



LITIGATION AND DISPUTE RESOLUTION

Written submissions in civil proceedings to be made accessible to the public

by **Katie Linden**

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High Court practice direction HC101, introduced by President of the High Court Ms Justice Mary Irvine last November, came into effect on Monday, 11 January 2021.

The new rules allow “*in the interest of transparency and consistent with the principle of open justice*” for any member of the public to seek access to written submissions which are submitted by a party to civil proceedings, where an Order has been made by the relevant Court that said submissions be made available to the public. The Order should contain the requirement that the written submissions be filed by the party to the proceedings with the Central Office within a timeframe prescribed within the Order.

The Practice Direction will not apply to proceedings heard in camera or where there are statutory reporting restrictions in place.

To ensure compliance with data protection laws, and other rules of law, the party to the proceedings must identify such relevant material and prepare a redacted version of the written submissions for public release – such proceedings must be titled “*Written Submissions for Public Release*” and should be available at the time of delivery of judgment (if judgment is being delivered remotely, the redacted submissions should be sent electronically to the relevant Registrar in advance of the date fixed for delivery of the judgment). Additionally, the submitting party must ensure the submissions do not contain scandalous, abusive or vexatious material. No waiver of copyright by the author applies in the provision of the Written Submissions for Public Release.

The Written Submissions for Public Release must contain the date, identity of the party on behalf of whom the submissions were prepared, and the identity of both solicitor and counsel for the party. The rules only apply to written submissions prepared and submitted by one or more practising barristers and/or solicitors, and seemingly, therefore, will not apply to written submissions by lay litigants.

A member of the public can seek a copy of the Written Submissions for Public Release by sending a request to the Principal Registrar of the Central Office identifying the name of the proceedings, the record number and if available, the date of the judgment and the name of the Trial Judge. The Principal Registrar may then provide an electronic copy of the written submissions on payment of any fee chargeable for the copy (the fee amount is not specified in the Practice Direction).

The full practice direction can be viewed [here](#).

About the Author



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