IN THE CROWN COURT AT SOUTHWARK

1 September 2026

SOUTHWARK PRACTICE NOTE NO.1/2026

JUDICIAL CONTROL AND MANAGEMENT OF ECONOMIC CRIME AND OTHER COMPLEX CRIMINAL CASES

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INTRODUCTION

1. This Southwark Practice Note is principally directed towards jury trials in economic crime[1] cases which are likely to last four weeks or longer or which include complex disclosure issues. It may be cited as the "Southwark Practice Note on the Judicial Control and Management of Economic Crime and Other Complex Criminal Cases", and supplements the Protocol issued by Lord Woolf CJ dated 22 March 2005.

2. The Practice Note replaces Southwark Practice Note No.1/2024 and comes into effect on 1 September 2026. Southwark practitioners must familiarise themselves with its contents. It does not create a local practice, but merely reminds, and in some cases informs, practitioners of the way in which judges may exercise their case management powers, and the relevant law and Criminal Procedure Rules (**"Crim.PR"**) and Practice Directions (**"Crim.PD"**) that must be complied with in dealing with economic crime and other complex criminal cases.

PRE-COURT STAGE

3. During the investigation of a case which is likely to result in a long and complex trial, regard should be had to the following criteria which will be applied by the judge:

Defendants

(a) a realistic assessment of how many defendants are prosecuted, or prosecuted together, to avoid a trial which is too long or too complex. Parties are reminded of Crim.PR r.3.29 (joint or separate trials);

Interviews

(b) interviews should avoid irrelevant topics and unnecessary repetition, having in mind that Courts are unlikely to allow interviews to be played or read in full. If necessary, the parties' agreed editing should later reduce interviews to salient, relevant content only;

Witnesses

(c) the exclusion of witnesses as part of the Prosecution's served case who are of marginal relevance or who repeat the same evidence with no benefit to the Prosecution's case. Witness statements which do not form part of the Prosecution's served case should be listed as "unused" on the Form MG6C Schedule of Relevant Non-Sensitive Unused Material (**"Form MG6C"**);

[1] For the purposes of this Practice Note, "economic crime" includes the offences set out in Schedule 11 to the Economic Crime and Corporate Transparency Act 2023 (such as fraud, bribery, corruption, and money laundering, but not including terrorism offences), insider dealing, insolvency offences, competition/cartel offences, cheating under the Gambling Act 2005, and cybercrime offences.

Exhibits

(d) irrelevant or unnecessary exhibits should not form part of the served case. Where one page out of a bundle is relevant and context is unimportant, the other material should be listed as "unused" on the Form MG6C;

Indictment

(e) the particulars of an Indictment must contain "reasonable information as to the nature of the charge" (Indictments Act 1915, s.3). Crim.PR r.10.2 requires the particulars to "make clear what the prosecutor alleges against the defendant". Charges should reflect what the Prosecution's case really is; alternative charges based on hypothetical views of the evidence or additional counts which do not affect the criminality alleged will be scrutinised carefully by the trial judge. Exceptionally, the judge may leave a series of charges on the Indictment to reflect the seriousness of the overall offending for the purposes of sentencing (see *A-G's Reference Nos.44 and 45 of 2013* [2013] EWCA Crim 1640);

Case Summary

(f) a full summary should begin with a short statement of the Prosecution's case, the role of each defendant and the case against them, and any defence known at that stage. The Case Summary must be served in advance of the Plea and Trial Preparation Hearing (**"PTPH"**) (see [12] below); and

Disclosure Management Document

(g) the Disclosure Management Document (**"DMD"**) is an essential tool in case management, and sets out the Prosecution's approach to relevant non-sensitive material in the case. All material on the Form MG6C must be inspected by the disclosure officer, unless indicated otherwise. The DMD should be served at the point of charge or as soon as possible after charge, and, in any event, at least 7 days before the PTPH. Parties to economic crime and other complex criminal cases at Southwark should consider adapting the example DMD in Appendix A.

ALLOCATION OF TRIAL JUDGE

4. In any complex case which is expected to last more than four weeks, the trial judge will be allocated under the direction of the Presiding Judges or the Resident Judge at the earliest possible moment. Where a case is released for trial by a Circuit Judge, the trial judge should be allocated at least 5 business days before the PTPH.

5. The allocated trial judge should manage the case throughout. Because Southwark has a large turnover of heavy cases this objective may not always be achieved. Where a judge has not yet been allocated, where possible one judge should handle all the pre-trial hearings until the case is allocated to the trial judge.

CASE MANAGEMENT

6. Well-prepared and effective case management hearings at all stages leading to the trial will save Court time and costs overall.

7. It is incumbent on the Defence to engage with the Prosecution at an early stage in order to identify the real issues in the case and actively to contribute to a proper approach to disclosure. The Court has a duty actively to manage each case, *per* Crim.PR r.3.2, and the parties must actively assist it to do so, *per* r.3.3. The parties have a continuing duty to engage with each other pursuant to the Crim.PR.

8. Effective case management of economic crime and other complex criminal cases requires the judge to have a detailed grasp of the case, including the approach to disclosure and the early identification of the real issues in the case; the need for pre-reading time is dealt with below.

9. The judge will try to generate a spirit of co-operation between the Court and the advocates on all sides so as to focus on the real issues in the trial to the benefit of the Prosecution, who can put forward a clear and concise case, and the defendant(s), who can ensure that the points central to their case do not become lost in a welter of uncontroversial or irrelevant evidence.

Plea and Trial Preparation Hearing

10. An agenda and a joint note must be submitted to the Court at least 5 business days prior to the PTPH setting out the parties' agreement on the matters set out in [18] below or, if such matters have not been agreed, setting out the reasons why and the parties' suggestions as to when and how they should be dealt with. The agenda and joint note must also set out the parties' suggested reading list for the judge, the judge's pre-reading time estimate, and the agreed time estimate for the PTPH.

11. In an appropriate case, the judge may consider it necessary to allocate more than a day for the PTPH or to adjourn the PTPH to a date by which time all parties will be able to more effectively engage with the relevant evidence and identify the real issues in the case. Particular focus will need to be given to disclosure and the DMD. In some cases the judge may think it appropriate to hold a Further Case Management Hearing (**"FCMH"**) specifically to deal with disclosure issues.

Case Summary

12. The Case Summary must be served at least 5 business days prior to the PTPH. It may assist the judge, the Defence and the defendant(s) to hear the Prosecution highlight the key points of the case orally at the PTPH by way of a short outline of the case. To assist the Court and the Defence, the Prosecution should consider preparing a glossary, *dramatis personae*, and chronology to accompany the Case Summary. The Case Summary should not be considered binding on the Prosecution, but the Prosecution case must at all times be established by evidence: see, *e.g.*, *Evans v Serious Fraud Office* [2015] 1 WLR 3595, at [161].

Prosecution Core Documents Schedule

13. To that end, a Prosecution Core Documents Schedule will assist the Court and the parties in understanding how the Prosecution relies on a document or category of documents mentioned in the Case Summary to prove its case against a defendant at trial, particularly those cases involving circumstantial evidence. The Prosecution Core Documents Schedule should:

(a) refer to the paragraph number in the Case Summary in which the core document or category of core documents is mentioned and relied upon by the Prosecution;

(b) hyperlink the CCDCS page reference to the document uploaded to the relevant CCDCS file; and

(c) succinctly identify:

(i) the document or category of documents relied upon by the Prosecution; and

(ii) the Prosecution's observations on its significance, and any inference(s) the Prosecution seeks to be drawn from it in support of its case.

The Prosecution should consider adapting the example Prosecution Core Documents Schedule set out in Appendix B.

Admissions

14. Draft admissions in the form of agreed facts pursuant to s.10 of the Criminal Justice Act 1967 (the **"CJA 1967"**), should be served by the Prosecution with the Case Summary and the Prosecution Core Documents Schedule, taking into account any defence known at that stage. The Court may wish to consider directing the parties to agree admissions at the completion of Stage 2, to narrow the issues in the case.

15. The Defence advocate(s) will be properly instructed in accordance with their obligations pursuant to s.5 of the Criminal Procedure and Investigations Act 1996 (the **"CPIA 1996"**) and ss.33-39 of the Criminal Justice Act 2003 (the **"CJA 2003"**).

16. The expectation at Southwark is that the trial advocates attend the PTPH, and in person.

17. Delays in obtaining the Very High Cost Cases Legal Aid contract should not be a bar to proper preparation by the Defence at an early stage, nor should any application for King's Counsel or two or more advocates.

Issues to be dealt with at Plea and Trial Preparation Hearing

18. The following issues should be dealt with at the PTPH:

Discussions in advance of orders being made

(a) Discussions in advance of orders being made will assist the judge who still feels that they do not have sufficient information to identify:

(i) the focus of the Prosecution case as set out in the Case Summary;

(ii) the common ground;

(iii) the real issues in the case (Crim.PR r.3.2);

(iv) Initial disclosure by the Prosecution pursuant to s.3 of the CPIA 1996; and

(v) the Prosecution's approach to disclosure as set out in the DMD.

Pleas of guilty

(b) The Court should identify whether any pleas of guilty can be entered to the Indictment or whether any pleas are likely to be forthcoming. The judge will be in the best position to make their own assessment as to the appropriate credit after the plea has been entered. The judge should order a basis of plea to be served on the Court and Prosecution where relevant to do so. Parties must follow the correct procedure for a basis of plea and plea agreements, *per* Crim.PD 9.3.3-9.3.13 and Crim.PR r.25.16(4).

Trial date and length

(c) Where pleas of not guilty are entered, the Court should set a date for trial leaving sufficient time for preparation and to allow the Court to set a realistic timetable. Trials should not be scheduled to last longer than three months except in exceptional cases and where the length can be justified by the parties. Trials can usually be kept to three months by following the guidance given in [19] below. At this stage, the parties must give accurate information as to the trial length to enable the Court to adequately allocate and deploy sufficient resourcing to the trial, taking into account the competing demands upon the Court's resources from this and other long and complex cases. The parties and the trial judge must reconsider the trial length at each hearing after the PTPH, and finally at the Pre-Trial Review (**"PTR"**).

Issues

(d) The judge should explore the real issues in the case including an outline of the defences to be advanced.

Service of papers

(e) The Prosecution is likely to have its papers in an advanced state of readiness by the PTPH and a tight timetable should be set for service of any additional evidence.

Initial disclosure

(f) In accordance with the Attorney General's Guidelines on Disclosure, the Prosecution should be in a position to make Initial Disclosure or the first phase of it in advance of the PTPH rather than at Stage 1. The judge should identify:

(i) the names of the disclosure officer and the reviewing lawyer;

(ii) whether it is a case where the Prosecution advocate has had oversight of the way in which the Form MG6C and DMD have been prepared;

(iii) whether the Prosecution advocate has had oversight of the preparation of the Form MG6C and Form MG6D Schedule of Relevant Sensitive Material (**"Form MG6D"**) and the DMD;

(iv) when the DMD was served, and whether the Defence have engaged with the Prosecution about it and the Prosecution's approach to disclosure;

(v) whether specific orders are required to advance engagement from the Defence on the content of the DMD;

(vi) how the Prosecution has approached searches of digital material, and whether directions are required (see [29] below). The judge should pay particular regard to any search methodology adopted by the Prosecution so as to ensure that there is a common understanding between the parties as to what search terms, key words and methodologies will and will not capture; and

(vii) if the Prosecution proposes to take a phased approach to Initial Disclosure in accordance with paragraph 107 of the Attorney General's Guidelines on Disclosure, what it proposes to include in each phase and by when it proposes to complete each phase.

Defence Statements

(g) A timetable will be set to incorporate stage dates, including a date for service of Defence Statements in Stage 2. Defence Statements must properly set out requests for further disclosure if such requests have not previously been made. Defence Statements must properly set out the Defence case in sufficient detail pursuant to ss.5-6E of the CPIA 1996 and the Crim.PR. Judges will use their powers to ensure that Defence Statements are provided in accordance with ss.5-6E of the CPIA 1996 and the Crim.PR, and, where a Preparatory Hearing has been ordered, ss.7-10 of the Criminal Justice Act 1987. A Standard Witness Table in the approved form must be provided in accordance with s.6C of the CPIA 1996.

Disclosure

(h) See [27] below.

Additional jurors

(i) Whether this is a trial in which they are to be used for any part of the hearing.

Questions to be asked of jury

(j) In an appropriate long and complex case, the Prosecution must provide the Defence and the Court with questions to form part of the written jury questionnaire completed by potential jurors before the jury pool is called into Court.

Other matters

(k) The judge should pay special regard to:

(i) reducing the number of counts or severance of defendants or charges;

(ii) whether a witness needs to be called. Further, the Prosecution should be directed to prepare a witness schedule (often called a "batting order") to which each party will add the time required for each witness;

(iii) any cross-border aspect of the case which might require requests by the parties or the Court for co-operation with other jurisdictions and/or countries (such as the taking of witness evidence from abroad);

(iv) summaries of interviews, setting out a maximum number of pages in the knowledge that ss.119-120 of the CJA 2003 would permit a party to adduce specific passages not contained in the summaries during the Defence case if required;

(v) the use of electronic presentation of evidence (**"EPE"**) (see [61] below) and core bundles (which should include documents and material necessary for the proper understanding of, and determination of, the issues), including Defence exhibits;

(vi) the judge should enquire into the issues to be covered and whether experts are required at all. Crim.PR r.19 and Crim.PD 7 must be followed carefully by any party instructing an expert. Other relevant guidance (*e.g.*, the CPS Guidance for Experts on Disclosure, Unused Material and Case Management) should also be considered by any expert instructed by the Prosecution;

(vii) the judge should play an active role to ensure that the case papers are served in digital form (subject to the Court's own ability to accept papers in that form); and

(viii) the use of LiveNote or some other real-time service for the transcription of evidence. LiveNote is an expensive option, but it may be of particular use during sections of complex and/or expert evidence. In the event such a service will benefit the Court and the parties in a long and complex trial, the parties should raise its deployment at trial so that the cost allocation can be considered and agreed by the trial judge well in advance of trial and before the PTR.

Orders without a hearing

(l) The judge should lay down a procedure for dealing with applications that can be resolved in writing or, where possible, via CVP so as to avoid unnecessary in-person hearings.

Use of emails for further communications

(m) Email addresses, including one for the judge or the Court, should be exchanged. Directions should be given as to the use that the judge wants made of this form of communication.

Confirmation orders complied with

(n) The judge will set down a procedure so that they are informed that their orders have been complied with, and remind the advocates of the need to report others' failures and self-report their own failures to comply.

Further Case Management Hearing

(o) A date for a FCMH, if required. The judge must avoid unnecessary and costly hearings when they are not required whilst ensuring that the judge can order, or the parties can apply for, a hearing to keep the case on track.

Pre-trial review

(p) A date for the PTR will be set by the trial judge at least 8 weeks before the trial date.

Minutes of orders

(q) Minutes of the orders made should be agreed and circulated.

CONTROL OF SCOPE AND LENGTH OF TRIALS

19. The judge can influence the length and complexity of a case by:

(a) encouraging the Prosecution to review whether it is in the public interest to pursue certain charges and/or certain defendants;

(b) severing the Indictment. Severance for reasons of case management alone is perfectly proper, although judges should have regard to any representations made by the Prosecution that severance would weaken their case, and any representations made by the Defence. The judge must bear in mind that they will, at the outset, know less about the case than the advocates. The judge should have regard to Crim.PR r.1.1(2)(h)[2]; and

(c) reducing the scope of the evidence in accordance with the Crim.PR. Where it is clear that the advocates have already narrowed the issues, pruned the evidence, *etc.*, the judge must make a careful assessment of the degree of judicial intervention which is warranted.

20. The parties are obliged to provide the Court with accurate and realistic estimates of the trial length whenever requested, but in any event at the PTPH and at the PTR.

SPECIFIC EVIDENTIAL ISSUES

21. Directions may need to be given as to the way in which it is proposed that the evidence is presented to the jury including the use of schedules and other visual aids. The judge should be willing to intervene and direct how the evidence is to be presented if they believe that the jury can be better assisted by a different approach. This is relevant in relation to each area of evidence identified below.

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[2] "(2) Dealing with a criminal case justly includes—
…
(h) dealing with the case in ways that take into account—
(i) the gravity of the offence alleged,
(ii) the complexity of what is in issue,
(iii) the severity of the consequences for the defendant and others affected, and
(iv) the needs of other cases."

Mechanics of offence

22. In many economic crime prosecutions the activity said to underlie the offending is not in dispute, the issues generally are as to knowledge or dishonesty. The judge should play an active part in encouraging this to be reduced to schedules and admissions and refusing to allow evidence to be called which can be summarised fairly in this way. A witness's evidence can sometimes be read or reduced to a schedule before they are tendered for cross-examination.

Expert evidence

23. Following the exchange of reports, any areas of disagreement should be identified and a direction should generally be made requiring the experts to prepare a joint statement identifying points of agreement and contention, and areas where the Prosecution is put to proof on matters of which a positive case to the contrary is not advanced. In many cases, it may be appropriate to provide it to the jury.

Surveillance evidence

24. Where many months of observation or surveillance evidence is capable of effective presentation based on a shorter period, the Prosecution advocate should be required to justify the evidence of the wider observations. The Defence advocate(s) should be required to identify with precision what is in dispute and, where relevant, justify the need to call a number of witnesses to provide the same evidence.

Phone evidence

25. The judge should direct, both in respect of the period covered and the extent of the information provided in respect of calls and/or messages which are not directly relevant to the issues in the trial, what can be put before the jury. The necessity to have all the calls and/or messages listed can be obviated either by summaries of the number of calls and/or messages within a schedule or by free-standing admissions. The judge should look to see whether the amount of technical evidence included on the schedules is required bearing in mind the issues in the case and direct its removal if irrelevant.

26. Where cell site analysis is to be carried out, agreement should be reached as to the relevant technical aspects of the evidence and reduced to writing where possible.

DISCLOSURE

27. Because failures in the disclosure process remain the most likely cause for a trial being delayed or stayed, or resulting in a miscarriage of justice, the parties and the judge should be familiar with the following guidance on disclosure:

    (a) ss.3-26 of the CPIA 1996;

    (b) the s.23(1) CPIA 1996 Code of Practice (the **"CPIA Code of Practice"**);

    (c) the Attorney-General's Guidelines on Disclosure;

    (d) Part 15 of the Crim.PR (Disclosure); and

(e) the Judicial Protocol on the Disclosure of Unused Material in Criminal Cases.

28. The parties and the judge must keep up to date with evolving guidance and protocols on disclosure.

29. Early control of the disclosure process is required, and in particular the judge should address the following.

Non-sensitive schedule of unused material

(a) If asked to do so by the parties, the judge should examine the Form MG6C and consider whether items have been described in accordance with the CPIA Code of Practice and the Attorney-General's Guidelines on Disclosure. If the judge is not satisfied that the schedule complies with the Code and the Guidelines, they should make that clear to the Prosecution and invite them within a reasonable timeframe to redraft the document to make it compliant.

Reviewing lawyer

(b) If an issue arises in respect of the disclosure process on which the judge feels they can be assisted by the reviewing lawyer, they should invite them to attend Court.

DMD

(c) The judge should require the Defence to serve any observations on the content of the DMD on the Prosecution and the Court as soon as reasonably practicable, *per* Crim.PR r.15.2(5). If those observations have not been served by the time of the PTPH, the judge should make directions for that at that hearing.

Documents held electronically

(d) The judge should lay down a timetable for any further disclosure requests. To ensure a fair process is undertaken, the judge should direct:

(i) the Defence to inform the Court what material they are seeking and any key word or other searches of material that they would suggest;

(ii) the Prosecution to consider the use of additional technological assistance for its review (such as the use of predictive coding software); and

(iii) the parties to discuss the procedure adopted for searching, scheduling and serving material, to achieve a process which cannot be criticised at a later stage.

Section 8 applications

(e) The judge will require applications for disclosure to be made using this procedure alone and not allow unfocussed requests for disclosure in general correspondence to be advanced. Such application must be made well in advance of trial. The judge will require documents or categories to be specified and justification for disclosure provided in the application and to demonstrate the relevance to clearly identified issues in the Defence Statement. The judge should bear in mind that, in cases of

economic crime, defendants are likely to know their own business affairs and what they are looking for and will be able to identify documents with particularity.

Contemporaneous documents, such as emails and calendar entries, may be important to Defence preparation, and consideration should be given to their disclosure at an early stage. That said, the Prosecution's duty under the CPIA 1996 (whether as a primary obligation under s.3 or s.7A, or as a consequence of a specific request under s.8) is to disclose material which might reasonably be capable of undermining the case for the Prosecution or assisting the Defence case. This necessarily requires focus on the issues in the case. The Prosecution's disclosure obligation does not extend to require disclosure of a document simply on the basis that it may be relevant in some undefined or diffuse way other than undermining the Prosecution case or assisting the Defence case.

30. The judge should set further review dates in respect of disclosure if it is thought necessary to do so. Where concerns are expressed over disclosure, a hearing should be ordered promptly.

APPLICATIONS

Generally

31. Applications for a pre-trial ruling from the Court under Part IV of the CPIA 1996 to determine any question as to the admissibility of evidence or any other question of law relating to the case concerned must be made in writing.

32. Applications for a preparatory hearing under s.7 of the CJA 1987 or s.29 of the CPIA 1996 must be made in writing, *per* Crim.PR r.3.23.

33. All questions of law concerning the form of the Indictment, disclosure, admissibility of evidence, bad character, hearsay or anything else which does not arise *ex improviso* during the trial should be considered by the trial judge before trial.

34. Any party wishing to make an application or raise a question of law should do so as soon as the issue is identified, and, in any event, no later than the PTR.

35. Only questions of law which arise *ex improviso* during the trial will be considered by the trial judge during the trial (unless the trial judge has deferred the determination of an application or a matter of law to trial). Such questions of law must be the subject of a written exchange of skeleton arguments and will be taken at a point convenient to the Court.

36. Applications made before trial will be referred to the trial judge, who is likely to give directions to the parties relating to the conduct of the application and the hearing.

Time estimates

37. Parties must provide time estimates for (1) required pre-reading time for the judge, and (2) required hearing time, agreed if possible, whenever seeking a hearing date from the Listing Office, and:

(a) unless (b) below applies, a separate estimate must be given for each application, including any application issued after, but to be heard at the same time as, another application;

(b) a separate estimate need not be given for any application issued after, but to be heard at the same time as, another application where the advocate in the case certifies in writing that the determination of the application issued earlier will necessarily determine the application issued subsequently or the matters raised in the application issued subsequently are not contested.

38. Parties need to be realistic about the length of time required to determine applications. The Court's experience is that parties under-estimate the time required for pre-reading, for the hearing, or both, far more often than they overestimate time. Where pre-reading or hearing time is under-estimated, the hearing may be adjourned.

Evidence

39. Even where no specific requirement for evidence is set out in the Crim.PR or Crim.PD, the Court will in practice often need to be satisfied by evidence of the facts that are relied on in support of, or in opposition to, an application.

40. Evidence in support of an application should be filed and served with the application.

41. Evidence in opposition to an application should be filed and served with the skeleton argument opposing the application.

Hearing bundles

42. No hard copy bundles should be filed with the Court unless requested by the judge; only electronic bundles uploaded to the CCDCS should be filed. The parties should seek to minimise their own and other participants' use of hard copy bundles and documents.

43. The preparation of bundles requires a high level of co-operation between legal representatives for all parties. It is the duty of all legal representatives to co-operate to this high level.

44. Bundles should contain only documents and authorities that are necessary for the hearing. Large electronic files can be slow to transmit and unwieldy to use and therefore should be avoided. The sensible selection (limitation) of the material reproduced in hearing bundles is as important as the quality of bundle preparation.

45. Each bundle should be given a concise title (CCDCS section name for an electronic bundle, front cover and spine label name on any hard copy bundle) identifying its contents by type, which should be prominent and prior to any element identifying the case.

46. As regards bundle format:

(a) where possible, the hearing bundles other than the core bundle(s) (which should include documents and material necessary for the proper understanding of, and determination of, the issues) and the authorities bundle(s) should be combined into

one .pdf file, but in larger cases it may be sensible to combine separate categories of bundle into separate .pdf files;

(b) any authorities bundle(s) should always be provided separately, where possible combined as a single .pdf file;

(c) all significant documents and all sections in bundles should be bookmarked for ease of navigation, with an appropriate description as the bookmark. The bookmark should contain the page number of the document;

(d) individual bundles should be indexed, and the index should if possible be searchable, save that chronological bundles of contemporaneous correspondence need not be indexed if an index is unlikely to be useful;

(e) a separate index or table of contents for the hearing bundles should also be provided, if possible hyperlinked to the indexed documents;

(f) no more than one copy of any one document should be included, unless there is good reason for doing otherwise;

(g) contemporaneous documents, and correspondence, should be included in chronological order; and

(h) electronic bundles will be paginated automatically by the CCDCS.

Skeleton arguments and citation of authorities

47. Skeleton arguments must be provided by all parties. These must be provided to the Listing Office and served on the advocates for all other parties to the application at least 5 business days before the date fixed for the hearing.

48. Skeleton arguments must:

(a) be concise;

(b) be set out in numbered paragraphs;

(c) be cross-referenced (by hyperlink to any document uploaded to the relevant CCDCS file) to any relevant document in any bundle prepared for the Court;

(d) be self-contained;

(e) not include extensive quotations from documents or authorities;

(f) include an estimate of the pre-reading time likely to be required by the Court and a suggested reading list, preferably agreed; and

(g) not be more than 15 pages in length (font minimum 12 point; 1.5 line spacing), without the Court's prior permission. Any application to serve a longer skeleton should be made to the Court on the papers, briefly stating the reasons for exceeding the page limit and stating what number of pages is said to be necessary. Such

application should be made sufficiently in advance of the deadline for service to enable the Court to rule on it before that deadline.

49. Where it is necessary to refer to an authority, the skeleton argument must cite the neutral citation number followed by the authorised law report citation as set out in *Practice Direction (Citation of Authorities)* [2012] 1 WLR 780.

PRE-TRIAL REVIEW

50. A PTR should be held at least 8 weeks before the trial date, and must be held in any event.

Prosecution obligations

51. At least 2 weeks before the PTR, the Prosecution must serve upon the Court and the Defence:

    (a) a draft jury questionnaire;

    (b) a draft Opening Note;

    (c) a revised Prosecution Core Documents Schedule, to reflect the Prosecution case set out in the draft Opening Note;

    (d) to the extent not already agreed, proposed draft admissions in the form of agreed facts pursuant to s.10 of the CJA 1967;

    (e) a draft witness timetable/batting order for the Prosecution witnesses set out in the Standard Witness Table; and

    (f) a draft jury bundle index.

Defence obligations

52. At least 5 business days before the PTR, the Defence:

    (a) must identify which proposed draft admissions are agreed, and which are not agreed;

    (b) must serve upon the Court and the Prosecution a document which identifies what is in issue in the case, *per* Crim.PR r.25.9(2)(c) (the **"Defence Issues Document"**). The Defence Issues Document must be concise and explain the issues in the case without containing submissions or reference to character evidence; it must be no longer than two A4 pages (font minimum 12 point; 1.5 line spacing). The Defence Issues Document should not be provided to the jury unless otherwise directed, and may (with the Court's permission) be read to the jury by a Defence advocate at the conclusion of the Prosecution's opening address;

(c) should:

(i) succinctly identify any Defence observations on the significance and/or inferences invited by the Prosecution on documents or categories of documents set out in the Prosecution Core Documents Schedule;

(ii) identify any document or category of documents which the Defence will rely upon at trial, and set out such document or documents by preparing and serving a Defence Core Documents Schedule which hyperlinks the CCDCS page reference to the document uploaded to the relevant CCDCS file. The Defence should consider adapting the example Defence Core Documents Schedule set out in Appendix B; and

(d) must reconfirm to the Prosecution the identity of the witnesses upon whom the Defence intends to rely set out in the Standard Witness Table, and factor into the batting order an accurate time estimate for the defendant's case.

Joint obligations

53. The draft witness timetable/batting order must contain accurate time estimates. Unless the Court otherwise directs the parties must limit their examinations to time estimates given.

54. The parties should consider whether the jury would benefit from case-specific legal directions given by the trial judge at the outset of the trial, whether about the offences on the Indictment or any other matters of law arising, and, if so, submissions on what those directions should contain.

Absences during trial

55. At the PTR, the parties must identify to the judge known dates where a trial advocate has firm commitments elsewhere (*e.g.*, in the Court of Appeal (Criminal Division)) during the trial window period and seek the Court's permission to be absent on those days to assist the Court in effectively managing the allocated sitting days throughout the trial window.

TRIAL

Preparation

56. If the judge has not had sufficient pre-reading time during the period they have managed the case, they should ensure that they are provided with time before the trial so that they can exercise firm control over the conduct of the trial.

57. So far as possible, the judge should be freed from other duties and burdens during the trial so that they can give the high degree of commitment which a long and complex trial requires.

Judicial assistant

58. In some very heavy cases, the judge's burden can be substantially offset with the provision of a Judicial Assistant or other support and assistance. However, this will only be granted in a wholly exceptional case.

Jury

59. The criminal justice system relies on the jurors understanding a complex case, continuing to engage with the trial process over a long period and assisting by attending Court in good time each day. To achieve these ends, the judge should consider the following.

Maxwell hours

(a) The judge may decide that they need to sit Maxwell hours for part of the trial, or that it will assist the trial process to sit from 09:30 to 13:30 one day each week (usually Fridays) to allow for legal argument, discussions with the trial advocates and preparation. An added advantage of sitting Maxwell hours one day each week is to provide jurors with the opportunity to arrange appointments on that afternoon which might otherwise disrupt the trial. In that event, the draft jury questionnaire should ask the jury pool if any of them would have difficulty in starting at 09:30 instead of 10:00 on the allocated Maxwell hours day.

Issues

(b) The issues should be identified to the jury from the outset. In appropriate cases the Defence can be given permission to make short opening statements after the Prosecution has opened its case. At a minimum, the Defence should identify to the jury the issues set out in the Defence Issues Document; the Prosecution should set out the identified issues in the Opening Note and the Prosecution Core Documents Schedule. Where the law is complex, the judge may wish to set out what must be proved at the outset to help the jury to identify the issues as they listen to the evidence.

Timetable

(c) The timetable should be made clear to the jury and regularly updated.

Jury bundle

60. The Jury Bundle must remain manageable. Its contents will need careful scrutiny and oversight by the judge to ensure that it contains only documents to be adduced in evidence by a party as part of that party's case. The default position is that only documents featured in a party's Core Documents Schedule should form part of the Jury Bundle.

Electronic presentation of evidence

61. EPE should be the default position in every long and complex trial, particularly where the trial will involve the presentation of voluminous material to the jury. Where EPE is used, the material to be displayed should be prepared and disclosed to the Defence in sufficient time so that the accuracy of the material can be checked well ahead of trial,

and, in any event, before the PTR. Tablet devices such as iPads should be made available to the defendant(s), the advocates, and all jurors so as to engage better with the EPE material.

Case management

62. The judge has a continuing duty to manage the trial throughout by:

Reviewing progress against witness timetable

(a) the time set aside for a witness should be reviewed as the issues become clearer during the trial. Judicial control will reduce the incidence of short days or the prospect of an advocate being unprepared for a witness who has come earlier than expected;

Intervening

(b) intervening to stop unnecessarily detailed examination-in-chief or cross-examination or, in multi-handed cases, repetitious cross-examination of issues already covered by others;

Case management sessions

(c) to monitor progress and to ask an advocate where a line of questioning is leading; whether, in light of the way the case is being presented, certain witnesses are now required; suggesting that further issues can now be dealt with by admissions. Crim.PR r.3.13 will assist the judge in this regard. The judge may issue "Case Management Notes" setting out their tentative views on where the trial may be going off track, which areas of future evidence are relevant and which may have become irrelevant. They can ask for written responses before deciding what action they will take to move the trial on; and

Monitoring trial length

(d) monitoring the trial length, to ensure wherever possible that it does not exceed the estimated trial length provided by the parties and confirmed at the PTR.

Document-heavy, circumstantial evidence cases

63. The judge has a duty to direct the jury about inferences which the jury may safely draw from circumstantial evidence and to sum up the evidence in the case. The parties' Core Documents Schedules will assist the judge in undertaking this duty by identifying a party's case in relation to any document or category of documents adduced in evidence at trial.

64. For this purpose the parties' Core Documents Schedules may be reviewed by the judge (with the parties' assistance) after the parties' closing speeches to confirm the significance of the document/category of documents to a party's case and any inference(s) sought to be drawn from the document/category of documents by that party, and the observations of any other party on the document/category of documents and/or the inference(s) invited. If that happens, sufficient time will be given for the parties to undertake that task during the trial and before the judge's summing up on the evidence.

65. To help the jury come to a verdict the judge may decide to provide the jury with a written summary identifying the inference(s) relied on by each party from the document/category of documents in accordance with Crim.PR r.24.12(3) and r.24.12(5).

His Honour Judge Baumgartner
The Hon. Recorder of Westminster
Resident Judge, Crown Court at Southwark

APPENDIX A

DMD Template

Case No.: **[●]**

IN THE CROWN COURT AT SOUTHWARK

BETWEEN:

REX

- v -

[●]

DISCLOSURE MANAGEMENT DOCUMENT

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1. INTRODUCTION

1.1 This Disclosure Management Document (**"DMD"**) is provided in connection with the criminal investigation and prosecution carried out by [*e.g.,* the Serious Fraud Office under the name **[●]**, or a private prosecutor] (the **"Prosecution"**).

1.2 The purpose of this DMD is to provide the Court and the Defence with a detailed and transparent outline of the approach that has been taken by the prosecution in relation to relevant non-sensitive material. It will cover:

(a) the Prosecution's understanding of the Defence case and the anticipated trial issues, including detailing the Prosecution's understanding of those matters which are, and are not, in dispute;

(a) the lines of enquiry that have been pursued and those that have not been pursued;

(b) the roles played by different members of the Prosecution case team;

(c) the process by which relevant material has been identified, obtained, reviewed and scheduled, including the method and extent of examination of digital material;

(d) how material which is potentially capable of meeting the test for disclosure was identified, and how the disclosure test has been applied;

(e) the approach taken towards certain categories of material, such as third party material or material held overseas, and other specific disclosure decisions that have been made, which are considered to be of particular importance to this prosecution;

(f) any outstanding material which needs to be reviewed along with the Prosecution's intentions in respect of this material and the anticipated timescales for completion of any further review work;

(g) [*add any further necessary details*].

1.3 Given the ongoing nature of the disclosure exercise, this DMD will be supplemented/updated by sequentially numbered addendum DMDs provided at appropriate points after the date of service of this DMD and at least once every 6 months.

2. RELEVANT DISCLOSURE PROCEDURE

2.1 The control, management and disclosure of unused material is governed by [insert details. Currently the Criminal Procedure and Investigations Act 1996 (**"CPIA 1996"**) and by the revised Code of Practice issued under s.23 CPIA 1996 (the **"CPIA Code"**)].

2.2 The following also form part of the applicable framework of law and guidance:

(a) the principles set out by the House of Lords in *H and C* [2004] 2 AC 134;

(b) the Attorney-General's Guidelines on Disclosure;

(c) Part 15 of the Crim.PR; and

(d) [*insert details of any other applicable case law/guidance*].

3. DEFENCE CASE(S)/ANTICIPATED ISSUES/APPLICATION OF THE DISCLOSURE TEST

3.1 A Case Summary was served on [*insert date*]. However, in short the Prosecution case is as follows:

[*Insert brief details of the Prosecution case.*]

3.2 At the date of this document the following information is known about the Defence case(s):

[*Insert details of the Defence case(s) and if possible where any such information came from. For example, if the defendant offered an explanation in interview then state when the interview took place and a summary of the defence advanced.*]

3.3 The issues in dispute in the case are therefore considered to be:

[*Insert high level details.*]

3.4 The issues which are not considered to be in dispute are:

[*Insert brief details.*]

3.5 Material which the Prosecution has determined satisfies the disclosure test has been clearly identified on the non-sensitive schedule of unused material. Such material falls within the following broad categories:

[*Insert brief details.*]

3.6 The disclosure exercise has been approached bearing in mind these anticipated issues. The Prosecution will keep the list of issues under review and will take proper account of the contents of defence statements and any representations made on behalf of the defendant(s).

4. REASONABLE LINES OF INQUIRY/THIRD PARTY MATERIAL

4.1 In light of the Prosecution's understanding of the Defence case(s) and anticipated issues, the following lines of enquiry were followed:

[*Insert summary of reasonable lines of enquiry pursued, particularly those which point away from the defendant, or which may assist the Defence, along with rationale for pursuing.*]

4.2 These resulted in material being gathered by various means, from different custodians (including third parties) as set out below:

(a) Search warrants executed at addresses in the United Kingdom.

[*Insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material.*]

(b) [*Where the prosecution is brought by the SFO:*]

Notices issued under s.2 of the Criminal Justice Act 1987 (**"CJA 1987"**) requiring the production of material:

[*Predominantly banking material or the furnishing of information (by both companies and individuals) or the answering of questions – insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material.*]

(c) Letters of Request (**"LoRs"**). There are a number of territories outside the jurisdiction which were considered to hold material which may be relevant to this investigation. These are [*insert details of jurisdictions*]. Reasonable steps have been taken to obtain this material by:

[*Insert details of LoRs sent and responses to them.*]

(d) Voluntary provision of information [*e.g., by holders of public records such as Companies House - insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material*].

(e) Interviews under caution with suspects [*insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material*].

(f) [*Insert details of any other methods by which material was obtained.*]

4.3 In addition, material (both electronic and hard copy) has been generated internally by the Prosecution case team during the course of the investigation. Such material includes investigators' notebooks, draft witness statements, correspondence, accounting schedules and so on.

4.4 The following steps were not considered reasonable lines of enquiry and so were not pursued:

[*Insert details of any lines of enquiry not pursued and the rationale for not doing so.*]

5. REPRESENTATIONS ON THE DMD, REQUESTS FOR DISCLOSURE AND SECTION 8 CPIA 1996 APPLICATIONS

The DMD

5.1 The Defence are under a duty to engage with the Prosecution promptly in order to aid understanding of the Defence case and the likely issues for trial. The Defence also have a critical role in ensuring that the Prosecution are directed to material which meets the disclosure test. Therefore, the Defence are invited to give careful consideration to this DMD and should raise any challenges as to the appropriateness of the approach taken by the Prosecution in a timely fashion. In particular, if the Defence consider that:

(a) the Prosecution has failed properly to understand the nature of the Defence case; and/or

(b) there are other issues in dispute which have not been anticipated; and/or

(c) there are reasonable lines of inquiry which have not been pursued but ought to have been; and/or

(d) there are third parties who hold material which is likely to be of relevance to the issues but which has not been obtained,

then detailed and reasoned particulars should be provided in the Defence Statement.

5.2 If complaints concerning the Prosecution's overall approach to disclosure are raised late in the proceedings the Court will be referred to this DMD and the Defence will be asked to justify the timing of their representations.

5.3 To ensure compliance with these obligations and assist in the progression of the case, the Court will be invited at the Plea and Trial Preparation Hearing to: (1) exercise its case management powers to make appropriate directions to manage the on-going disclosure process, including setting a date by which the Defence should respond to matters raised in this DMD; and (2) set a timetable for the resolution of any arguments concerning disclosure.

Requests for Disclosure

5.4 The Attorney General's Guidelines on Disclosure state that Defence requests for disclosure should ordinarily only be answered by the Prosecution if the request is relevant to, and directed to, an issue identified in the Defence Statement. The Prosecution therefore requires all requests for disclosure to be made in writing with sufficient

particularisation and reference to enable a proper analysis of the issue or issues. If a request relates to an item on the non-sensitive schedule, that item should be identified by both its unique reference number and its schedule reference number. All Prosecution responses will be made in writing.

5.5 Disclosure requests which are general and unspecified and/or amount to "shopping lists", as well as requests which are not justified, will be met with a request for further and better particulars. Similarly, inadequate Defence Statements will be challenged and appropriate directions sought from the Court for the provision of an adequate defence statement as soon as possible.

5.6 All disclosure requests made by the Defence must be made in writing to the Prosecution so as to provide a documented audit trail for the Court in the event a s.8 application follows.

Section 8 CPIA 1996 Applications

5.7 The Prosecution will invite the Court not to make any orders for disclosure without a proper application being made pursuant to s.8 of the CPIA 1996 and Part 15.5 of the Criminal Procedure Rules. The Prosecution asks that all s.8 applications are accompanied by full written argument to properly assist both the Prosecution and the Court.

[*Sections 6 to 8 apply specifically where the prosecution is conducted by the SFO. In all other cases these sections should be adapted appropriately for the prosecuting agency conducting the Prosecution case.*]

6. ROLES AND RESPONSIBILITIES IN THIS CASE

The Serious Fraud Office

6.1 The definitions of roles and responsibilities within the CPIA Code are based upon a model of investigation and prosecution where there is a formal separation between the agency investigating a criminal offence (usually the police) and the agency prosecuting the defendant (usually the Crown Prosecution Service).

6.2 The Prosecution operates under a different model, with investigators and prosecutors working side-by-side as part of a single "case team" from the initial acceptance of a case for investigation until its ultimate disposal (commonly known as the "Roskill" model). It follows that certain requirements of the CPIA Code need to be translated to the Prosecution context. For example, the notion of formal revelation of unused material by the disclosure officer to the prosecutor is inapposite given that the prosecutor is likely to have been closely involved in the investigation, and in some cases will even have been responsible for leading the investigation.

6.3 Due to the nature and complexity of matters investigated by the Prosecution the division of responsibilities between members of the Prosecution case team will vary from case to case; this DMD therefore only seeks to explain how it has occurred in the instant investigation.

Case Controller

6.4 Every Prosecution investigation is carried out under the overall supervision of a Case Controller. This is a senior Prosecution officer, with either a legal or an investigative background, who bears responsibility for the direction and strategy of the investigation as a whole. In the language of the CPIA Code, the Case Controller is the officer in charge of the investigation.

6.5 In this case the Case Controller, **[●]**, was appointed on **[●]**.

Prosecutor

6.6 The Director of the Prosecution is empowered by s.1(5) of the Criminal Justice Act 1987 (**"CJA 1987"**) to institute and conduct any criminal proceedings which appear to relate to serious or complex fraud [*the definition of which encompasses bribery and corruption*] [*and by s.1(6A) CJA 1987 to prosecute money laundering offences*]. The Director is permitted to delegate this power to an appropriately qualified lawyer pursuant to ss.1(7) and 1(8) CJA 1987.

6.7 In this case the Director delegated this power to prosecute to **[●]**, who acted as the prosecutor, as defined by the CPIA Code.

Disclosure Officer

6.8 The Disclosure Officer in this case is **[●]**, a Prosecution [Investigator/Lawyer/dedicated Disclosure Officer], who was appointed on **[●]**.

6.9 [In this case the Disclosure Officer was assisted by [insert number] Deputy Disclosure Officers. Those individuals are **[●]** and were appointed on **[●]**. The functions performed by the Deputy Disclosure Officers were:

(a) **[●]**].

Individuals Involved in the Review of Material

6.10 All Prosecution disclosure reviews encompass three discrete parts: a relevance review, an undermine/assist review, and a quality assurance review. How each of these parts was structured and the roles of the individuals in them is explained below. All individuals involved in these reviews were ultimately acting under the supervision and control of the disclosure officer and were provided with appropriate levels of advice, support and role-specific resources to help them perform their functions.

Disclosure Counsel

6.11 [On some investigations Prosecution counsel may be appointed to advise the disclosure officer, prosecutor and/or other prosecution counsel on disclosure issues. Their role should be set out. For example they may: oversee the work of review counsel, assist in the preparation of the unused material schedule, or advise on whether certain categories of material satisfy the disclosure test.]

6.12 All trial counsel are aware of their roles and responsibilities as prosecutors.

7. THE PROCESSING OF MATERIAL

7.1 The procedures described below explain how material has been processed during the lifetime of this case.

Material Obtained During the Course of the Investigation

7.2 Material obtained in a physical format (*e.g.*, a paper notebook, a computer hard drive, a mobile phone) is placed into individual evidence bags which are sealed and deposited with the Prosecution's Materials Management unit (**"MM"**). Each bag of material is assigned a unique case specific reference number ('bag number'), *e.g.* ABC01B000123, which is distinct from the seal number on the evidence bag. The bag number will persist whilst the item remains in the Prosecution's custody, whilst the seal number of the evidence bag in which material is stored may change. The first five characters of the bag number refer to the Prosecution's code for the investigation; therefore every bag number in this case begins with the code **[●]**. The remaining characters (comprising the letter B and six digits) are the individual bag number.

7.3 Material which is obtained only in a digital format is assigned a unique item reference number in a similar way to a physical item, but continues to be described as a 'bag' in Prosecution parlance, despite there being no physical item.

7.4 An electronic register is maintained of all material booked in. This records the source of the material, the date it was obtained, information about how the material needs to be processed (for example, whether it requires scanning (for paper items) or digital forensic processing (for electronic items) and a description of the item.

7.5 [If material has not been booked in using either method the DMD should set out: each item of material in question; how it has been handled; the reasons for its treatment if appropriate.]

7.6 In total there are currently [*insert number*] bags which contain material relevant to this case.

7.7 Hardcopy material is scanned and converted into portable document format (**"PDF"**). It is then passed through an Optical Character Recognition (**"OCR"**) process which overlays a searchable text layer onto the PDF. In this way, documents can be indexed and searched by electronic means. The PDFs are loaded onto the Prosecution's Axcelerate eDiscovery platform which assigns each item a unique reference number. Documents may be scanned in a variety of ways, so a reference number may relate to: a single page document (*e.g.,* a short piece of correspondence), a document with a number of pages (*e.g.,* a three page letter), or a number of different documents (*e.g.,* the contents of a file or folder).

7.8 Various factors can affect the accuracy of the OCR process, for example the legibility of the document being scanned, and so the text layer of a hardcopy document may not be a true and accurate representation of the content of the document. This issue has been addressed on the case by **[●]**.

7.9 Digital items (such as a computer hard drive or memory stick) are subjected to digital forensic processing in order to capture a complete copy (forensic image) of the original

material, whilst preserving the item's integrity. Material is then extracted and "decoded" to make it ready for examination. This process is undertaken by the Prosecution's Digital Forensic Unit (**"DFU"**) and conducted in accordance with the principles set out in the Forensic Science Regulator's Code of Practice, using methods common in this field.

7.10 Not every possible data type can be decoded due to the sheer variety and number of files and types of database which exist. Where material has not been decoded, efforts are made to identify which data types could potentially contain material relevant to the investigation so that those can be processed and made available for review. [insert details of any such material on this case and steps taken to make it available for review].

7.11 Whilst the Prosecution employs quality assurance measures to ensure material is decoded accurately, the nature of the decoding process means that it is not, and cannot be, perfect or exhaustive. All source extractions are protected from change and retained by the Prosecution for further analysis/examination if necessary. Any concerns about processing should be raised as soon as possible so that any such analysis/examination can take place.

7.12 The decoded files from the extractions are filtered using [insert details - currently NUIX software] to create a 'clean' dataset, which is loaded onto Axcelerate. Axcelerate then assigns each document a unique reference number. The filtering process involves the application of a number of rules designed to remove unreviewable or non-useful categories of information and is designed to ensure that only data with the potential to be relevant is ingested into the eDiscovery system. The categories of material which have been filtered on this case are:

(a) [*insert details of categories of data which have been filtered or excluded and reasons why*].

7.13 Data obtained from mobile devices (such as mobile phones and tablets) is also subjected to digital forensic processing. However, due to the way such devices encode and store information (typically within databases, the designs of which are mostly in the control of various app developers), and the way their operating systems optimise the performance of memory within the device, there can be a lack of structure in the original data which means the extraction, interpretation and conversion processes are inherently fragile. The result of this is that missing, erroneous and apparently unfeasible metadata is to be expected for some items. This fact has been borne in mind by the case team and the following steps taken as a result [*insert details*].

7.14 The Axcelerate platform is split into two areas: the Early Case Assessment area (**"ECA"**) and the Review and Analysis area (**"R&A"**). All processed material was published into the ECA area and made available to the case team with the exception of: [*insert details of restricted material*]. The case team will then determine what material should be moved to the R&A area so that it can be reviewed and analysed. [*Insert details of approach taken to moving material from ECA to R&A and reasons why.*]

7.15 The disclosure review is then conducted over material held within the R&A area. The strategy for reviewing material within R&A area for disclosure purposes is set out at paragraphs **[●]** below.

7.16 When the Prosecution seeks to rely upon a digital item either during the course of an interview or at Court the reference number will appear on the document and/or appears in the file name.

Internally Generated Material

7.17 Material generated by members of this case team, *e.g.*, records of decisions, file notes, draft correspondence *etc.* is saved [*insert details*]. A terms of use policy was devised by [*insert name*] which governs how material should be saved in this location. That policy requires [*insert brief details of policy*]. The investigation team were made aware of this policy by [*insert details of how the policy was circulated and compliance with it was checked*].

7.18 A shared mailbox was created and a terms of use policy devised by [*insert name*] which set out how emails would be preserved for review. That policy requires [*insert brief details of policy*]. The investigation team were made aware of this policy by [*insert details of how the policy was circulated and compliance with it was checked*].

7.19 Over the course of the investigation, the case team created hard copy material, *e.g.*, investigator day books. This material was [*insert details of how this material has been handled, e.g. has it been booked into MM.*]

7.20 Other departments in the Prosecution may hold relevant material. In this case the following steps were taken to identify and obtain such material: [*insert details of steps taken*].

7.21 How such material was reviewed is set out below in paragraphs [●].

8. REVIEW OF MATERIAL

8.1 In this case the number of documents obtained during the investigation is [*insert number*]. It was neither appropriate nor proportionate for every item of material to be manually reviewed. Instead the following approaches were adopted.

Hard Copy Material

8.2 [*Insert details of how hard copy material not scanned onto Axcelerate was reviewed (including how the review was quality assured) and who it was reviewed by. Where it is possible to identify this material (e.g., investigator notebooks) then it should be listed here or a cross-reference made to the appropriate schedule the material appears on.*]

8.3 [*Insert details of how this material was then scheduled.*]

Digital Material Obtained by the Investigation

8.4 All digital material obtained by the **[●]** investigation, [*with the exception of, insert details of any exceptions or delete if there are no exceptions*] was reviewed on the Axcelerate eDiscovery platform. The main sources of digital material received by the Prosecution in the course of the **[●]** investigation (in terms of volume) are:

[*List here the main sources.*]

8.5 The duty on the Prosecution is to pursue all reasonable lines of enquiry, not to comb through all material in its possession on the lookout for items which might conceivably or speculatively undermine the case or assist the Defence. Accordingly, the following steps were taken to pursue reasonable lines of enquiry within the volume of digital material available and thereby identify potentially relevant material:

[*Insert details of the approach taken to identifying potentially relevant material, e.g., using search terms or other analytical techniques. Where search terms were used they should be listed here along with details of how they were applied.*]

8.6 Material which was identified as potentially relevant was then manually reviewed. This manual review involved:

(b) A review to identify relevant material;

(c) A review to identify material which was potentially capable of meeting the disclosure test; and

(d) A quality assurance review.

Relevance Review

8.7 The relevance review involved [*insert details*]. As at the date of this document [*insert number*] individuals have been tasked with this role.

8.8 Relevance reviewers performed their functions under the day-to-day supervision of [*insert details of how document reviewers were supervised – this may be directly by the disclosure officer or a deputy disclosure officer, or by a quality assurance reviewer*]. Document reviewers were integrated into the case by [*insert details, e.g., attending case team meetings, regular meetings with the disclosure office etc*.]. As a result, document reviewers were able to discuss any queries that arose from their work and were provided with guidance where necessary, whilst the prosecution team were able to monitor the material which was being reviewed.

8.9 The work of the relevance reviewers was subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [*insert details of how work of document reviewers was quality assured, e.g., use of standardisation batches, quality assurance reviewer dip sampling reviewed material, statistical analysis etc.*].

8.10 Each individual acting as a relevance reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties. They were also provided with review guidance and a pack of documents which taken together were designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible lines of defence in order to help them identify relevant material. The guidance and pack of documents were regularly updated.

Undermine/Assist Review

8.11 The undermine/assist review involved [*insert details – usually this will be by document reviewers or by the same individuals who are undertaking the quality assurance review (often instructed counsel). The detail provided here should also explain how the tagging*

panel was setup and used]. As at the date of this document, [*insert number*] people were tasked with this role.

8.12 Undermine/assist reviewers performed their functions under the day-to-day supervision of [*insert details of how undermine/assist reviewers were supervised – where they are the same individuals undertaking the relevance review refer back to relevant paragraph above*].

8.13 Undermine/assist reviewers were integrated into the case by [*insert details – where they are the same individuals undertaking the relevance review refer back to relevant paragraph above. Also explain how: undermine/assist reviewers were able to discuss any queries that arose from their work; how guidance was provided to them; and how the disclosure officer was able to monitor the approach being adopted towards the identification of material which potentially satisfied the disclosure test*].

8.14 The work of the undermine/assist reviewers was subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [*insert details*].

8.15 Each individual acting as an undermine/assist reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties by [*insert details of how individuals were inducted and their role explained*]. They were also provided with guidance specific to their role as well as material designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible lines of defence in order to help them identify material which potentially satisfied the disclosure test. The guidance and pack of documents were regularly updated.

Quality Assurance Review

8.16 The quality assurance review involved [*insert details – usually this will be checking the work of the relevance reviewers and undermine/assist reviewers to ensure that material is being correctly classified and described and/or improving existing descriptions/determinations where necessary. The detail provided here should also explain how the tagging panel was setup and used.*]. It was carried out by [*insert details*].

8.17 Quality assurance reviewers performed their functions under the day-to-day supervision of [*insert details – typically this will be the disclosure officer and/or deputy disclosure officer. If not need to explain how the DO retained supervision over the work of QA reviewers*]. The work of the quality assurance reviewers was itself subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [*insert details of how: QA reviewers were able to discuss any queries that arose from their work; how guidance was provided to them; and how the disclosure officer was able to monitor the approach being adopted*].

8.18 Each individual acting as a relevance reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties by [*insert details of how individuals were inducted and their role explained*]. They were also provided with guidance specific to their role as well as material designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible

lines of defence in order to help them check the work of the relevance and undermine/assist reviewers. The guidance and material were regularly updated.

Internally Generated Material

8.19 [*Insert details of how material generated by the Prosecution, in particular material held by individuals/departments outside the case team was reviewed for disclosure purposes.*]

Technology Assisted Review

8.20 Technology Assisted Review (**"TAR"**) has been used as part of the disclosure process to identify potentially relevant and/or disclosable documents. In TAR a machine learning system is trained on data created by lawyers identifying relevant documents manually, then the tool uses the learned criteria to identify other similar documents from very large disclosure data sets.

8.21 At a high level, the TAR workflow in this case has consisted of:

(a) The identification of an initial review pool of potentially relevant electronic material which formed the TAR data set or "index". [*Insert details as to how the initial pool was identified and the size of the initial pool.*]

(b) The coding of a random batch of documents to establish a starting point for the TAR engine. This was conducted by [*insert details as to how these documents were coded (relevant/ not relevant/ disclosable/ not disclosable etc.) and of the team that carried this out*].

(c) Ongoing review for relevance of documents. [*Insert details as to who carried this out and who supervised the team. Include information as to how the documents are coded*.]

(d) The **Cut-Off** point. [*Insert details as to the relevancy level at which the review process stopped/will stop (normally expressed as "we reviewed all items with a relevancy equal to, or greater than X%")*.]

(e) **Quality Assurance.** [*Insert details as to how low relevancy documents are sampled and by whom and how formal testing was conducted to establish how accurate the model is. Insert here a table demonstrating the precision/ recall of the model across different versions over time.*]

8.22 The types of review documents fell into three categories:

(a) Text rich, such as emails, Word, PowerPoint, PDF;

(b) Text poor, such as short emails, messaging apps, Excel, Drawing files; and

(c) Text zero, such as images and movie files.

8.23 Whilst these are not absolute categories (*e.g.*, an Excel spreadsheet might be text rich) the TAR process was used for text rich items only. Text poor and text zero items were subject to manual review.

8.24 Further details regarding the TAR process are set out in the Annex to the DMD.

9. APPROACH TO SCHEDULING

General

9.1 As required by the CPIA Code, only material which meets the definition of relevance has been included on the schedule of non-sensitive Unused Material. That schedule includes the following column headings:

(a) Number – [*items listed on the schedule are provided with a schedule number and then listed sequentially in order to comply with the requirements of the CPIA Code. NB they are not listed according to their UID numbers*];

(b) Unique identification number – [*where an item has been assigned a unique identification number by virtue of it being uploaded to the eDiscovery platform this number will be provided on the schedule of non-sensitive Unused Material to assist with cross-referencing*];

(c) Description – each item of material on the schedule will either be listed and described separately in accordance with [*insert details of applicable law, currently paragraphs 6.8 and 6.9 of the CPIA Code*] or as a block entry in accordance with [*insert details of applicable law, currently paragraph 6.10 of the CPIA Code*]. The approach to block listing adopted is detailed below;

(d) Prosecutor's disclosure decision – items which satisfy the test for disclosure will have the letter "D" or the word "Disclosable" entered in this column along with the date they were disclosed. Where the letters "ND" are entered, or the column is left blank, that indicates that the item does not satisfy the test.

(e) [*Insert details of any other columns used, including sub schedules if not covered above.*]

9.2 It is the Prosecution's policy to provide copies of all items which meet the disclosure test unless there are practical reasons for not doing so. Where such reasons exist, the Defence will be notified and arrangements will be made to enable the Defence to inspect the item.

9.3 [*If more than one defendant:*] For the purposes of initial disclosure the Prosecution has determined that if a document satisfies the test for disclosure in respect of one defendant, then it will only be disclosed to that defendant. Going ahead the Prosecution intends to provide cross-disclosure and so provide all material to all defendants. If objection is taken to this approach the Defence should notify the Prosecution and provide the reasons for their objection by [*insert date*].

Block Listing and Metadata Files

9.4 A51 of The Attorney General's Guidelines on Disclosure provides that, in cases involving large quantities of digital data, it is generally disproportionate to list each item separately and that unless it is necessary or otherwise appropriate to separately list each item, the material should be listed in a block or blocks and described by quantity and generic title.

9.5 Block descriptions have been used for the following digital devices [*insert list/reference to Annex listing the devices*].

9.6 Where the prosecutor has deemed it appropriate and the metadata files are available for the devices they will be listed separately on the schedule of non-sensitive unused and may be disclosed (in .xls format). The description of the metadata file will appear beneath the block description of the relevant device on the schedule of non-sensitive unused as shown below.

Item	ID	Description	Disclosure Decision
1	ABC1234	500 GB hard disk drive Serial Number WXYZ containing image of AB's laptop.	ND
2		Metadata file of the available contents of ABC1234	D

9.7 Additionally, metadata files [for the items responsive to search terms/items determined as relevant/ items tagged as relevant to Issue 1] have been created and are listed on the schedule of non-sensitive unused.

9.8 The following metadata fields have been included in each metadata file [*prosecutor to select appropriate fields*]:

No.	Metadata schedule fields	Description
1	Doc ID	The unique document ID associated with the document.
2	Parent ID	The document ID associated with the parent of the document.
3	Family Group	The Family ID associated with the family group.
4	Doc Type	*e.g.*, email with attachments/email without attachments/File.
5	Doc Date	The principal date associated with the document in DD/MM/YYYY hh:mm, 24 hour GMT format.
6	Doc Application Name	The application associated with the filetype.
7	File Type	The filetype associated with the document.
8	File Modified Date	The file last modified date/time according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format.
9	File Created Date	The file created date/time according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format.
10	File Accessed Date	The date/time the file was last accessed according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format.
11	File Name	The document filename including file extension (n.b. this is different to the file title, which is a different metadata field available for some document types).
12	File Location/ Path	The original file path for the file.

13	File Containing Folder	The original folder containing the file.
14	File Size	The size of the file in bytes.
15	File MD5	An MD5 hash value for the file. This is a unique cryptographic signature for the file which can be used to deduplicate against other documents and verify that the file has not been altered.
16	File Created By	The name of the person who created the file according to the relevant application (*e.g.*, Microsoft Word) metadata.
17	Subject	The email subject line.
18	From Address	The name and email address of the person sending the email.
19	To Address	The name(s) and email address(es) of the person(s) to whom the email is sent.
20	CC Address	The name(s) and email address(es) of the person(s) to whom the email is copied.
21	BCC Address	The name(s) and email address(es) of the person(s) to whom the email is blind copied.
22	Sent Date	The date/time the email was sent in DD/MM/YYYY hh:mm, 24 hour GMT format.
23	Received Date	The date/time the email was received in DD/MM/YYYY hh:mm, 24 hour GMT format.
24	Attachment File Name	The filename(s) of the attachment(s) to the email.
25	Relevance Decision	The relevance decision in respect of the item.
26	Disclosure Decision	The disclosure decision in respect of the item.

9.9 Once the issues between the Prosecution and Defence have crystallised, following the service of Defence Statements, the Prosecution will review whether individual file descriptions are necessary or appropriate for any of the material that has been listed in a block.

9.10 Metadata files have not been provided in the following circumstances:

[*Insert details of the blocks which do not have metadata schedules and explain the reasons for that.*]

THE APPROACH TAKEN IN RESPECT OF CERTAIN TOPICS

LPP material

10.1 Material has come into the possession of the Prosecution in this case over which the owner has claimed legal professional privilege (**"LPP"**). This applies to the following: [*insert details of the sources of such material and the approach taken to identifying LPP items from within each source – typically that will be the application of LPP search terms.*]

10.2 When LPP has been claimed the Prosecution has immediately taken steps to isolate the material from that available to the case team. The following process was then

implemented to review the LPP material [*insert details – typically this will be instructing X number of independent LPP counsel to manually review either all the material or only that part of the material which is considered potentially relevant (identified by the use of relevancy terms) and any material which they determine not to be privileged being released back to the case team so it can be reviewed as normal*].

10.3 [*If material has been withheld from the Prosecution as a result of an assertion of privilege the DMD should explain the steps taken to properly analyse, assess and, where appropriate, challenge that claim.*]

Material held by the Prosecution's Proceeds of Crime Division

10.4 [*Where relevant material is held by Proceeds of Crime Division, the approach taken to identifying it should be detailed here.*]

PNC and other checks

10.5 The Police National Computer has been checked in relation to all material witnesses of fact.

10.6 Checks have been conducted with professional bodies in relation to the professional witnesses who have provided statements served as part of the Prosecution's case.

10.7 Antecedents and/or adverse disciplinary findings will be disclosed for all witnesses, including Prosecution staff, where they meet the test. This is likely to be limited to matters which may go to the witness' credibility or otherwise giving rise to a line of appropriate cross-examination.

Witness familiarisation

10.8 The following individuals, who are Prosecution witnesses, attended a witness familiarisation course:

[*Insert names and dates of courses.*]

10.9 The courses in question were arranged by the Prosecution and delivered by specialist providers (such as Bond Solon). The purpose of the course is to improve an individual's knowledge and understanding of the process of giving evidence. Courses are not organised in relation to any specific case. Instead, they are being made available to any member of Prosecution staff whose role makes it likely that they will be required to give evidence at some point during their career.

10.10 The courses are conducted in compliance with the criteria laid out by Judge LJ in *Momodou* [2005] EWCA Crim 177, specifically:

(a) They are supervised and conducted by qualified barristers and/or solicitors of at least 15 years' experience in criminal law;

(b) None of those involved in the provision of the programme have any personal knowledge of the matters in issue in this case;

(c) All documents used in the process have been retained. This includes records of who was present and the identity of those responsible for the programme have been maintained along with the programme delivered and course material;

(d) None of the material used, including the case study (which relates to a fictitious civil claim for an order under s.994 of the Companies Act 2006) bear any similarity to the issues in this case or would trigger the witness' recollection of events; and

(e) The course providers are aware that if witnesses engage in discussion of criminal proceedings with which they are involved such discussion must be stopped immediately and an explanation provided as to why such discussion is impermissible. They are also aware they must: issue a warning against the danger of evidence contamination and the risk that the course of justice may be perverted; and keep a note if and when any such warning is given. Any such notes will be disclosed.

10.11 The material relating to the witness familiarisation courses appears on the schedule of non-sensitive unused material at **[●]**. Notwithstanding the Prosecution's belief that the courses have been conducted entirely in compliance with applicable guidance and so are not objectionable, this is being disclosed to you as it falls within a category of material which has the potential to have a bearing upon the trial process itself.

10.12 If, following service of this DMD, additional Prosecution witnesses attend a witness familiarisation course that fact will be notified in an addendum DMD and material relating to their course will be scheduled and disclosed.

11. MATERIAL YET TO BE REVIEWED

11.1 [*Insert details.*]

12. SERVICE OF DISCLOSABLE MATERIAL

12.1 [*Insert details of how unused material will be served on the Defence and in which format (.pdf or native). Include information as to whether the .pdf files have been subject to OCR. Include details as to how native files will be provided in a manner that best ensures the material remains in the original form in which it was obtained and how available metadata will be supplied. Insert details of the format of any loadfile provided and which metadata fields will be supplied with any loadfile.*]

[Name]

[Date]

APPENDIX B

Core Documents Schedule Template

Case No.: [●]

IN THE CROWN COURT AT SOUTHWARK

BETWEEN:

REX

- v -

(1) [D1]
(2) [D2]

CORE DOCUMENTS SCHEDULES

Prosecution Core Documents Schedule

Case Summary para. Ref.	CCDCS page ref.	Description of Core Document/Category of Core Documents	P's observations on significance/inferences	[D1's] observations on significance/inferences	[D2's] observations on significance/inferences
Count 1					
Count 2					

Count 3 *etc.*					

D1's Core Documents Schedule

Case Summary para. Ref.	**CCDCS page ref.**	**Description of Core Document/Category of Core Documents**	**D1's observations on significance/inferences**	**P's observations on significance/inferences**
Count 1				
Count 2				
Count 3 *etc.*				

D2's Core Documents Schedule

Case Summary para. Ref.	**CCDCS page ref.**	**Description of Core Document/Category of Core Documents**	**D2's observations on significance/inferences**	**P's observations on significance/inferences**
Count 1				
Count 2				
Count 3 *etc.*				

Etc.