

Civil Litigation Features and Comment

The times they are a-changing . . . e-filing and detailed assessment

By [Deborah Burke](#) | 27 February 2020

Deborah Burke discusses ideas from a recent white paper on how to improve the detailed assessment process, and offers tips on getting to grips with electronic filing (or e-filing).

20 January 2020 saw the introduction of the mandatory e-filing of documents with the Senior Courts Costs Office (SCCO). E-filing had been permitted from last October, but from now on it is required.



For costs matters, the government's digital e-filing service, CE-file, must now be used for:

- requests for detailed assessment proceedings
- applications
- Part 8 claims
- assessment of legal aid bills
- assessment of Court of Protection bills
- criminal costs appeals.

This is an extension of the existing requirement for legal professionals to file documents electronically in the Business and Property Courts and the Queen's Bench Division.

Tips for e-filing

Master Gordon-Saker, the Senior Costs Judge, has issued a [practice note on electronic working](#) and, for those litigators not currently using CE-file, the government has published [general guidance](#) on using the service.

Here are a few other practical points for filing papers with the SCCO.

1. Register for CE-file

Your firm (or costs practice) needs to [register with CE-file](#) (for details see the [guidance on GOV.UK](#)).

2. Requesting a costs assessment / making an application

You must file the request for assessment and the specified accompanying documents electronically. (This includes bills of costs, whether traditional paper or electronic bills (see Precedent S in [Practice Direction 47](#) of the Civil Procedure Rules); copies of the order giving rise to the right to assess; and so on.)

However, if the file of papers needs to be filed to support a bill of costs, there is currently no formal facility for submitting the full file of papers electronically, or via a USB stick or DVD.

The same applies to an application: if a hearing is listed, a hard-copy hearing bundle is required – and if one is not lodged, the hearing may be adjourned.

3. Correspondence and documents

Correspondence with the court and documents to be filed must not be sent by more than one medium – that is, don't double up and file hard copies of documents which have already been filed electronically.

4. File sizes

The maximum file size upload limit is 50 MB per file. If larger files need to be submitted, split each file into multiple files, each not exceeding 50 MB.

5. Paying fees

Court fees can be paid through your firm's fee account, and you should get an email confirmation of the fee paid.

6. Confirmation

A further email should be received when the bill is accepted for assessment and notification should be given when the court has sealed the assessment order.

Eagle-eyed readers will see a couple of references to "should" in the tips above – no-one is completely sure yet how e-filing in the SCCO will work in practice, and it is clear that time will be needed for the new way of working to bed in.

Interestingly, Master Gordon-Saker recently indicated that in the first week after mandatory e-filing was introduced, half of all the applications filed with the SCCO came in by post and court staff were almost entirely engaged in posting documents back to firms to be re-filed electronically.

Court of Protection bills

As an aside for those involved in Court of Protection work, an SCCO working group led by Master Leonard is developing a version of Precedent S specifically for Court of Protection bills of costs. Until that spreadsheet is fully developed, Court of Protection bills in the traditional paper format will need to be scanned and then filed electronically.

Changes to the detailed assessment process?

It is important to note that although the initial filing now takes place electronically, the remainder of the assessment process is currently unchanged.

Improving the detailed assessment process was the theme of last year's Practico white paper, *Beyond the electronic bill*. Master Gordon-Saker was one of the judicial contributors to that document, and in it he said: "We have not been prescriptive about points of dispute and replies in e-bill cases. Once we know what works best, we may be able to produce revised models." From that comment, it is safe to assume that further extensions to electronic working in the SCCO are firmly on the agenda.

The cost judges' determination to bring about change is also evident in one of Master Leonard's contributions: "No-one should ask a court to order that their bills be prepared on paper only because they have not yet got to grips with the new spreadsheet format."

The white paper discusses ideas which are already beginning to emerge for a revised assessment process.

1. In the future, assessments will be informed by data that can be "sliced and diced" rapidly.
2. Once time recording practice has caught up with available technology, bill preparation will become easier and quicker.
3. Receiving parties should be required to serve a breakdown of costs as part of a pre-assessment protocol for costs.
4. In larger cases (perhaps £1m or more), a compulsory period of alternative dispute resolution based on schedules of costs could be introduced.
5. Larger matters could be listed for directions, to identify key issues and distil types of work that could be sampled to shorten the detailed assessment hearing.
6. An optional adjudication process might be introduced, perhaps including early neutral evaluation.

7. As an extension to the electronic bill of costs itself (with common data), the electronic 'pleadings' in detailed assessment could be extended to include points of dispute and replies.
8. The format of points of dispute and replies might be altered to look more like a mediation position statement, in order to help the parties focus on those aspects which most impact the result.
9. Graphs and modern data visualisation could be deployed to illuminate written submissions.

Master Gordon-Saker and Alex Hutton QC discuss these ideas in more detail in a [podcast](#) with Practico's Andy Ellis.

What next?

Litigators using the SCCO are advised to register for e-filing, familiarise themselves with the process, and be ready to embrace the more general extension of electronic working which the costs judges are keen to introduce.

In addition, any litigators who are interested in developing the ideas set out in the white paper for improving the detailed assessment process are most welcome to contact the writer, Deborah Burke (dburke@practico.co.uk).