

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Civil litigation and evidence:  
Bar Training syllabus and curriculum  
2021-2022**

**Syllabus Texts**

'Civil Procedure' (the White Book) 2021  
The Jackson ADR Handbook (Third Edition, 2021)

## Introduction

The syllabus for the centrally set assessments in Civil Litigation is based on the principle that the Civil Litigation course should prepare students for pupillage and the early years of practice at the Civil Bar, and that the syllabus should focus upon the fundamental principles, key rules and core elements of civil litigation and civil dispute resolution.

The Civil Litigation syllabus is assessed in two papers. Paper 1 is a closed book assessment, covering all topic areas of the extended syllabus. Paper 2 is an open book assessment, again covering all topic areas of the extended syllabus, into which candidates are able to take Volumes 1 and 2 of 'Civil Procedure' (the White Book).

The syllabus makes clear what material may be examinable in both Papers 1 and 2 and is derived from Volumes 1 and 2 of 'Civil Procedure' (the White Book) 2021, and (for Paper 1 only) The Jackson ADR Handbook (Third Edition, 2021) Oxford University Press.

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## Required Content for the Centrally Set Assessments in Civil Litigation 2021-2022

### 1 General Matters

1. the allocation of business between the High Court and County Courts
2. the overriding objective
3. the duty of the court to manage cases
4. general principles of Alternative Dispute Resolution (ADR)
5. timing the use of ADR

#### Examinable Material

1. Examinable material on the allocation of business between the High Court and County Courts will consist of where to start proceedings. The relevant material is addressed in CPR 7.1; and PD7A paragraphs 1 and 2.1-2.5.
2. Examinable material on the overriding objective will consist of the overriding objective; application by the court of the overriding objective; and the duty of the parties to help the court to further the overriding objective. The relevant material is addressed in CPR 1.1-1.3.
3. Examinable material on the duty of the court to manage cases will consist of the duty of the court to manage cases; encouraging co-operation between parties; helping parties to settle; and encouraging the use of alternative dispute resolution (ADR) procedure. The relevant material is addressed in CPR 1.4; and the commentary on the overriding objective at paragraphs 1.4.4, 1.4.9 and 1.4.11 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
4. Examinable material on general principles of Alternative Dispute Resolution (ADR) will consist of general principles of ADR; compulsion to use ADR; motivations for the use of ADR; criteria for the selection of an ADR option; when ADR may not be appropriate; roles and responsibilities of lawyers and parties in ADR; duties under the Civil Procedure Rules; the role of a lawyer in advising on ADR; authority to settle; the approach of the courts to ADR; judicial encouragement of ADR; whether the courts can compel the parties to use ADR; case management powers and ADR; directions questionnaires and ADR; granting stays for ADR; sanctions for refusing to engage in ADR processes; unreasonable refusal to consider ADR; other factors considered by the court; the claimant's failure to initiate ADR processes; silence in the face of an invitation to use ADR; and practical steps which should be taken by a party to avoid sanctions. The relevant material is addressed in paragraphs 1.22-23; 2.30-2.61; 4.02-4.03, 4.07-4.08; 9.05, 9.06-9.07, 9.11-9.12, 9.20, 9.22-9.25; and 11.07-11.23, 11.34-11.37, 11.59-11.61, and 11.63-11.64 of The Jackson ADR Handbook (Third Edition, 2021). Students should also be able to refer to the following specific leading case authority by name: *Halsey*.

5. Examinable material on timing the use of ADR will consist of timing the use of ADR in relation to the progress of a case; procedural factors relevant to timing; the use of ADR at an interim stage; and practical factors relevant to timing. The relevant material is addressed in paragraphs 3.04-3.11, 3.14-3.16, and 3.24-3.34 of The Jackson ADR Handbook (Third Edition, 2021).

**Explanatory material which will NOT be assessed**

To complement understanding of the examinable material set out above, students may find it helpful to be familiar with paragraphs 1.01-1.10; 2.02-2.24; 2.27; and 11.01-11.03 of The Jackson ADR Handbook (Third Edition, 2021)

## 2 Limitation

1. accrual of causes of action
2. limitation periods in cases of tort, latent damage, personal injury, fatal accident, contract, and contribution claims

### Examinable Material

1. Examinable material on accrual of causes of action will include the date from which limitation is calculated; and the date when an action is 'brought'. The relevant material is addressed in the commentary at paragraphs 8-3.1 and 8.3-2 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on limitation periods in cases of tort, latent damage, personal injury, fatal accident, contract, and contribution claims will consist of the time limit for actions founded on tort; the time limit for actions founded on simple contract; the special time limit for claiming contribution; the special time limit for actions in respect of personal injuries; the special time limit for actions under Fatal Accidents legislation; the definition of date of knowledge for actions in respect of personal injuries and actions under Fatal Accidents legislation; the special time limit for negligence actions where facts relevant to the cause of action are not known at the date of accrual; knowledge of the claimant in negligence actions; the overriding time limit for negligence actions not involving personal injuries; the time limit for actions to enforce judgments; extension of limitation period in case of disability; postponement of limitation period in case of fraud, concealment or mistake; and discretionary exclusion of time limit for actions in respect of personal injuries or death. The relevant material is addressed in the Limitation Act 1980 sections 2, 5, 10, 11, 12, 14, 14A, 14B, 24, 28, 32, 33 and 38(2), at section 8-4 to 8-119 of Volume 2 of 'Civil Procedure' (the White Book) 2021; and in the commentary at 8-38 and the first two sub-paragraphs at 8-43 of Volume 2 of 'Civil Procedure' (the White Book) 2021.

### 3 Pre-action Conduct

1. the Practice Direction (Pre-Action Conduct and Protocols)
2. the Practice Direction for Personal Injury Claims
3. consequences of non-compliance
4. ADR prior to the issue of proceedings

#### Examinable Material

1. Examinable material on the Practice Direction (Pre-Action Conduct and Protocols) will consist of the objectives of pre-action conduct and protocols; proportionality; steps before issuing a claim at court; experts; stocktake and list of issues; limitation; application of the protocols; and pre-action applications. The relevant material is addressed in paragraphs 1-7, 12 and 17 of the Practice Direction (Pre-Action Conduct and Protocols) at paragraphs C1-001 to C1-005, C1-007 and C1-009 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and in the commentary on the Practice Direction (Pre-Action Conduct and Protocols) at paragraphs C1A-005 and C1A-007 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on the Pre-Action Protocol for Personal Injury Claims will consist of the general aim of the protocol; letter of notification; rehabilitation; letter of claim; the response; disclosure; negotiations following an admission; quantification of loss; and stocktake. The relevant material is addressed in paragraphs 1-8 and 10-11 of the Pre-Action Protocol for Personal Injury Claims at paragraphs C2-001 to C2-013 and C2-015 to C2-016 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and in the commentary on the Pre-Action Protocol for Personal Injury Claims at paragraphs C2A-001 to C2A-003 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on consequences of non-compliance will consist of compliance with the Practice Direction (Pre-Action Conduct and Protocols) and protocols; the court's role in compliance with the Practice Direction (Pre-Action Conduct and Protocols) and protocols; insufficient response to a proposal to use ADR; potential justifications for non-compliance with pre-action requirements; failure to comply with pre-action protocols; and silence in the face of an invitation to use ADR. The relevant material is addressed in paragraphs 13-16 of the Practice Direction (Pre-Action Conduct and Protocols) at paragraph C1-008 of Volume 1 of 'Civil Procedure' (the White Book) 2021; paragraphs 1.4 and 1.5 of the Pre-Action Protocol for Personal Injury Claims at paragraph C2-001 of Volume 1 of 'Civil Procedure' (the White Book) 2021; the commentary on the Practice Direction (Pre-Action Conduct and Protocols) at paragraph C1A-006 of Volume 1 of 'Civil Procedure' (the White Book) 2021; the commentary on the Pre-Action Protocol for Personal Injury Claims at paragraph C2A-005 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 8.23-8.25, 11.05-11.06 and 11.60 of The Jackson ADR Handbook (Third Edition, 2021).

4. Examinable material on ADR prior to the issue of proceedings will consist of settlement and ADR; alternative dispute resolution under the Pre-Action Protocol for Personal Injury Claims; ADR where no proceedings have been issued. The relevant material is addressed in paragraphs 8-11 of the Practice Direction (Pre-Action Conduct and Protocols) at paragraph C1-006 of Volume 1 of 'Civil Procedure' (the White Book) 2021; paragraph 9 of the Pre-Action Protocol for Personal Injury Claims at paragraph C2-014 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraph 8.03 of The Jackson ADR Handbook (Third Edition, 2021).

**Explanatory material which will NOT be assessed:**

To complement understanding of the examinable material set out above, students may find it helpful to be familiar with the commentary on the Practice Direction (Pre-Action Conduct and Protocols) at paragraphs C1A-001, C1A-002 and C1A-004 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 8.01-8.02; and 11.01-11.03 of The Jackson ADR Handbook (Third Edition, 2021)

## 4. Alternative Dispute Resolution: Adjudicative Options

1. arbitration
2. expert (or neutral) determination

### Examinable Material

1. Examinable material on arbitration will consist of fundamental concepts in arbitration; arbitration requirements; starting the arbitration claim; arbitration claim form; stay of legal proceedings; commencement; procedure in arbitrations; privacy and confidentiality; arbitration awards; enforcement of awards; and appeals. The relevant material is addressed in CPR 62.2-62.4 and 62.8 at Section 2E-8 to 2E-16 of Volume 2 of 'Civil Procedure' (the White Book) 2021; the commentary on section 9 of the Arbitration Act 1996 at paragraphs 2E-107 (first three paragraphs), 2E-111 (first two paragraphs) and 2E-112 (first paragraph) of Volume 2 of 'Civil Procedure' (the White Book) 2021; and paragraphs 25.01-25.26 of The Jackson ADR Handbook (Third Edition, 2021).
2. Examinable material on expert (or neutral) determination will consist of expert determination; cases suitable for expert determination; contractual nature of expert determination; expert determination procedure; nature of the decision in expert determination; ignoring an expert determination clause; grounds for challenging the decision; procedure for making a challenge; and enforcing a decision. The relevant material is addressed in paragraphs 24.01-24.05, 24.07, 24.09-24.10, 24.15, 24.19, 24.24-24.25, 24.31, and 24.53-24.54 of The Jackson ADR Handbook (Third Edition, 2021)

### Explanatory material which will NOT be assessed:

To complement understanding of the examinable material set out above, students may find it helpful to be familiar with the Arbitration Act 1996 at Section 2E-84 onwards of Volume 2 of 'Civil Procedure' (the White Book) 2021.



## 5. Alternative Dispute Resolution: Non-Adjudicative Options

1. early neutral evaluation
2. conciliation and mediation

### Examinable Material

1. Examinable material on early neutral evaluation will consist of early neutral evaluation; the stage at which early neutral evaluation should be employed; when early neutral evaluation should be used; early neutral evaluation procedure; and judicial evaluation. The relevant material is addressed in paragraphs 22.01-22.07, 22.10-22.13 and 22.15 of The Jackson ADR Handbook (Third Edition, 2021).
2. Examinable material on conciliation and mediation will consist of conciliation; general principles of mediation; disputes suitable for mediation; the timing of mediation; the mediator's role at the mediation; ethical conduct required of the mediator; confidentiality in mediation; the without prejudice rule in mediation; legal advice privilege in mediation; attendees at the mediation; the position statements; the key supporting documents; and the stages in mediation. The relevant material is addressed in paragraphs 2.27, 23.03, 13.08-13.10, 13.11-13.15, 13.24-13.27, 13.32-13.42, 13.47-13.56, 13.57-13.61, 13.62, 14.49, 14.61, 14.73-14.74, and 15.04-15.05 (including Figure 15.1) of The Jackson ADR Handbook (Third Edition, 2021).

### Explanatory material which will NOT be assessed:

To complement understanding of the examinable material set out above, students may find it helpful to be familiar with paragraphs 13.22-13.23, and 13.29-13.31 of The Jackson ADR Handbook (Third Edition, 2021)

## 6 Commencing Proceedings

1. the Part 7 procedure
2. validity, extension and service of claim forms
3. service of other court documents within the jurisdiction
4. the Part 8 procedure

### Examinable Material

1. Examinable material on the Part 7 procedure will consist of where to start proceedings; how to start proceedings; the right to use one claim form to start two or more claims; title of proceedings; start of proceedings; particulars of claim; and statement of truth. The relevant material is addressed in CPR 7.2-7.3; CPR 7.6; PD7A paragraphs 1, 2.1-2.5, 4.1-4.2, 5.1-5.5, 6.1-6.2, 7.1-7.3 and 8.1- 8.2; the commentary in the first two paragraphs of 7.6.2, and the first two paragraphs of 7.6.3 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 4, 4A, 5 and 9 of the High Court and County Courts Jurisdiction Order 1991 (SI 1991/724), at section 9B-935 to 9B-948 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on validity, extension and service of claim forms will consist of service of a claim form; extension of time for serving a claim form; methods of service; who is to serve the claim form; personal service; general provisions regarding where to serve the claim form; service on a solicitor within the United Kingdom; service of the claim form where before service the defendant gives an address at which the defendant may be served; service of the claim form where the defendant does not give an address at which the defendant may be served; service of the claim form by contractually agreed method; deemed service; service of the claim form by an alternative method or at an alternative place; when service may be by document exchange (DX); how service is effected by post, an alternative service provider or DX; service by fax or other electronic means; personal service on a company or other corporation; and service by the court. The relevant material is addressed in CPR 6.1-6-9, 6.11, 6.14, 6.15; CPR 7.4-7.5; and PD6A paragraphs 1-4, 6 and 8.
3. Examinable material on service of other court documents within the jurisdiction will consist of methods of service; who is to serve; personal service; service on children and protected parties; deemed service; service by an alternative method or at an alternative place; when service may be by document exchange (DX); how service is effected by post, an alternative service provider or DX; service by fax or other electronic means; service by the court; and deemed service of a document other than a claim form. The relevant material is addressed in CPR 6.20-6.22 and 6.25-6.27; and PD6A paragraphs 1-4, 8 and 10.
4. Examinable material on the alternative procedure for claims under Part 8 CPR will consist of the types of claim in which the Part 8 procedure may be used; contents of the claim form; acknowledgement of service; consequence of not filing an

acknowledgement of service; filing and serving written evidence; evidence in Part 8 claims; procedure where the defendant objects to use of the Part 8 procedure; and modifications to the general rules. The relevant material is addressed in CPR 8.1-8.2, 8.3-8.4, 8.5-8.6 and 8.8-8.9; and PD8A paragraphs 3 and 7.

## 7 Parties

1. partnerships, sole traders, LLPs and companies, trusts and deceased persons
2. children and persons suffering from mental incapacity

### Examinable Material

1. Examinable material on partnerships, sole traders, LLPs and companies, trusts and deceased persons will consist of bringing claims against partnerships, sole traders, LLPs and companies; bringing claims against trusts and deceased persons; representation of beneficiaries by trustees, executors or administrators; and death. The relevant material is addressed in CPR 7.2A; CPR 19.7A and 19.8; and PD7A paragraphs 5A and 5C.
2. Examinable material on children and persons suffering from mental incapacity will consist of bringing and settling proceedings involving children and protected parties; the requirement for a litigation friend in proceedings by or against children and protected parties; the stage of proceedings at which a litigation friend becomes necessary; who may be a litigation friend without a court order; settlement or compromise by or on behalf of a child or protected party before the issue of proceedings; settlement or compromise by or on behalf of a child or protected party after proceedings have been issued; and control of money recovered by or on behalf of a child or protected party. The relevant material is addressed in CPR 21.1-21.4 and 21.10-21.11; and PD 21 paragraphs 5-6.

## 8 Statements of Case

1. claim forms and particulars of claim
2. acknowledgement of service, defences, replies, counterclaims
3. the effect of not responding to an allegation in a statement of case

### Examinable Material

1. Examinable material on claim forms and particulars of claim will consist of the claim form; contents of the claim form; statement of value to be included in the claim form; particulars of claim; contents of the particulars of claim; particulars of claim in personal injury claims; other matters to be included in particulars of claim; matters which must be specifically set out in the particulars of claim if relied on. The relevant material is addressed in CPR 16.1-16.4; PD 16 paragraphs 1-3, 4.1-4.3, 4.4 and 7-9; and section 35A Senior Courts Act and section 69 County Courts Act, at paragraphs 9A-122 and 9A-554 of Volume 2 of 'Civil Procedure' (the White Book) 2021
2. Examinable material on acknowledgement of service, defences, replies, counterclaims will consist of acknowledgement of service; consequence of not filing an acknowledgement of service; the period for filing an acknowledgement of service; defending the claim; contents of defence; matters which must be included in the defence; statement of truth; defence of set-off; reply to defence; court's power to dispense with statements of case; filing a defence; consequence of not filing a defence; period for filing a defence; agreement extending the period for filing a defence; service of copy of defence; making a counterclaim; reply to defence; no statement of case after a reply to be filed without court's permission; claimant's notice where defence is that money claimed has been paid; and claim stayed if it is not defended or admitted. The relevant material is addressed in CPR 10.1-10.3; CPR 16.5-16.8; CPR 15.1-15.11; and PD15 paragraphs 1-3; and PD16 paragraphs 9-13.
3. Examinable material on the effect of not responding to an allegation in a statement of case will consist of the effects of failing to deal with an allegation. The relevant material is addressed in CPR 16.5.

## 9 Multiple Causes of Action, Counterclaims and Other Additional Claims

1. multiple causes of action and multiple parties
2. counterclaims against the claimant or an additional party
3. contribution notices and claims against third parties and fourth parties

### Examinable Material

1. Examinable material on multiple causes of action and multiple parties will consist of the number of claimants and defendants who may be joined as parties to a claim; the general provisions regarding changes of parties; provisions applicable where two or more persons are jointly entitled to a remedy; the procedure for adding and substituting parties; addition or substitution of claimant; addition or substitution of defendant; removal of party; transfer of interest or liability; and special provisions about adding or substituting parties after the end of a relevant limitation period. The relevant material is addressed in CPR 19.1-19.4; CPR 19.5; PD 19A paragraphs 1- 5; the commentary at paragraphs 19.5.1, 19.5.2, 19.5.4 and 19.5.5 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and Limitation Act 1980 section 35, at paragraph 8-102 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on counterclaims against the claimant or an additional party will consist of defendant's counterclaim against the claimant; counterclaim against a person other than the claimant; procedure for making any other additional claim; service of claim form; matters relevant to question of whether an additional claim should be separate from the claim; effect of service of an additional claim; cases where the court's permission to make an additional claim is required; applications for permission to issue an additional claim; statement of truth; case management where there is a defence to an additional claim; form of counterclaim; and titles of proceedings where there are additional claims. The relevant material is addressed in CPR 20.1-5 and 7-10; PD 20 paragraphs 1-7; and Limitation Act 1980 section 35, at paragraph 8-102 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on contribution notices and claims against third parties and fourth parties will consist of defendant's additional claim for contribution or indemnity from another party; procedure for making any other additional claim; service of claim form; matters relevant to question of whether an additional claim should be separate from the claim; effect of service of an additional claim; cases where the court's permission to make an additional claim is required; applications for permission to issue an additional claim; statement of truth; case management where there is a defence to an additional claim; and titles of proceedings where there are additional claims. The relevant material is addressed in CPR 20.1-3 and 20.6-10; PD 20 paragraphs 1-5 and 7; and Limitation Act 1980 section 35, at paragraph 8-102 of Volume 2 of 'Civil Procedure' (the White Book) 2021.

## 10 Amendment

1. permission or consent to amend
2. costs consequences of amendment

### Examinable Material

1. Examinable material on permission or consent to amend will consist of amendments to statements of case; the power of the court to disallow amendments made without permission; amendments to statements of case with the permission of the court; general principles for grant of permission to amend; need to show some prospects of success; deferred amendment; late amendments; amendment after evidence heard at trial; amendments to statements of case after the end of a relevant limitation period; and resolving disputes as to whether a limitation period has expired. The relevant material is addressed in CPR 17.1-17.2, 17.3 and 17.4; PD17 paragraphs 1-2; the commentary at paragraphs 17.3.5-17.3.9 and 17.4.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and Limitation Act 1980 section 35, at paragraph 8-102 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on costs consequences of amendment will consist of the responsibility of a party for the costs of and arising from amendment. The relevant material is addressed in the words immediately underneath the heading of PD17, which read as follows: "A party applying for an amendment will usually be responsible for the costs of and arising from the amendment".

## 11 Further Information

1. requests for further information
2. responding to a request for further information

### **Examinable Material**

1. Examinable material on requests for further information will consist of obtaining further information; preliminary requests for further information or clarification; applications for orders under Part 18; the court's discretion; and restriction on the use of further information. The relevant material is addressed in CPR 18.1 and 18.2; PD18 paragraphs 1 and 5; and the commentary at paragraph 18.1.10 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on responding to a request for further information will consist of responding to a request; statements of truth; and general matters. The relevant material is addressed in PD 18 paragraphs 2-4.



## 12 Default Judgment and Summary Judgment

1. default judgment
2. applications to set aside
3. summary judgment

### Examinable Material

1. Examinable material on default judgment will consist of meaning of default judgment; claims in which default judgment may not be obtained; conditions to be satisfied; procedure for obtaining default judgment; nature of judgment where default judgment obtained by filing a request; county court money claims; interest; default judgment in claim against more than one defendant; default judgment obtained by making an application; and evidence on requests and applications for default judgment. The relevant material is addressed in CPR 12.1-12.6, 12.8 and 12.10(a); and PD 12 paragraphs 1-4.2, 4.6 and 5.
2. Examinable material on applications to set aside will consist of cases where the court must set aside default judgment; cases where the court may set aside or vary default judgment; the effect of rule 13.3; 'some other good reason' under rule 13.3(1)(b); the need to act promptly under rule 13.3(2); applications to set aside judgment by a non party; the effects of the court's approach following implementation of Jackson; and the procedure for applications to set aside or vary default judgments. The relevant material is addressed in CPR 13.1-13.2, 13.3 and 13.4; and the commentary at paragraphs 13.3.1-13.3.5 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on summary judgment will consist of grounds for summary judgment; types of proceedings in which summary judgment is available; procedure for obtaining summary judgment; evidence for the purposes of a summary judgment hearing; the court's powers when it determines a summary judgment application; procedure for making an application; the hearing of the application; the court's approach; orders the court may make; setting aside orders for summary judgment; costs; and case management. The relevant material is addressed in CPR 24.1, 24.2, 24.3-24.5 and 24.6; PD 24 paragraphs 1-5 and 8-10; and in the commentary at paragraphs 24.2.3-24.2.7, and paragraph 24.6.6 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 13 Case Management, Sanctions and Striking Out

1. the small claims track, fast track and multi-track
2. allocation
3. case management
4. costs management
5. directions
6. relief from sanctions
7. striking out a claim
8. discontinuance

### Examinable Material

1. Examinable material on the small claims track, fast track and multi-track will consist of the scope of the small claims track, fast track and multi-track. The relevant material is addressed in CPR 26.6
2. Examinable material on allocation will consist of allocation to a track; the general rule for allocation; matters relevant to allocation to a track; notice of allocation; re-allocation; allocation principles; allocation to the fast track; and the re-allocation of claims and the variation of directions. The relevant material is addressed in CPR 26.1, 26.5 and 26.7-26.10; and PD 26 paragraphs 7, 9 and 11.
3. Examinable material on case management will consist of calculating periods of time for doing acts specified by the Civil Procedure Rules, a practice direction, or a judgment or order of the court; variation of time limits by the parties; the court's general powers of management; case management in proceedings where at least one party is unrepresented; the court's power to make orders of its own initiative; judgment without trial after striking out; and the general power of the court to rectify matters where there has been an error of procedure. The relevant material is addressed in CPR 2.8 and 2.11; CPR 3.1, 3.1A, 3.3, 3.5 and 3.10.
4. Examinable material on costs management will consist of the purpose of costs management; filing and exchanging budgets and budget discussion reports; the effect of failure to file a budget; costs management orders; revision and variation of costs budgets on account of significant developments ('variation costs'); costs management conferences; court to have regard to budgets and to take account of costs; assessing costs on the standard basis where a costs management order has been made; production of costs budgets; documents to be lodged for costs budgeting purposes; budget format; assumptions; budget discussion reports; and costs management orders. The relevant material is addressed in CPR 3.12-3.18; and in PD 3E paragraphs 1-7.
5. Examinable material on directions will consist of directions questionnaires; stay to allow for settlement of the case; referral to the Mediation Service; directions in fast

track cases; variation of the case management timetable in fast track cases; case management in multi-track cases; case management conference and pre-trial review; steps taken by the parties; variation of the case management timetable in multi-track cases; pre-trial checklist (listing questionnaire); pre-trial review; setting a trial timetable and confirming the trial date or week; conduct of the trial; general provisions regarding case management in multi-track cases; case management and consideration of periodical payments; directions on allocation; case management conferences; variation of directions; failure to comply with case management directions; pre-trial checklists (listing questionnaires); directions the court will give on listing; and the trial. The relevant material is addressed in and CPR 26.3-26.4A, CPR 28.3-28.4, CPR 29.1-29.9; and in PD 29 paragraphs 3-10

6. Examinable material on relief from sanctions will consist of the rule that sanctions have effect unless the defaulting party obtains relief; the court's general discretion to give relief from sanctions imposed for failure to comply with a rule, practice direction or court order; the effect of the rule in general terms; the formulation of the rule since April 2013; the guidance given in *Denton*; the first stage of the guidance: assessment of the seriousness and significance of the breach; the second stage of the guidance: consideration of why the default occurred; the third stage of the guidance: evaluation of all the circumstances of the case so as to enable the court to deal justly with the application; the importance of discouraging opportunism by the non-defaulting party; and the effect of the *Denton* principles on applications to set aside default judgments. The relevant material is addressed in CPR 3.8 and 3.9; and in the commentary at paragraphs 3.9.1 and 3.9.2-3.9.8 of Volume 1 of 'Civil Procedure' (the White Book) 2021. Students should also be able to refer to the following specific leading case authority by name: *Denton*.
7. Examinable material on striking out a claim will consist of the court's power to strike out a statement of case; the effect of the rule; cases where the statement of case discloses no reasonable grounds for bringing or defending the claim; cases where the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings; attempts to re-litigate issues which were raised, or should have been raised, in previous proceedings; collateral attacks upon earlier decisions; striking out sanction effective without need for further order ('unless' orders). The relevant material is addressed in CPR 3.4; and in the commentary at paragraphs 3.4.1, 3.4.2, 3.4.3, the first three sub-paragraphs of 3.4.5, the first sub-paragraph of 3.4.9 and paragraph 3.4.19 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
8. Examinable material on discontinuance will consist of the right of the claimant to discontinue all or part of a claim; the procedure for discontinuing; the right to apply to have notice of discontinuance set aside; when discontinuance takes effect where permission of the court is not needed: liability for costs; and discontinuance and subsequent proceedings. The relevant material is addressed in CPR 38.1-7.

## 14 Disclosure and Inspection of Documents

1. disclosure and inspection of documents
2. specific disclosure
3. collateral use of disclosed documents
4. pre-action disclosure
5. disclosure against non-parties
6. legal professional privilege and without prejudice communications in civil cases

### Examinable Material

1. Examinable material on disclosure and inspection of documents will consist of the rules about disclosure and inspection; the meaning of disclosure; the right of inspection of a disclosed document; cases where a party considers that it would be disproportionate to permit inspection of a disclosed document; the meaning of document; standard disclosure; documents to be disclosed under standard disclosure; documents which 'adversely affect' and 'support'; categories of documents; disclosure in particular types of cases and circumstances; redaction of irrelevant material; duty of search; duty of disclosure limited to documents which are or have been in a party's control; disclosure of copies; procedure for standard disclosure; the rule that the duty of disclosure continues during proceedings; the right to inspect a document mentioned in a statement of case, witness statement, witness summary, affidavit or expert's report; inspection and copying of documents; the consequence of failure to disclose documents or permit inspection; false disclosure statements; extent of the reasonable search for documents; electronic disclosure; the disclosure list; disclosure statement; inspection of documents mentioned in an expert's report; and consequences of a false disclosure statement. The relevant material is addressed in CPR 31.1-31.2, 31.3, 31.4-31.5, 31.6, 31.7-31.11, 31.14-15, 31.21 and 31.23; PD 31A paragraphs 1-2, 2A, 3-4 and 7-8; and the commentary at paragraphs 31.3.4, 31.6.2-31.6.4 and 31.6.8 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on specific disclosure will consist of specific disclosure or inspection; the timing of an application for specific disclosure or inspection; and the discretion of the court to make an order for specific disclosure or inspection. The relevant material is addressed in CPR 31.12; PD 31A paragraph 5; and the commentary at paragraphs 31.12.1.1 and 31.12.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on collateral use of disclosed documents will consist of subsequent use of disclosed documents and completed Electronic Documents Questionnaires. The relevant material is addressed in CPR 31.22.
4. Examinable material on pre-action disclosure will consist of disclosure before proceedings start; the scope of documents covered by pre-action disclosure; the

two-stage approach taken by the court in dealing with applications for pre-action disclosure; the relevance of merits of the future claim; and other powers of the court to order disclosure. The relevant material is addressed in CPR 31.16 and 31.18; and the commentary at paragraphs 31.16.3-31.16.5 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

5. Examinable material on disclosure against non-parties will consist of orders for disclosure against a person not a party; the discretion of the court to make an order for third party disclosure; documents likely to support the case of the applicant or adversely affect the case of another party to the proceedings; the necessity of disclosure to fairly dispose of the claim or save costs; other powers of the court to order disclosure; the *Norwich Pharmacal* principle regarding disclosure of the identity of a wrongdoer; the requirements for *Norwich Pharmacal* relief; the nature of the wrongs covered; the need for an order to assert rights against the wrongdoer; connection to the wrongdoing; defences. The relevant material is addressed in CPR 31.17 and 31.18; the commentary at paragraphs 31.17.1, 31.17.2.1, 31.17.3, 31.17.4, 31.18.2 and 31.18.3-31.18.7 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and in section 34 of the Senior Courts Act 1981 and section 53 of the County Courts Act 1984 at paragraphs 9A-115 and 9A-506 of Volume 2 of 'Civil Procedure' (the White Book) 2021. Students should also be able to refer to the following specific leading case authority by name: *Norwich Pharmacal*.
6. Examinable material on legal professional privilege and without prejudice communications in civil cases will consist of the right of inspection of a disclosed document; legal professional privilege; legal advice privilege; litigation privilege: communications between solicitor and non-professional agent or third party; litigation privilege: communications between client and non-professional agent or third party; legal professional privilege: pre-existing documents, copies or extracts; waiver or loss of privilege; 'without prejudice' communications; claims to withhold inspection or disclosure of a document; restriction on the use of a privileged document inspection of which has been inadvertently allowed; legal professional privilege and ADR; and the 'without prejudice' principle in ADR. The relevant material is addressed in CPR 31.3, 31.19, 31.20; PD 31A paragraph 6; the commentary at paragraphs 31.3.5-31.3.6, 31.3.8, 31.3.9, 31.3.11, 31.3.24 and 31.3.39 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 5.15-5.26 of The Jackson ADR Handbook (Third Edition, 2021).

## 15 Interim Applications

1. with notice and without notice applications
2. documentation required in interim applications
3. periods of notice in interim applications
4. the duty of full and frank disclosure in without notice applications

### Examinable Material

1. Examinable material on with notice and without notice applications will consist of general rules about applications for court orders; the meaning of 'application notice' and 'respondent'; where to make an application; time when an application is made; applications dealt with without a hearing; service of application where application made without notice; application to set aside or vary order made without notice; power of the court to proceed in the absence of a party; dismissal of applications totally without merit; applications without service of an application notice; pre-action applications; claims in the County Court Money Claims Centre; telephone hearings; video conferencing; costs; orders for interim remedies; time when an order for an interim remedy may be made; how to apply for an interim remedy; notice of application; interim remedy order hearings in private; urgent applications and applications without notice; and orders for injunctions. The relevant material is addressed in CPR 23.1-2, 23.5 and 23.8-12; CPR 25.1, 25.2 and 25.3; PD 23A paragraphs 3, 5, 5A, 6-7 and 13; PD 25A paragraphs 4 and 5; and the commentary at paragraphs 25.3.2 and 25.3.4 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on documentation required in interim applications will consist of application notice to be filed; notice of an application; what an application notice must include; service of a copy of the application notice, written evidence in support and draft order; application notices; evidence in interim applications; supply by the applicant of a draft order; and evidence supporting an application for an interim remedy. The relevant material is addressed in CPR 23.3-4 and 23.6-7; PD 23A paragraphs 2, 9, 12.1; and the commentary at paragraphs 25.3.3 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on periods of notice in interim applications will consist of service of a copy of the application notice; and giving notice of an application. The relevant material is addressed in CPR 23.7 and PD23A paragraph 4.
4. Examinable material on the duty of full and frank disclosure in without notice applications will consist of an applicant's disclosure duties where application is made without notice; an applicant's disclosure duties where application made on short notice; discharge of injunction for material non-disclosure; applications to set aside for material non-disclosure not to be made without proper reason; and discharge and re-grant of an injunction. The relevant material is addressed in the commentary at paragraphs 25.3.5-25.3.8 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 16 Interim Payments and Security for Costs

1. interim payments
2. security for costs

### Examinable Material

1. Examinable material on interim payments will consist of the procedure for applying for interim payments; conditions to be satisfied and matters to be taken into account; powers of the court where it has made an order for interim payment; restriction on disclosure of interim payments; and evidence on interim payment applications. The relevant material is addressed in CPR 25.6-9; and PD 25B paragraph 2.
2. Examinable material on security for costs will consist of applying for security for costs, and the conditions to be satisfied on an application for security for costs. It will include the discretionary power to order security for costs; condition (c): insolvent or impecunious company; particular discretionary factors where condition (c) is relied on; proving insolvency or impecuniosity; and condition (g): taking steps as to assets which hinder enforcement. The relevant material is addressed in CPR 25.12 and 25.13; and in the commentary at paragraphs 25.13.1, 25.13.12-25.13.14, and 25.13.18 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 17 Interim Injunctions

1. interim injunctions
2. *American Cyanamid* principles
3. exceptions and variations to *American Cyanamid*
4. usual undertakings and cross-undertakings

### Examinable Material

1. Examinable material on interim injunctions will consist of orders for interim remedies; interim injunctions; court's jurisdiction to grant interim injunctions; principles and guidelines to be applied; interim declarations; time when an order for an interim remedy may be made; and how to apply for an interim remedy. The relevant material is addressed in CPR 25.1, 25.2 and 25.3; and the commentary at paragraphs 25.1.9-25.1.11 and 25.1.15 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on *American Cyanamid* principles will consist of the principles and guidelines to be applied by the court in applications for interlocutory injunctions set out in the *American Cyanamid* case; the *American Cyanamid* principles: a serious question to be tried; the *American Cyanamid* principles and CPR case management; interim relief pending appeal; the *American Cyanamid* guidelines: adequacy of damages as a remedy and the balance of convenience; stage 1: adequacy as a remedy of damages awarded at trial or payable under undertaking; stage 2: balance of convenience; particular guidelines; preserving the status quo ante; relative strength of each party's case; and other special factors. The relevant material is addressed in the commentary at paragraphs 15-7 to 15-16 of Volume 2 of 'Civil Procedure' (the White Book) 2021. Students should also be able to refer to the following specific leading case authority by name: *American Cyanamid*.
3. Examinable material on exceptions and variations to *American Cyanamid* will consist of interlocutory ruling in effect disposing of action finally; likelihood of claimant succeeding at trial; effect of delay to trial; risk of terminological confusion; cases excepted from the *American Cyanamid* guidelines; and mandatory injunctions. The relevant material is addressed in the commentary at paragraphs 15-17 to 15-18, 15-20 to 15-22 and 15-24 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
4. Examinable material on usual undertakings and cross-undertakings will consist of undertakings by defendants in lieu of injunctions; discharge or release from, and appeals in relation to, undertakings; cross-undertaking as to damages; undertakings in interim injunctions generally; extent of undertaking as to damages; and applicant unable to offer credible undertaking. The relevant material is addressed in the commentary at paragraph 25.1.14.1, 25.1.14.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and in the commentary at paragraphs 15-25 to 15-27, and 15-29 to 15-30 of Volume 2 of 'Civil Procedure' (the White Book) 2021.



## 18 Settlement (including offers to settle)

1. negotiation and joint settlement meetings
2. *Calderbank* offers and offers to settle under Part 36
3. withdrawing, reducing and increasing offers to settle
4. consequences of accepting Part 36 offers
5. consequences of failing to obtain judgment more advantageous than offer to settle

### Examinable Material

1. Examinable material on negotiation and joint settlement meetings will consist of the negotiation process and joint settlement meetings. The relevant material is addressed in 12.03-12.04, 12.13-12.14, 12.16-12.17 of The Jackson ADR Handbook (Third Edition, 2021).
2. Examinable material on *Calderbank* offers and offers to settle under Part 36 will consist of Part 36 offers prior to issue of proceedings; Part 36 offers to settle; *Calderbank* offers; formal or technical defects in Part 36 offers; application of Part 36 to appeals; making offers; form and content of a Part 36 offer; formal requirements for a Part 36 offer; Part 36 offers: defendant's offer; and time when a Part 36 offer is made. The relevant material is addressed in CPR 36.1, 36.2, and 36.3-36.7; the commentary at paragraphs 36.2.1, 36.2.4 and 36.5.1 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraph 8.07 of The Jackson ADR Handbook (Third Edition, 2021). Students should also be able to refer to the following specific leading case authority by name: *Calderbank*.
3. Examinable material on withdrawing, reducing and increasing offers to settle will consist of clarifying, withdrawing and changing the terms of offers; clarification of a Part 36 offer; withdrawing or changing the terms of a Part 36 offer generally; and withdrawing or changing the terms of a Part 36 offer before the expiry of the relevant period. The relevant material is addressed in CPR 36.8-10.
4. Examinable material on consequences of accepting Part 36 offers will consist of accepting offers; acceptance of a Part 36 offer; costs consequences of acceptance of a Part 36 offer; the effect of the rule; recoverable pre-action costs; claimant's entitlement to costs of claim to which offer relates; costs to be determined by the court; other effects of acceptance of a Part 36 offer; and acceptance of a Part 36 offer made by one or more, but not all, defendants. The relevant material is addressed in CPR 36.11, 36.13, 36.14-15; and the commentary at paragraphs 36.13.1-3 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
5. Examinable material on consequences of failing to obtain judgment more advantageous than offer to settle will consist of unaccepted offers; restriction on disclosure of a Part 36 offer; costs consequences following judgment; more advantageous judgment; recoverable pre-action costs; defendant's offer; claimant's

offer; unless the court considers it unjust to do so; and genuine attempt to settle proceedings. The relevant material is addressed in CPR 36.16 and 36.17; and the commentary at paragraphs 36.17.1-4, 36.17.5 and 36.17.6 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 19 Evidence of Fact

1. evidence of fact in civil proceedings
2. witness statements and witness summonses
3. notices to admit facts and notices to prove documents

### Examinable Material

1. Examinable material on evidence of fact in civil proceedings will consist of the power of the court to control evidence; the general rule regarding evidence of witnesses; evidence by video link or other means; evidence in proceedings other than at trial; order for cross-examination; false statements; affidavit evidence; form of affidavit; evidence by deposition; evidence by video link as an alternative to obtaining a deposition; conduct of examination; and use of deposition at a hearing. The relevant material is addressed in CPR 32.1-3, 32.6, 32.7, 32.14, 32.15-16; CPR 34.8-9 and 34.11; and the commentary at paragraph 34.8.6 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on witness statements and witness summonses will consist of the requirement to serve witness statements for use at trial; use at trial of witness statements which have been served; witness statements as evidence in chief; amplification of evidence; witness not called; use of witness statements where party failing to attend trial; form of witness statement; witness summaries; consequence of failure to serve witness statement or summary; cross-examination on a witness statement; use of witness statements for other purposes; availability of witness statements for inspection; witness summonses; issue of a witness summons; witness summons in aid of inferior court or of tribunal; time for serving a witness summons; who is to serve a witness summons; and right of witness to travelling expenses and compensation for loss of time. The relevant material is addressed in CPR 32.4, 32.5, 32.8-13; CPR 34.1-7; and the commentary at paragraphs 32.5.1-32.5.3.1 Volume 1 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on notices to admit facts and notices to prove documents will consist of notice to admit facts; and notice to admit or produce documents. The relevant material is addressed in CPR 32.18-19.

## 20 Expert Evidence

1. the general exclusionary rule in relation to evidence of opinion
2. the main exceptions to the rule
3. expert opinion evidence in civil proceedings

### Examinable Material

1. Examinable material on the general exclusionary rule in relation to evidence of opinion will consist of the general rule that only evidence of fact may be adduced. The relevant material is addressed in the commentary at paragraph 35.0.1 (second paragraph) of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on the main exceptions to the general exclusionary rule in relation to evidence of opinion will consist of expert evidence and statements of opinion made as a way of conveying relevant facts personally perceived by the witness. The relevant material is addressed in the commentary at paragraph 35.0.1 (first three paragraphs) of Volume 1 of 'Civil Procedure' (the White Book) 2021; and section 3 of the Civil Evidence Act 1972, at paragraph 9B-1060 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on expert opinion evidence in use of expert opinion evidence in civil proceedings will consist of general requirements for expert evidence; expert evidence at trial; expert availability and the trial timetable; judicial assessment of expert evidence; experts and the ultimate question; the court's duty to restrict expert evidence; the effect of the rule; circumstances where expert evidence held not to be necessary; overriding duty of experts to the court; duties and responsibilities of experts; the court's power to restrict expert evidence; court's permission to adduce expert evidence; pre-action protocols and disclosure of expert reports; general requirement for expert evidence to be given in a written report; written questions to experts; the court's power to direct that evidence is to be given by a single joint expert; obtaining further expert evidence; form and content of an expert's report; use by one party of an expert's report disclosed by another; discussions between experts; consequence of failing to disclose expert's report; expert's right to ask court for directions; service of information; cross-examination of experts on the contents of their instructions; questions to experts; circumstances relevant to allowing parties to rely on expert evidence and whether evidence should be from a single joint expert; and serving court orders on experts. The relevant material is addressed in CPR 35.1, 35.2, 35.3, 35.4-6, 35.7, 35.10, 35.11, 35.12-14; PD35 paragraphs 1-9; and the commentary at paragraphs 35.0.2, 35.0.3, 35.0.4, 35.1.1, 35.1.2 (first, second and eleventh paragraphs), 35.3.2, 35.4.2 (first, second, third, fourth, fifth and seventh paragraphs), 35.4.4, 35.7.4 and 35.11.1 of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 21 Civil Trial and Evidence

1. the trial of civil cases
2. hearsay evidence in civil proceedings
3. convictions as evidence in civil proceedings

### Examinable Material

1. Examinable material on the trial of civil cases will consist of the power of the court to control evidence; the general rule regarding evidence of witnesses; evidence by video link or other means; the use at trial of witness statements which have been served; witness statements as evidence in chief; amplification of evidence; witness not called; use of witness statements where party failing to attend trial; failure to attend the trial; the use of plans, models and photographs as evidence; and the trial of civil cases, including trial timetables, order of speeches, calling and examining witnesses, judgment, submissions on orders for costs and permission to appeal. The relevant material is addressed in CPR 32.1-3, 32.5 and 39.3; PD 28 paragraph 8; PD 29 paragraph 10; and the commentary at paragraphs 32.5.1-32.5.3.1 of Volume 1 of 'Civil Procedure' (the White Book) 2021.
2. Examinable material on hearsay evidence in civil proceedings will consist of the use of hearsay evidence at trial; notice of intention to rely on hearsay evidence; circumstances in which notice of intention to rely on hearsay evidence is not required; power to call witness for cross-examination on hearsay evidence; considerations relevant to weighing of hearsay evidence; and credibility. The relevant material is addressed in CPR 33.1-33.6; and sections 1-4 Civil Evidence Act 1995, at paragraphs 9B-1071 to 9B-1074 of Volume 2 of 'Civil Procedure' (the White Book) 2021.
3. Examinable material on convictions as evidence in civil proceedings will consist of the admissibility of convictions as evidence in civil proceedings. The relevant material is addressed in section 11 Civil Evidence Act 1968, at paragraph 9B-1032 of Volume 2 of 'Civil Procedure' (the White Book) 2021.

## 22 Judgments, Orders and Enforcement

1. judgment and orders, including Tomlin orders
2. enforcing money judgments
3. recording and enforcement of settlements following ADR

### Examinable Material

1. Examinable material on judgment and orders, including Tomlin orders, will consist of drawing up and filing judgments and orders; service of judgments and orders; consent judgments and orders; Tomlin orders; restrictions on consent orders and judgments; when judgment or order takes effect; time from which interest begins to run; stay of execution and other relief; who may apply to set aside or vary a judgment or order; time for complying with a judgment or order; correction of errors in judgments and orders; cases where court gives judgment both on claim and counterclaim; and orders requiring an act to be done. The relevant material is addressed in CPR 40.3-4, 40.6, 40.7-9, 40.11-13; PD 40B paragraphs 4 and 8; the commentary at paragraph 40.6.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 19.10-19.15 of The Jackson ADR Handbook (Third Edition, 2021).
2. Examinable material on enforcing money judgments will consist of enforcement of judgments generally; methods of enforcing judgments and orders; methods of enforcing money judgments; the rule that the court may order an act to be done at the expense of the disobedient party; transfer of proceedings for enforcement; transfer to county court for enforcement; transfer to High Court for enforcement; enforcement of judgment or order by or against non-party; effect of setting aside judgment or order; orders to obtain information from judgment debtors ('oral examination'); application notice; order to attend court; conduct of the hearing; attendance at court: normal procedure; attendance at court: procedure where the order is to attend before a judge; failure to comply with order; third party debt orders; debt due to judgment debtor and another; application for third party debt order; application notice; charging orders; charging order on matrimonial home; application for charging order; application notice; writs and warrants; enforcement of county court judgments; enforcement by taking control of goods; controlled goods agreements; where and how to make applications; attachment of earnings; where to make applications; mode of applying; and effect and contents of attachment of earnings order. The relevant material is addressed in CPR 70.1-2A, 70.3, 70.4 and 70.6; CPR 71.1-2, 71.6 and 71.8; CPR 72.1-3; CPR 73.3; CPR 83.2; CPR 84.3; CPR 89.3-4; PD 70 paragraphs 1A.1 and 1.1; PD 71 paragraphs 1, 2, 4 and 5; PD 72 paragraph 1; and PD 73 paragraph 1; the editorial introductions to CPR Parts 71-73, 83-84 and 89 at paragraphs 71.0.1, 72.0.1, 72.2.15, 73.0.1, 73.0.4 (1) and (2), 83.0.2-3, the second paragraph of 83.0.17, 84.0.2-3 and 89.0.1 of Volume 1 of 'Civil Procedure' (the White Book) 2021; the commentary at paragraphs 70.3.1 and 70.3.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021; paragraph 8 of the High

Court and County Courts Jurisdiction Order 1991 (SI 1991/724) at section 9B-939 of Volume 2 of 'Civil Procedure' (the White Book) 2021; and section 6(1)-(5) of the Attachment of Earnings Act 1971 at paragraph 9B-965 of Volume 2 of 'Civil Procedure' (the White Book) 2021.

3. Examinable material on recording and enforcement of settlements following ADR will consist of recording and enforcing settlement; reaching a clear outcome; forms of recorded outcome; written agreement; full and final settlement; methods of recording settlements in court proceedings; Tomlin orders; restrictions on consent orders and judgments; methods of enforcing compromise agreements; and enforcement of court orders. The relevant material is addressed in paragraphs 18.03, 18.06-18.10, 19.02, 19.10-19.15, 20.02 and 20.09 (including Table 20.1) of The Jackson ADR Handbook (Third Edition, 2021).

## 23 Costs

1. costs orders in civil cases
2. standard and indemnity costs
3. summary and detailed assessment of costs
4. interim costs orders

### Examinable Material

1. Examinable material on costs orders in civil cases will consist of general rules about costs; costs budgets; court's discretion as to costs; the costs which are within the court's discretion - costs of and incidental to; reasons; the indemnity principle; costs orders - order displacing the general rule - a different order; costs orders - orders which the court may make; costs orders - party must pay a proportion of another party's costs; costs orders - issue-based orders; the general rule - successful and unsuccessful parties; cases where there is success both ways (claims and counterclaims and costs of issues); all the circumstances; whether a party has succeeded on part of its case; admissible offer to settle; conduct of all the parties; party conduct - unreasonable refusal to agree to ADR; party conduct - conduct before the proceedings; successful defendant's costs payable by unsuccessful defendant (*Sanderson* and *Bullock* orders); fees of counsel; time for complying with an order for costs; court's powers in relation to misconduct; qualified one-way costs shifting; effect of qualified one-way costs shifting; exceptions to qualified one-way costs shifting where permission not required; exceptions to qualified one-way costs shifting where permission required; fundamentally dishonest; costs and costs shifting in ADR; and liability to pay for an ADR process. The relevant material is addressed in CPR 44.1, 44.2, 44.7, 44.11, 44.13-16; PD 44 paragraphs 3-5; the commentary at paragraphs 44.2.3 (first, sixth and seventh sub-paragraphs), 44.2.4, 44.2.5, 44.2.6 (first sub-paragraph), 44.2.7 (first sub-paragraph), 44.2.8 (first sub-paragraph), 44.2.10 (first two sub-paragraphs), 44.2.13 (first three sub-paragraphs), 44.2.14 (first two sub-paragraphs), 44.2.17 (first two sub-paragraphs), 44.2.18 (first three sub-paragraphs), 44.2.19 (first and fourth sub-paragraphs), 44.2.20, 44.2.24, 44.2.25 (first and third sub-paragraphs), 44.2.28 (first, second, third, fourth, fifth and sixth sub-paragraphs) and 44.16.2 of Volume 1 of 'Civil Procedure' (the White Book) 2021; and paragraphs 10.01 and 10.03 of The Jackson ADR Handbook (Third Edition, 2021). Students should also be able to refer to the following specific leading case authorities by name: *Sanderson*, *Bullock*.
2. Examinable material on standard and indemnity costs will consist of basis of assessment; costs on the indemnity basis; costs on the standard basis; and factors to be taken into account in deciding the amount of costs. The relevant material is addressed in CPR 44.3, 44.4; and PD 44 paragraph 6.
3. Examinable material on summary and detailed assessment of costs will consist of procedure for assessing costs; when the court should consider whether to make a



summary assessment; timing of summary assessment; duty of parties and legal representatives; time when detailed assessment may be carried out; and no stay of detailed assessment where there is an appeal. The relevant material is addressed in CPR 44.6, CPR 47.1-2; and PD 44 paragraph 8, 9.1-9.2, 9.5(1), (2) and (4), and 9.6.

4. Examinable material on interim costs orders will consist of payment on account of costs. The relevant material is addressed in paragraph 44.2.12 (first two sub-paragraphs) of Volume 1 of 'Civil Procedure' (the White Book) 2021.

## 24 Appeals

1. Civil appeals in England and Wales (excluding appeals to the Supreme Court)

### Examinable Material

1. Examinable material on civil appeals in England and Wales (excluding appeals to the Supreme Court) will consist of routes of appeal; time for appealing; grounds on which appeals may succeed; permission to appeal; determination of applications for permission to appeal to the County Court and High Court; determination of applications for permission to appeal to the Court of Appeal; permission to appeal test for first appeals; permission to appeal test for second appeals; appellant's notice; respondent's notice; transcripts at public expense; variation of time; stay; appeal court powers; hearing of appeals; review or re-hearing; evidence not before lower court (fresh evidence); destinations of appeal; obtaining permission to appeal and allocation of appeals; and skeleton arguments. The relevant material is addressed in CPR 52.1, 52.3-7, 52.12-16, 52.20 and 52.21; PD52A Section 3 (destinations of appeal), Section 4 (obtaining permission to appeal and allocation of appeals) and Section 5 (skeleton arguments); and the commentary at paragraphs 52.21.1 and 52.21.3 of Volume 1 of 'Civil Procedure' (the White Book) 2021.