



Informing Progress - Shaping the Future

FOIL Update 21st October 2025



Open Justice - Practice Direction 51ZH – Access to Public Domain Documents

FOIL originally responded to the Civil Procedure Rule Committee's proposal for a new CPR Rule 5.4C addressing access to court documents by non-parties in early 2024. After much public debate and following earlier dicta in *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38, we have a new Practice Direction. PD 51ZH introduces a new pilot scheme (the **Access to Public Domain Documents Pilot**). This pilot is designed to evaluate a common process for accessing most documents which enter the public domain under the law of England and Wales, including skeleton arguments and witness statements.

The pilot will operate via the existing CE-File system and will be evaluated in the Commercial Court, London Circuit Commercial Court of the King's Bench Division, and the Financial List (Commercial Court and Chancery Division) only.

The pilot will operate from 1 January 2026 to 31st December 2027 and only applies to documents which enter the public domain via a hearing which takes place in public.

The general requirement to file public domain documents does not apply in proceedings where a party is not legally represented and has not already filed a document in those proceedings using CE-File. Parties and those that are named or referred in a document may apply for a Filing Modification Order (FMO) to alter the default CE filing requirements. A court may also make an FMO on its own motion.

The definition of a Public Domain Document includes '*any other document or documents critical to the understanding of the hearing ordered by the judge at the hearing to be a Public Domain Document.*' We anticipate that there will be some interesting arguments in this space and advocates

should be prepared to advance arguments on public access to documents at hearings from 1 January 2026 in the pilot courts.

FOIL is interested in collating feedback during the pilot phase. Please forward your feedback to info@foil.org.uk

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