy guide
With each statement of case	Initial Disclosure served (§7), unless dispensed with by agreement or the exceptions apply
Within 28 days of the final statement of case	Each party states in writing whether it is likely to request Extended Disclosure on one or more issues
Within 42 days of the final statement of case	The claimant prepares and serves the draft List of Issues for Disclosure (DRD Section 1A); the defendant engages with it; Model proposals and Section 2 data descriptions follow through cooperation
Before the CMC	The DRD is negotiated, completed jointly and filed (in the timetable the PD and the court's directions set, shortly before the hearing); genuine disputes are identified crisply for decision; a Disclosure Guidance Hearing is available where parties need early steer
The CMC	The court decides whether Extended Disclosure is ordered, issue by issue and Model by Model, applying the reasonableness and proportionality factors; the order fixes scope, method and timetable
Compliance	Search per the order and the agreed methodology, review, and production in the agreed formats with metadata; the Disclosure Certificate is signed, personally, describing the search and certifying the duties were met
Thereafter	Known adverse documents remain disclosable; paragraph 17 and 18 provide for correcting failures and for varying orders where developments justify it; preservation continues

Initial Disclosure

With its statement of case, each party serves an Initial Disclosure List of Documents and copies of: the key documents on which it relies (expressly or otherwise) in support of its claims or defences, and the key documents necessary for the other parties to understand the claim or defence they must meet.

- **It is deliberately modest:** no search beyond what is reasonable, and it need not exceed the larger of 1,000 pages or 200 documents; parties can agree to dispense with it, and it can be inappropriate where (for instance) the parties have already exchanged the key material pre-action.
- **It is strategic:** served with the pleading, it frames the court's and opponent's first view of the merits; the discipline of assembling it forces early engagement with the documents (which the pre-action workflow in our strategy guide will already have produced); and gaps in an opponent's Initial Disclosure are an early, legitimate pressure point.
- **It is not a certificate-free zone:** the honesty duties apply, and a party that pleads a document-heavy case while serving a threadbare Initial Disclosure list invites exactly the scrutiny it hoped to avoid.

Issues for Disclosure and the DRD

The Disclosure Review Document is the regime's engine room, in two sections:

- **Section 1: Issues for Disclosure and Models.** The Issues for Disclosure are not the issues for trial: they are only those key issues in dispute which the court will need to determine *by reference to contemporaneous documents*, stated neutrally and concisely. The guidance from *McParland v Whitehead* [2020] EWHC 298 (Ch) is the touchstone: keep the list short, avoid pleading-style advocacy, and remember that quarrels over issue wording are usually quarrels about nothing. Against each issue, each party proposes a Model (§9) and, for Model C, the specific requests.
- **Section 2: data and method.** Here the regime becomes technological: descriptions of where and how data is held (custodians, systems, devices, accounts), date ranges and volumes, how documents will be identified (search terms, and the intended use of analytics, sampling and technology-assisted review), irretrievable or inaccessible categories, and cost estimates. Completing it honestly requires the data map, the assessment numbers and the tested terms that the companion guides in this series exist to produce; completing it from imagination produces the certificate problem eighteen months early.

Working the DRD well: start Section 1 from the pleadings the week they close (the 42-day clock is short); exchange Section 2 information rather than discovering it in correspondence; treat disputed entries as negotiation items backed by data (hit reports, volume tables, cost estimates); keep the document lean (the forms themselves warn against turning it into a battleground); and file a jointly completed document with genuine disagreements crisply identified, because judges reward parties who narrowed and punish parties who performed.

The five Models

MODEL	WHAT IT ORDERS	WHEN IT FITS
A	No order beyond known adverse documents	Issues that will be decided on law, expert evidence or witness testimony rather than documents; the reminder that "no disclosure" still includes the adverse-documents duty
B	Limited disclosure: the Initial Disclosure categories (key documents relied on and necessary to understand the case), without any further search obligation	Issues where the key documents are already substantially in play and a search would add cost without substance
C	Disclosure of particular documents or narrow classes, answering specific requests set out in the DRD	Issues where the requesting party can identify precisely what it needs; the discipline is in the drafting: specific, narrow, justified requests, not interrogatories in costume
D	Narrow search-based disclosure: a reasonable and proportionate search for documents likely to support or adversely affect any party's case on the issue, with or without narrative documents	The workhorse for genuinely document-driven issues; everything in our reasonable-search guide (levers, testing, sampling, validation) is Model D craft
E	Wide search-based disclosure, extending to train-of-inquiry documents	Exceptional: fraud and dishonesty issues and their kin, ordered sparingly and justified expressly

- **There is no default.** Model D is not the automatic answer, and the court must be persuaded, per issue, that the Model sought is reasonable and proportionate by reference to the listed factors (the nature and complexity of the issues, the importance of the case, the likely probative value, the number of documents, ease and expense, funding and the parties' means).
- **Mix deliberately.** A well-built DRD routinely runs Model A or B on most issues, C where requests can be precise, and D on the two or three issues the documents will actually decide; that pattern is itself persuasive, because it shows the court a party engaging with the regime's logic.
- **Model C craft:** requests earn orders by being specific (documents, classes, date-bounded, issue-tied) and die by being fishing; and responding to an opponent's Model C list works the same way in reverse: agree the precise, resist the vague, offer the reformulation.

Cooperation: what the regime actually requires

Cooperation under PD 57AD is not an aspiration; it is a stated duty of parties and their representatives, and the courts have enforced it with costs. In practice it means:

- **Engage on the documents, on the timetable.** Respond substantively to the draft Issues for Disclosure, exchange Section 2 information without being chased, and attend the discussions the DRD process assumes (the modern descendant of the PD 31B meet-and-confer).
- **Negotiate with data, not adjectives.** The party that brings volume tables, per-custodian counts, tested terms with hit reports and cost estimates sets the terms of every scope discussion; the party that brings assertions funds the difference. Our search and assessment guides cover the machinery.
- **Make the reasonable offer visible.** Preserve-only for marginal custodians, staged tranches behind defined triggers, exchanged hit reports, clawback protocols: offering structure is cooperation the court can see, and it converts later disputes into applications you win.
- **Keep the tone and the record.** Disclosure correspondence is read by judges with the duties in mind; performative aggression, stonewalling and deadline brinkmanship are conduct evidence now, not just style. Equally, record your own cooperation (offers, exchanges, narrowings) because paragraph 20 arguments are won on the file.
- **Cooperation is not capitulation.** The duty is to engage constructively, not to agree; crisp, evidenced disagreement placed before the court efficiently is the system working as designed. What the regime punishes is friction as a strategy.

The technological implications

PD 57AD is the most technologically explicit instrument in the CPR family, and it quietly assumes capabilities that many teams still improvise:

- **You must know the client's estate early.** Section 2 cannot be completed honestly without the data map: platforms, tenancies, devices, chat channels, backups, third-party holdings. The identification workflow (dual-track interviews, questionnaires, cross-checks) in our companion guide *Finding the Evidence*, and the 50-question first meeting, exist to make that knowledge arrive on the DRD's clock.
- **You must have positions on method.** The DRD asks in terms about search terms, date ranges, custodians, and the use of analytics, sampling and technology-assisted review. "To be confirmed" is a position too, and a weak one: the regime rewards parties who arrive with tested terms and measured volumes, which is the early-data-assessment discipline.
- **TAR is normalised.** English courts endorsed predictive coding before the regime (*Pyrrho* [2016] EWHC 256 (Ch)); the DRD's questions make its consideration effectively mandatory in volume matters, and a party refusing analytics on a large Model D exercise should expect to justify the linear-review bill it is proposing to incur (and perhaps to share).
- **Production is a specification, not an afterthought.** The regime's forms and Section 2 contemplate format, metadata and structure being agreed; families, natives for spreadsheets, load files and redaction handling belong in the early agreement, because retrofitting a production specification is the classic month-eleven fire.
- **Preservation is technical, immediately.** Paragraph 4's duties are performed in admin consoles (holds, timer suspensions, leaver freezes) as much as in letters; the lawyer's obligation to take reasonable steps means knowing, or engaging someone who knows, where those switches are, this week.
- **Anomalies need a forensic path.** Deletion questions, authenticity challenges and attribution disputes arise inside the PD 57AD workflow but are answered by forensic method (imaging, artefact analysis, CPR Part 35 evidence); the triage discipline in *eDisclosure or Digital Forensics?* is the bridge, and building it in early is what the regime's defensibility culture looks like at the laboratory end.

Less Complex Claims and other variants

- **Less Complex Claims:** a simplified track within PD 57AD for claims that are, by value and complexity, at the lighter end (the value guideline is £1 million or less, though complexity and agreement can move cases either way). It uses a shortened DRD and streamlined process while keeping the duties, Initial Disclosure and the Model logic; the craft is the same, abbreviated.
- **Shorter and Flexible Trials Schemes:** their own tailored disclosure provisions apply, deliberately lighter still.
- **Multi-party and heavy cases:** the full machinery, often with bespoke directions layered on: staged disclosure, disclosure guidance hearings used actively, and court-managed methodology disputes.
- **Ongoing refinement:** the Disclosure Working Group has continued to review the regime's operation and the forms have been amended since 2022; check the current text and current DRD forms at the start of every matter rather than reusing last year's precedents, and expect further evolution.

Worked example: a matter through the timeline

WEEKS MINUS 8 TO 0 · CONTEMPLATION TO ISSUE

Brantwood Components anticipates suing Ostler Systems over a failed integration project (£4m claimed). On instruction, the first eDisclosure meeting runs the fifty questions; the hold issues the same day, Teams chat expiry is suspended in writing, two leavers' devices are pulled from the reissue pile, and the MSP receives a preservation notice. Written preservation confirmation is obtained. Identification and a level 1–2 assessment run before proceedings issue, so the claim is pleaded knowing what the documents show, and Initial Disclosure (61 documents) is assembled alongside the Particulars.

DAYS 1 TO 42 · PLEADINGS CLOSE TO DRAFT DRD

The Defence and Reply close pleadings. Both parties signal within 28 days that Extended Disclosure will be sought. Brantwood serves its draft List of Issues for Disclosure on day 40: six issues, neutrally worded, of which two are proposed Model D (the integration failures; the variation instructions), one Model C (Ostler's internal test results, precisely requested), and three Model A or B. Section 2 is completed from the assessment report: nine custodians tiered, per-issue date ranges, fourteen tested terms with hit reports offered for exchange, CAL proposed for the Model D issues, an archive restoration parked with its cost-versus-yield figures.

TO THE CMC AND BEYOND

Ostler counter-proposes Model D on all six issues with 21 custodians. Brantwood's response is the data: footprint counts and overlap rates for the disputed custodians, sampled relevance on the disputed terms, and an open offer of preserve-only status plus a staged tranche behind a defined trigger. Correspondence narrows the dispute to one issue and one term family; the completed DRD is filed with that dispute crisply stated; the court orders substantially Brantwood's scheme and says so in costs. Search, CAL review and production to the agreed specification follow; the certificate is drafted from the search protocol and logs; and in month seven a witness volunteers a damaging email chain outside every term, which is disclosed within days under the known-adverse-documents duty, with a file note recording the decision. Nothing about the sequence is heroic; it is the regime run as designed.

§ 1 4 · WHERE IT GOES WRONG

Common mistakes and technical limitations

Common mistakes

- **Running it as CPR 31 with new forms.** Proposing Model D on everything, treating Issues for Disclosure as the trial issues, ignoring the menu: the culture change missed entirely, and increasingly punished.
- **Late preservation.** Duties treated as arising at issue of proceedings rather than contemplation, and the written-confirmation requirement discovered at certificate time.
- **The imaginary Section 2.** Data descriptions written from optimism, volumes guessed, "TAR under consideration" as a placeholder; every later completeness argument starts here.
- **Issue-list warfare.** Weeks spent lawyering the wording of Issues for Disclosure that a short neutral list would have served better, at costs the court will notice.
- **Model C fishing.** Requests drafted as interrogatories or classes without boundaries, refused wholesale where precise requests would have been ordered.
- **Adverse-documents complacency.** No client education, no route for review-stage finds, and a duty that continues quietly breached until it surfaces expensively.
- **Cooperation as theatre.** Letters that perform engagement while conceding nothing and exchanging no data; judges read the file.
- **Stale precedents.** Last year's DRD form and boilerplate reused after amendments; check the live forms each time.

Technical limitations

- **The regime cannot conjure capability.** The DRD assumes parties can measure, test and stage; a party without provider support or internal capability will struggle to comply cooperatively however good its intentions.
- **Issue-based scoping meets messy data.** Documents do not arrive labelled by issue; per-issue Models are implemented through overlapping searches and review coding, and the practical unit of work remains the source and the custodian.
- **Estimates stay estimates.** Section 2 volumes and costs carry tolerances; state them as ranges with bases, or inherit a completeness argument.
- **Known adverse documents depend on human candour.** No system detects what a client knows; the control is education, culture and the escalation route, not software.

§ 15 · INTERROGATORIES & DRAFTING AIDS

Questions to ask · Suggested wording

Ask your client

- Do you understand that documents damaging to our case must be disclosed if known, whatever any search catches, until the case ends?
- What preservation steps have been taken, and who will give the written confirmation the rules require?
- Which of the pleaded issues will actually turn on contemporaneous documents, and where do those documents live?
- What can we measure this fortnight (volumes, custodian footprints, term tests) so the DRD is completed from numbers?

Ask your opponent

- Please confirm the preservation steps taken and their dates, including notices to former employees and third parties.
- Provide your Section 2 information: sources, custodians, volumes and proposed methods, with the data behind them.
- For each Model C request: the precise documents or narrow class sought, and the issue it serves; for each Model D proposal: the search parameters you contend are reasonable and proportionate, with tested terms.
- Will you exchange hit reports and sampled relevance rates before either side takes a fixed position on terms?

Ask an eDiscovery / forensic provider

- Can you support the DRD timetable from a standing start: identification, assessment and tested terms inside the 42-day clock?
- What do you deliver for Section 2 as standard (volume tables, custodian counts, method statements), and can we see specimens?
- How do you implement per-issue Models in practice (search design, coding structure, production mapping)?
- Who from your side attends a Disclosure Guidance Hearing or CMC if methodology is challenged, and in what capacity?

SUGGESTED WORDING · MODEL PROPOSAL PARAGRAPH FOR THE DRD (ADAPT PER ISSUE)

"Issue [n]: [neutral issue wording]. The [party] proposes Model [D] for this issue. The issue will fall to be determined principally by reference to contemporaneous documents, namely [category], held by the custodians and sources identified in Section 2. A search confined to [custodians / range / sources], applying the tested terms at Appendix [x] (hit reports exchanged on [date]), with [continuous active learning] prioritisation and validation by null-set sampling, is reasonable and proportionate having regard to the factors in paragraph 6.4: [short tailored reasons: probative centrality, measured volumes, cost estimate]. For the remaining issues, Models [A/B] are proposed because [those issues turn on expert evidence / the key documents are already disclosed], it being understood that known adverse documents will be disclosed in any event."

SUGGESTED WORDING · CLIENT LETTER PARAGRAPH ON KNOWN ADVERSE DOCUMENTS

"One duty needs special emphasis. If you, or anyone in the company with responsibility for these events (including people who have since left), are aware of any document that harms our case or helps [opponent]'s on the issues in dispute, that document must be disclosed, even if no search we agree would ever have found it, and even where no other disclosure is ordered on that issue. This duty continues until the proceedings end: if such a document comes to anyone's attention at any stage, it must be reported to us immediately so we can deal with it properly. Complying with this duty is not optional and attempting to manage around it exposes the company and individuals to serious consequences; handled promptly and properly, adverse documents are almost always less damaging than their concealment."

§ 16 · QUICK CONTROL

Checklist and red flags · When to involve a digital forensic expert

The PD 57AD checklist

- ☐ Regime confirmed applicable (court, list, exclusions checked against the current text)
- ☐ Preservation performed and evidenced at contemplation: hold, suspensions, notices, written confirmation
- ☐ Client educated in writing on the duties, known adverse documents especially
- ☐ Initial Disclosure assembled deliberately with the pleading (or dispensation agreed and recorded)
- ☐ Extended Disclosure signalled within 28 days; draft Issues for Disclosure served within 42
- ☐ Issues list short, neutral, document-focused (the McParland discipline)
- ☐ Models proposed per issue with tailored reasons; Model C requests precise; no reflexive Model D
- ☐ Section 2 completed from the data map, assessment numbers and tested terms, with tolerances stated
- ☐ Cooperation performed and recorded: exchanges, offers, narrowings, hit reports
- ☐ Disputes for the CMC crisply identified with the evidence attached
- ☐ Search, review and production run to the order and protocols; certificate drafted from the records
- ☐ Continuing duties diarised: adverse-document route live, preservation maintained, variation applications made promptly when the case moves

Red flags

- Anyone on the team describing Model D as "the default".
- A Section 2 nobody can trace to a measurement, on either side.
- An opponent's preservation confirmation that is vague about dates or silent about former employees and third parties.
- Model C requests (incoming or outgoing) that read as interrogatories.
- The client sentence "obviously we are not volunteering that document".
- DRD correspondence performing cooperation while exchanging no data.
- Precedent DRD text pasted from a pre-amendment form.

When to involve a digital forensic expert

Within the PD 57AD workflow, forensic involvement is triggered exactly as in the wider series: at preservation, where volatile or suspect sources need laboratory-grade acquisition to make the paragraph 4 duties real; in Section 2, where irretrievable or inaccessible data must be described accurately (deleted material, damaged devices, encrypted stores) and recovery feasibility stated on evidence; where authenticity, deletion or attribution is or may become an Issue for Disclosure, engaging CPR Part 35; and whenever review or assessment surfaces anomalies. The triage discipline and the escalation wording are in the companion guides *eDisclosure or Digital Forensics?* and *How to Build a Defensible eDisclosure Strategy*.

§ 17 · COMMON QUESTIONS

Frequently asked questions

Does PD 57AD apply to my case?

If the proceedings are in the Business and Property Courts, presumptively yes, subject to the excluded and modified categories in paragraph 1 (own-regime schemes and lists, Part 8, and others); check the current text against your court and list. Outside the B&PCs, CPR 31 and PD 31B govern instead, and the practical disciplines transfer wholesale even though the forms differ.

Is Model D the default?

No. There is no default Model, no entitlement to Extended Disclosure at all, and the court must be persuaded per issue that the Model sought is reasonable and proportionate. A DRD proposing Model D across the board reads as the old culture in new clothes, and courts say so.

What exactly is a known adverse document?

A document the party actually knows about (corporate knowledge running through those with accountability for the events, including departed staff) which contradicts or materially damages its case or supports its opponent's on the issues. It must be disclosed whatever Model applies and whatever any search would have found, and the duty continues to the end of proceedings. It is the regime's most personal duty and the one to educate clients on first.

What if the other side will not cooperate?

Perform your side visibly (serve, propose, exchange data, offer structure), record everything, and escalate cleanly: chase with deadlines, use a Disclosure Guidance Hearing for methodology steers, and put crisp, evidenced disputes before the CMC with the correspondence exhibited. The regime's sanctions run through costs and case management, and they are applied against parties whose files show friction as strategy.

Are we required to use technology-assisted review?

Not in terms, but the DRD requires you to state a position on analytics and TAR, courts have endorsed the technology since *Pyrrho*, and on a large Model D exercise a refusal will need justifying against the cost of the linear alternative. Decide on measured numbers and record the decision either way; that is the compliant posture whichever answer you reach.

What happens if we get it wrong?

Paragraph 17 provides for correcting failures (further searches, corrected certificates) and paragraph 18 for varying orders as the case develops; done promptly and candidly, correction is routine case management. What attracts sanction is the other pattern: breaches discovered rather than disclosed, cooperation performed rather than done, certificates describing exercises that were not performed. The protective habit is the series' recurring one: write the record as you go, so correction is a document away.

§ 18 · REFERENCE

Glossary

B&PCs

The Business and Property Courts of England and Wales, where PD 57AD governs disclosure.

Disclosure Certificate

The signed certificate confirming compliance with the duties and describing the search performed.

Disclosure Guidance Hearing

A short hearing for early court guidance on disclosure scope or method, before or after the CMC.

DRD

The Disclosure Review Document: Section 1 (Issues for Disclosure and Models) and Section 2 (data, methods, costs), completed jointly.

Extended Disclosure

Disclosure beyond Initial Disclosure, ordered per issue under Models A to E where reasonable and proportionate.

Initial Disclosure

The key documents relied on and necessary to understand the case, served with each statement of case.

Issues for Disclosure

The key disputed issues the court will decide by reference to contemporaneous documents; not the trial issues.

Known adverse document

A document a party actually knows of which damages its case or assists its opponent's; disclosable regardless of Model or search.

Less Complex Claims

The simplified PD 57AD track for lower-value, lower-complexity claims, with a shortened DRD.

Models A–E

The per-issue menu from no order (A) through limited (B), request-based (C) and narrow search (D) to train-of-inquiry (E).

PD 51U

The Disclosure Pilot Scheme (2019–2022), PD 57AD's pilot predecessor.

Written confirmation

The client's required confirmation that preservation steps have been implemented.

Sources and authoritative references

The practical workflow in this guide draws on materials published by our e-discovery practice and laboratory, referenced here as sources:

- e-discovery.uk, the practice's method statement ("Bring us in early. Defensibility is built, not retrofitted") and per-phase defensibility checkpoints: e-discovery.uk
- e-discovery.uk, EDRM phase notes (Identification and Preservation for the paragraph 3 and 4 duties; Processing and Review for Section 2 method; Production for format and certificate practice): e-discovery.uk/edrm/identification · e-discovery.uk/edrm/preservation · e-discovery.uk/edrm/processing
- e-discovery.uk, Knowledge Centre practice notes, including "Writing search terms that survive negotiation": e-discovery.uk/knowledge
- cflab.uk, digital forensics services (preservation-grade acquisition, deleted-data recovery and the CPR Part 35 reporting that Section 2's irretrievable-data statements and authenticity issues call for): cflab.uk/digital-forensics-services
- cflab.uk, guides for lawyers: cflab.uk/guides
- Practice Direction 57AD, Disclosure in the Business and Property Courts, with its appendices and the Disclosure Review Document forms: justice.gov.uk, [PD 57AD](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614444/57ad.pdf)
- *McParland & Partners Ltd v Whitehead* [2020] EWHC 298 (Ch) (Issues for Disclosure and Model selection guidance): [bailii.org](https://www.bailii.org)
- *Pyrrho Investments Ltd v MWB Property Ltd* [2016] EWHC 256 (Ch) (predictive coding endorsed): [bailii.org](https://www.bailii.org)
- CPR Part 31 and PD 31B (the regime outside the B&PCs): justice.gov.uk, [PD 31B](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614444/31b.pdf)

- CPR Part 35 (experts): [justice.gov.uk](https://www.justice.gov.uk), [Part 35](#) · Attorney General's Guidelines on Disclosure (rev. 2024, the criminal analogue): [gov.uk](https://www.gov.uk)
- ICO, UK GDPR guidance: ico.org.uk · Data Protection Act 2018: legislation.gov.uk/ukpga/2018/12

DISCLAIMER

This publication provides general information about Practice Direction 57AD and disclosure practice in the United Kingdom as at August 2026. The worked example is a fictional illustration. Paragraph references are indicative and the Practice Direction and its forms have been amended over time; always check the current text. This guide is not legal advice, does not create a professional relationship, and should not be relied upon in place of advice on the facts of a specific matter from a qualified lawyer or a suitably qualified forensic practitioner. Links were live at the date of publication.

§ HOW A SPECIALIST LABORATORY CAN ASSIST

Working with Computer Forensics Lab

PD 57AD's timetable is where our e-discovery practice (**e-discovery.uk**) earns its keep: same-week preservation support that makes the paragraph 4 confirmation true (in-platform holds, timer suspensions, leaver-device acquisition under chain of custody), identification and early assessment run inside the 42-day clock so Section 2 is completed from measurements, tested search terms with exchange-ready hit reports for the Model D negotiations, per-issue implementation through search design and review coding, hosted review with validation statistics recorded as generated, and productions to the agreed specification with manifests exchanged. The laboratory side handles what the regime's honesty requires describing accurately: deleted and irretrievable data statements, damaged and encrypted sources, and authenticity or attribution questions reported under CPR Part 35, with examiners who give evidence when methodology is challenged. Conflicts checks, confidential scoping discussions and fixed-fee estimates are routine, and we will say plainly when a Less Complex Claim needs a light touch rather than the full machinery.



INSTRUCT THE LAB

Speak to a forensic examiner, not a salesperson.

Describe your matter in confidence and an examiner will respond the same working day. Conflicts checks and scoping calls with US counsel are routine.

NEW ENQUIRIES

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