

HOW TO PREPARE COURT BUNDLES

Ask Yourself Some Questions

1. What is the hearing about
2. What are the vital/key documents for this hearing
3. What other documents need to be available
4. Which documents will be read and re-read

What Should the Answers Tell Me?

5. What documents to leave out
6. What documents need to be most easily accessed.

Setting About the Task

7. If the hearing is the trial the focus of the documentation will be the totality of the issues in the case.
8. If the hearing is some interim application (e.g. disclosure) then the principle focus will be on that topic.
9. However normally you will start by incorporating:
 - a. Relevant pleadings
 - b. Relevant applications, orders and witness statements/affidavits
 - c. Relevant correspondence
10. a. Do not “throw in everything and the kitchen sink” because you are frightened of executive decisions.
b. Sketch out a format and then read CPR 39 PD §3 and Appendix 6 to the Chancery Guide (volume 2 of the White Book) to see that your bundles will comply; but...
c. Remember that some rules are made to be “adjusted”.

Pleadings & Orders

11. Claim form¹ – usually a waste of space (unless the date is important)
You should have:
 - a. Particulars of Claim
 - b. Defence
 - c. Reply
 - d. Part 18 Replies if germane (NOT the request)
 - e. Key Orders made

¹ Unless the Particulars of Claim are endorsed

12. Executive decisions should be made to exclude the following (or put them at the back of the bundle) unless germane to the particular hearing:
 - a. Disclosure Lists
 - b. Allocation questionnaires
 - c. Applications
 - d. Orders relating to administration

Witness Statements and Affidavits

13. Normally best in a separate file.
14. Strip off the exhibits – annotate the text at the side with the location of documents referred to (Chancery Guide App 6 §§24 & 25)
15. Normally place the Claimant's ones first and Defendant's second (rather than chronologically)
16. Use numbered section dividers.
17. Bear carefully in mind that this file will probably be the one most pored over at the hearing.

Correspondence

18. Do not index every letter – save in the most exceptional case².
19. Have just one chronological sequence for all correspondence and attendance notes etc. (without dividers between letters³)
20. First in time at top of file.
21. If a letter enclosed earlier correspondence or documents do not slavishly copy them in (especially leases), just put a note at foot or a following page making it clear that you have created the note or document⁴ stating where the attachments can be found elsewhere in the bundles.
22. Only in the most exceptional cases allow the creation of overlapping chronological runs of correspondence⁵.
23. Consider whether administrative correspondence (e.g. simply acknowledging receipt of a letter) can be omitted – it should be if possible.

E Mails

24. Strip down “strings” of e mails so that you have one e mail per page.
25. Remove all anti virus and confidentiality warnings
26. If the date is missing annotate the e mail to show the dates of other e mails in the string that it fell between.
27. Incorporate the results into the correspondence file and note the steps taken in preparing the e mails at 24 to 26 above on the index sheet to the bundle or somewhere else appropriate so readers will understand what has been done.

Documentation

28. Documents must be easily legible⁶, hence:

² Just “Correspondence between [date] and [date]” will do as a file index.

³ Sometimes a coloured divider between each year is of assistance.

⁴ E.g. “XY & Co [date]”

⁵ E.g. where to run together the correspondence between the Claimant and Defendant on the one hand and between the Defendant and the Third Party would cause great confusion.

- a. Transcribe documents that copy indistinctly – either on the document or create a following page (making clear it is your effort – as above).
 - b. Ditto manuscript
 - c. Transcribe all copper plate conveyances etc – they often are visually delightful but do not be fooled.
29. Do not replicate documents in A3 format if they can be copied onto A4
30. Avoid recolouring plans (i.e. going over existing plan lines) but rather make colour copies of the originals.
31. Try not to reduce plans.
32. Do not use plastic slip folders to hold documents – especially A4 ones⁷
33. Photographs can be vital – again best quality copies⁸ and not reduced.
34. Usually documents are best organised along the following lines:
- a. Claimant's title documents (chronological sequence – earliest on top)
 - b. Defendant's ditto
 - c. Other documents in logical categories.
 - d. Photographs – maybe by location following a route or in a chronological sequence for each location.

Miscellaneous

35. Case summary – sometimes ordered but often unnecessary if pleadings are even half adequate.
36. Chronology – often very useful. Minimum three columns for date, event and page ref of key documents. The pithier the “event” column the more valuable the chronology.
37. Descriptive plans – a really good sized coloured plan (on A4) clearly marked (albeit in manuscript) may help everyone “sing from the same hymn sheet”

Bundles

38. Avoid:
- a. Simple ring binders – unless only partly full
 - b. Overfilling binders – because they will break in transit
 - c. 4 ring binders – they add nothing to security and are twice as likely to cause trouble.
39. Use:
- a. 50mm lever arch – the strongest and most dependable
 - b. 80mm lever arch – standard (but look silly with 1” paper in them)
40. Colour coding:
- a. Ranks of uniform files look impressive – but waste time in identifying a file (especially if they get out of order).
 - b. Coloured files (e.g. all correspondence files yellow) facilitates moving around files
 - c. Have coloured files rather than coloured dots – if you must, then make sure dots are on the inside cover top left as well as outside

⁶ Think about the cost of two solicitors, two barristers and a judge wasting 5 minutes each reading a document where after your transcription it will take 1 minute each – then multiply that by 25 documents (see Ch. Guide App. 6 §12).

⁷ Exceptionally this may be necessary with architect's plans.

⁸ Scanned copies are often excellent

41. For trials or heavy applications incorporate an empty bundle (80mm lever arch) at the end of the sequence (sometimes “Bundle X”) with 1-30 dividers – caters for documents that turn up as the matter progresses in an orderly manner.
42. Do not forget to create a set of bundles for the witnesses at trial.

Identification and Indices

43. Use numbers not letters for files
44. Mark file numbers clearly in large type on the spine, outside cover and inside cover top left
45. It is useful to add on the spine the genus of the contents e.g. “pleadings” or “correspondence [date] to [date]” – avoid detail, it just needs to be eye catching (See Ch. Guide App 6 §18).
46. Detail as to case name and parties, keep in very small type – judges can be trusted to know which case they are dealing with.
47. The best file index is one that fits as one sheet of A4 on the left hand inside cover of a file so that when the file is open half way the user can see a list of page numbers and at least the start of the relevant entry e.g. “77 1977 Conveyance...”.
48. If that cannot be managed then a “Key documents” list on the inside cover is next best with the fuller index in the usual place.
49. The worst index is one running to several pages on the top of the documents themselves⁹.
50. Do not treat the reader as stupid – “AHT Smith to Dan Jones 1.2.1977” may be a perfectly adequate description of a conveyance. Judges are not impressed by formal surplasage.
51. Sectioning an index (e.g. by ruling off horizontally into categories) may help the reader find documents quickly.
52. Do not be afraid to use colour or bold to differentiate in the index e.g. between conveyances and leases or plans and photographs – but remember most users will be using yellow highlighters.
53. Remember the pithier the entries on an index the quicker the eye can scan the list for the relevant entry. Also the fact that it is the 27th document in the bundle is rarely of any utility (unless the bundle is sectioned), but the page it is to be found at is. Therefore when not using sections make sure the numbers on the left of the index are the page numbers.

Sections

54. These are very useful to take the user quickly around a bundle – for instance to find the Defence or a lease.
55. If you need more than 1-30 in a bundle you are probably sectioning to excess.
56. Avoid in correspondence bundles.
57. Strong two sided ones¹⁰ are excellent.
58. Coloured ones are usually unnecessary and avoid alphabetical ones.
59. No rational person should countenance the cheap substitute of post it stickers or similar.

Pagination

60. Bottom right – involves less turning of each page.
61. Not too close to foot or edge – may be lost in copying.
62. By machine or manuscript as long as clear (allow for several copyings)
63. Existing numberings should be clearly struck through.
64. One number per sheet of paper – not per document

⁹ Because if you are half way through the file you have to close the file to read the index

¹⁰ I.e. with the number on both sides of the tab

65. Avoid pagination running on into the next file is possible – because “page 665” does not tell the reader whether it is in file 4 or 5. Judges are quite capable of understanding that the reference [5-55] is bundle 5 page 55.
66. Late insertions – beware of marking them 55a, 55b etc if may be many of them. Firstly because I and j in manuscript (for example) are often poorly written and secondly reaching aa and bb etc is just depressing. Better use 55.1, 55.2 etc *but clearly*.

Appeal Bundles

67. The practice direction at CPR 52 PD §15.2 to 15.4 tells you clearly what to include and the number of copies.
68. In any appeal it is desirable to have a core bundle – obligatory where CPR 52 PD §15.2 applies.
69. Core bundles are meant to include the key documents that you wish the Appeal Court to read before the hearing, so:
 - a. Be clear and brave
 - b. Only put in it what is vital – as opposed to background
 - c. If it gets bulky – reconsider what you are doing
70. The trial bundles usually include much that is wholly irrelevant or peripheral to an appeal. A safe course is to lodge a complete set, make sure you have a complete set at the hearing and make sure the advocates agree (and notify the Court) that they believe that all the relevant documents are in the appeal bundles – and hence why only one set of the trial bundles are being lodged.
71. Note also CPR 52 PD §§5.6, 5.12 & 7.11
72. Nowadays the Court of Appeal staff can provide invaluable assistance in case of difficulty.

And Finally...

73. Remember the raison d’être of hearing bundles is that they be user friendly.
74. Think how they will be used – and structure them accordingly.
75. Example:
 - a. The Defendant is going to be cross examined
 - b. There is “ammunition” in his witness statement and the correspondence
 - c. It is therefore best to have the correspondence in one file and the witness statement in another.
 - d. This avoids the advocate asking the witness to “keep your finger in page 99 and turn back to page 43” routine – much better to have the witness statement kept open in one file and then the advocate can take the witness here and there in the correspondence bundle cross referring as they go back to the statement.
76. Deliver bundles in good time and (hopefully) undamaged.

MDW
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