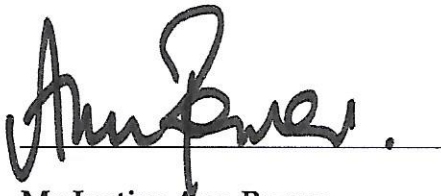


RULES OF PROCEDURE OF THE CERVICALCHECK TRIBUNAL 2020

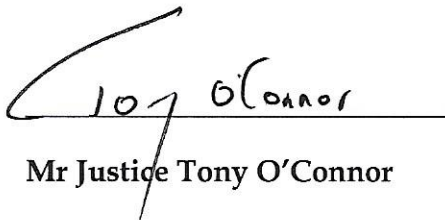
We, the Members for the time being of the CervicalCheck Tribunal established pursuant to section 5 of the CervicalCheck Tribunal Act 2019, by virtue of the powers conferred upon us by section 26 of the CervicalCheck Tribunal Act 2019, hereby make the following Rules

A handwritten signature in black ink, appearing to read 'Ann Power', written over a horizontal line.

Ms Justice Ann Power

A handwritten signature in black ink, appearing to read 'Brian J. McGovern', written over a horizontal line.

Mr Justice Brian McGovern

A handwritten signature in black ink, appearing to read 'Tony O'Connor', written over a horizontal line.

Mr Justice Tony O'Connor

Dated this the 1st day of December 2020.

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Commencement and citation

1. – (1) These Rules, which may be cited as the CervicalCheck Tribunal Rules 2020, shall come into operation on the 1st day of December 2020.

I. PRELIMINARY AND GENERAL MATTERS

Definitions

2. – In these Rules, unless the context or subject matter otherwise requires –

the “2019 Act” means the CervicalCheck Tribunal Act 2019 (*No. 31 of 2019*);

each of the expressions defined in section 2 of the 2019 Act has the same meaning as in the 2019 Act;

“case management hearing” means a hearing referred to in rule 32;

“determination” means any determination made by the Tribunal in the course of or at the conclusion of the determination hearing, or made by the Tribunal on the consent of the parties concerned;

“determination hearing” means a hearing by the Tribunal for the purposes of determining the liability of a respondent to a claimant, determining the amount of any award to be made to a claimant and the costs to be paid by any party;

“eligible claim for compensation” means a claim for compensation which may be made to the Tribunal by an appropriate person in accordance with section 11(1) of the 2019 Act;

a reference to a “Form” immediately followed by a number is to be read as a reference to the form denoted by that number in the Schedule;

“mediation” has the same meaning as in section 2 of the Mediation Act 2017 (*No. 27 of 2017*);

“Member” means any member of the Tribunal;

“non-expert evidence” means evidence not being expert evidence;

“Ordinary Member” means any member of the Tribunal other than the Chairperson;

any action required by these Rules to be taken by a “party” may be taken by the party in person or by her or his or its solicitor;

“pleading” includes a Claim Form, Response and Reply;

“practice direction” means a practice direction issued by the Chairperson in accordance with section 25(2) of the 2019 Act;

“pre-claim protocol” means a pre-claim protocol adopted by the Tribunal in accordance with section 25(1) of the 2019 Act;

“Registrar” means the member of the staff of the Tribunal or other person appointed by the Tribunal from time to time to act as registrar to the Tribunal, or for the time being performing such functions in relation to the Tribunal in accordance with these Rules;

“remote hearing” means a hearing before the Tribunal conducted in a manner consistent with section 11 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020;

“RSC” means the Rules of the Superior Courts 1986 to 2020, as amended from time to time;

“Tribunal Office” means the public office of the Tribunal;

“Tribunal proceedings” means proceedings before the Tribunal for the determination of eligible claims for compensation;

“written statement” shall be construed in accordance with rule 37(1) or (2), as the case may be;

“supplemental written statement” and “further written statement” shall be construed in accordance, respectively, with rule 37(2) and rule 37(4).

Application

3. – (1) These Rules apply to Tribunal proceedings.

(2) Where no express provision is made by these Rules or by a practice direction to govern practice or procedure on a particular matter, and subject to the provisions of these Rules and to any direction of the Tribunal, the practice and procedure in the High Court as prescribed by the RSC may be followed in Tribunal proceedings.

Sittings of the Tribunal

4. – (1) Sittings of the Tribunal shall be held at such place or places or by way of remote hearing and at such times as the Chairperson shall from time to time appoint. Notice of sittings shall be communicated by the Registrar to the parties affected by electronic means.

(2) A Member, or, in the absence of any Member, the Registrar, may adjourn a sitting to such other date (and if necessary, such other place) as she or he considers fit, on giving such notice as is in the circumstances practicable.

(3) An application of an urgent nature in Tribunal proceedings may be made to the Chairperson or to an Ordinary Member nominated by the Chairperson, otherwise than at a scheduled sitting of the Tribunal. Notice of intention to make any such application shall be given to the Registrar and, where necessary, to any other party affected by the intended application. Such urgent applications may be made and determined at any time or place approved by the Member hearing the application or by way of remote hearing where the Member hearing the application so directs.

Tribunal Office

5. – (1) Subject to the general direction of the Chairperson, the Registrar shall manage the business of the Tribunal Office.

(2) The Registrar shall publish the days on which and hours between which the Tribunal Office shall be open to the public for the transaction of business.

(3) Unless lodged in electronic form only, all documents and forms for lodgment in the Tribunal Office, or for service in connection with Tribunal proceedings, with the exceptions of x-rays, charts, photographs or other documents ordinarily produced otherwise in their native form, must be printed on A4 size paper. Every document intended for lodgment in the Tribunal Office must include the short title or record number of the Tribunal proceedings to which it relates.

(4) Such records of Tribunal proceedings, and such case files and other records as the Chairperson from time to time directs shall be maintained in the Tribunal Office in such form (including electronic form) as may be approved from time to time by the Chairperson, provided that on the delivery to the Chairperson of a notice under section 36(2) of the 2019 Act, the registrar shall deposit all such material to which section 36(2) of the 2019 Act applies with the Minister for Health in accordance with such notice.

(5) Every order of the Tribunal in Tribunal proceedings shall:

(i) be drawn up in writing;

(ii) show the date on which it was made, and

(iii) be authenticated by the signature of the Registrar, or other appropriate member of staff of the Tribunal Office

and shall take effect accordingly.

(6) Clerical mistakes or errors arising from any accidental slip or omission may at any time be corrected in any written order, by the Registrar, where undisputed, or, where disputed, by a Member by motion of the party seeking correction on notice to the party to be affected by such correction.

(7) A party to Tribunal proceedings may obtain a certified copy of any order of the Tribunal in those Tribunal proceedings on application to the Tribunal Office.

(8) Where by these Rules or by any order or direction of the Tribunal any document is required to be lodged in the Tribunal Office the document may, subject to the provisions of any practice direction:

(i) be delivered by hand to the Tribunal Office;

(ii) be sent to the Tribunal Office by pre-paid post so as to reach the Tribunal Office before the expiration of the time limited for its lodgment;

(iii) be left at any document exchange service designated by the Registrar as a service through which the Tribunal Office accepts documents, or

(iv) where so permitted or required by a practice direction, be transmitted by electronic means in accordance with any requirement specified in such practice direction.

(9) Where the time for lodging any document, doing any act or taking any step expires on a day on which the Tribunal Office is closed, the document is deemed to be duly lodged or the act or step duly done or taken, as the case may be, so far as regards the applicable time limit, if lodged, done or taken on the next day on which the Tribunal Office is open. In the case of any document lodged in the Tribunal Office by electronic means, the document shall be deemed to have been delivered **at the time of receipt**, as confirmed by the Registrar in case of doubt.

(10) Where a party to Tribunal proceedings is dissatisfied with a step or decision taken in the Tribunal Office affecting those Tribunal proceedings, the party may, on notice to the Registrar and any other party (or the Registrar may, on notice to the parties) apply to the Tribunal, by letter, within seven days of the step or decision concerned, to determine the matter.

(11) Unless these Rules, a practice direction or an order of the Tribunal otherwise provides, or the Chairperson otherwise permits, any pleading, document or set of documents lodged in electronic form in the Tribunal Office shall be lodged as a single portable document file in .pdf format and in the case of any set of documents shall include an internal index hyperlinked to each separate document included therein.

Forms and amendments

6. – (1) The forms in the Schedule (which, for avoidance of doubt, are deemed to be part of these Rules) shall be used in Tribunal proceedings in the circumstances or for the purposes indicated. Compliance with the requirements of a form in the Schedule is required, but a Member may deem a document sufficient or may give such directions, on such terms as she or he considers just, for the purpose of rendering a document compliant.

(2) Any amendment to a document which has been lodged or served shall be permitted, on such terms, if any, as the Tribunal directs, where it is necessary for the purpose of determining the real questions in dispute between the parties.

(3) Where a party wishes to amend a document which has been lodged or served, she or he shall in the first instance invite the other party or parties to consent to the amendment, in which case the amendment shall be deemed to be allowed, subject to any subsequent direction of the Tribunal.

(4) In any case where an amendment cannot be made by consent, a Member may, on such terms as she or he considers just, at any stage of the Tribunal proceedings, allow any party to amend or alter her, his or its pleading or other document, or may disallow an amendment already made, or may amend any defect or error in any proceeding.

(5) An amendment may be effected by written alterations (with deletions marked in strikethrough and additions underlined) in any copy of the document which has been served, and in any copy which has been lodged. The amended document must be indorsed as “Amended on 20... by consent” or “Amended on 20... pursuant to Order of the Tribunal dated 20...”, as the case may be.

(6) Where no form is provided in the Schedule, parties may frame the documents appropriately, using as guides, in the first instance, the forms in the Schedule or otherwise using any cognate form in the Appendices to the RSC.

Compliance with time limits and other requirements

7. – (1) Subject to the provisions of the 2019 Act, the Tribunal may, on any terms it considers reasonable, enlarge or abridge any of the times fixed by these Rules for taking any step or doing any act in any Tribunal proceeding, and any enlargement of time may be ordered notwithstanding that the application for the same is not made until after the expiration of the time appointed or allowed.

(2) The Tribunal may, on any terms it considers reasonable, deem any step taken or act done to be sufficient, even though not taken or done within the time or in the manner prescribed by these Rules.

(3) Non-compliance with any of these Rules, or with any practice direction for the time being in effect, shall not render Tribunal proceedings void unless the Tribunal so directs, but the Tribunal proceedings may be set aside wholly or in part, or may be amended or otherwise dealt with in such manner and on such terms as the Tribunal considers just.

(4) Where a document (other than a Claim Form) is presented for lodgment late, the Registrar may accept the document for lodgment without prejudice to the right of any party concerned to object to the late lodgment.

Service of documents

8. – Documents for use in Tribunal proceedings may be served on another party to Tribunal proceedings,

(a) by any method for the time being permitted by the RSC and the provisions of the RSC concerning service, including, without limitation, Orders 9, 10, 11, 11A, 11E and 121, RSC shall apply, with the necessary modifications, to Tribunal proceedings,

(b) by electronic means where the person to be served has consented to service by such means, the Tribunal so directs, or a statutory practice direction so permits.

II. COMMENCEMENT OF TRIBUNAL PROCEEDINGS AND PRINCIPAL PLEADINGS

Commencement of Tribunal proceedings

9. – (1) Where the eligible claim for compensation is not the subject of proceedings before a court, the intending claimant must, before submitting an eligible claim for compensation to the Tribunal:

(i) engage with each intended respondent to ensure compliance to the extent possible with any pre-claim protocol for the time being in effect, and

(ii) serve the proposed Claim Form (in Form 1) on each respondent with a request that each respondent confirm the respondent's agreement (in Form 2) to submit the claim to the Tribunal.

(2) Where the eligible claim for compensation is the subject of proceedings before a court, the intending claimant must, before submitting an eligible claim for compensation to the Tribunal, serve the proposed Claim Form (in Form 1) on each respondent with a request that each respondent confirm the respondent's agreement (in Form 2) to submit the claim to the Tribunal.

(3) In sub-rules (1) and (2), "proposed Claim Form" means a Claim Form including particulars of the claimant and respondent, a statement of the claimant's claim and any particulars of special damage, but in which any verification and any signature by or on behalf of the claimant need not be completed, and to which no statement of any witness need be attached.

(4) Proceedings for the determination of an eligible claim for compensation by the Tribunal shall be commenced by the lodgment in the Tribunal Office of:

(i) the claimant's completed Claim Form in Form 1, together with a duplicate copy of same, for issuing, and

(ii) where it has been provided to the claimant, the respondent's written agreement to submit the claim to the Tribunal.

(5) Every completed Claim Form shall have the date of lodgment marked thereon or recorded electronically in association therewith and shall be assigned a Tribunal record number in the Tribunal Office and shall thereupon be deemed to be issued.

(6) A copy of the completed Claim Form shall be served on each respondent within seven days of the date on which it was issued.

(7) Notwithstanding the previous provisions of this rule, the Tribunal may issue a completed Claim Form although the written agreement of every respondent to submit the claim to the Tribunal has not been lodged in the Tribunal Office, provided that the time allowed for delivery of a Response shall not begin to run against a respondent until the written agreement of that respondent has been lodged in the Tribunal Office.

(8) Where a completed Claim Form has been issued in accordance with sub-rule (7), the written agreement or, as the case may be, the written refusal, of each respondent to submit the claim to the Tribunal shall be lodged in the Tribunal Office within 21 days of the date on which the Claim Form was issued

(9) Where the written agreement of each respondent to submit the claim to the Tribunal has not been lodged in the Tribunal Office in accordance with sub-rule (8), the Tribunal may of its own motion or at the request of the claimant send the written notification referred to in section 12(3)(a) of the 2019 Act at any time following the expiry of the period of 21 days referred to in sub-rule (8).

Refusal, withdrawal or failure to give consent to Tribunal determination

10. – (1) Where the Tribunal receives:

(i) notice in writing from a relevant party that the relevant party does not agree to a claim being determined by the Tribunal, or

(ii) notice in writing (in Form 16) from a relevant party that there is no longer consent to the claim being determined by the Tribunal,

the Registrar shall notify in writing the fact of receipt, and the content, of such notice to the claimant (attaching a copy of the notice received) by prepaid registered post to the postal address for service of notices or by electronic mail to the electronic mail address provided by the claimant in the Claim Form, and such notification shall constitute the Tribunal notification for the purposes of section 12(3) of the 2019 Act.

(2) A copy of every notification in accordance with sub-rule (1) shall be sent by ordinary post or electronic mail to every other relevant party.

(3) The fact of receipt of a notice referred to in sub-rule (1) may additionally be communicated to the persons affected by such further or other means as the Registrar considers appropriate.

(4) Where a respondent initially consents to a claim being determined by the Tribunal and a notice as referred to in sub-rule (1) (ii) is subsequently received, that Respondent shall, unless the Tribunal shall otherwise order, pay all of the costs incurred by the Claimant and any other party up to the date of the withdrawal of consent, such costs to include all or any reserved costs, and whereupon the Tribunal shall make an order in such terms.

Listing for initial directions where the claim is the subject of proceedings before a court

11.—(1) On the issuing of a Claim Form in respect of an eligible claim for compensation which is the subject of proceedings before a court, the Tribunal proceedings (which may be by way of remote hearing) shall be listed on the earliest convenient date following the receipt, if any, of the agreement of the respondent or respondents (Form 2) to submit the claim to the Tribunal, for initial directions as to: -

(a) whether any Defence or Reply delivered in the court proceedings shall substitute for the Response and Reply for the purpose of these Rules, or (as appropriate) the time limits for service of a Response by the respondent and (where applicable) a Reply by the claimant;

(b) the delivery of statements of non-expert and expert evidence;

(c) whether any particulars furnished, discovery made or admissions made in the court proceedings shall be deemed as furnished or made for the purpose of the Tribunal proceedings;

(d) any other matters considered necessary for the fair and timely determination of the claim.

(2) At an initial directions hearing held in accordance with sub-rule (1), the Tribunal may:

(a) having heard the parties, give any directions and make any orders as are referred to in rules 30, 31 and 32;

(b) determine any interlocutory motion.

(3) Any party may issue an interlocutory motion returnable to an initial directions hearing scheduled in accordance with sub-rule (1).

(4) In Tribunal proceedings to which this rule applies, the provisions of rules 13 and 14 and of Part III shall be subject to any directions or orders of the Tribunal made at an initial directions hearing.

Directions booklet

12. – (1) Not later than four clear days prior to the date fixed for an initial directions hearing in accordance with rule 11, the claimant (or another party with the claimant's consent) shall lodge a directions booklet in the Tribunal Office and serve an index to that booklet on each other party.

(2) The directions booklet shall comprise (a) a summary report, in Form 3, of the proceedings in the High Court and (b) the pleadings had and orders made in the High Court in chronological sequence. It shall not be necessary to include any procedural motion or affidavit supporting such motion in the directions booklet, but such a motion or affidavit may be included where it is necessary to enable the Tribunal to understand the course of the proceedings and any issues raised in the High Court.

(3) Where the directions booklet is lodged in electronic form, (a) the summary report shall be lodged or served as a word-processed file in .doc format, and (b) the chronological sequence of pleadings and orders made shall be lodged or served as a single portable document file in .pdf format and shall include an internal index hyperlinked to each document included therein.

Response

13. – A respondent to Tribunal proceedings shall:

- (i) serve on the claimant, and
- (ii) lodge in the Tribunal Office

a Response in Form 4 within 28 days of the service on that respondent of the Claim Form.

Reply

14. – (1) A claimant in Tribunal proceedings may, but is not obliged to, serve on the respondent a Reply in Form 5 within 14 days of the service on her or him of the Response. A copy of any Reply served shall be lodged in the Tribunal Office.

(2) No Reply is necessary in any case where all of the material statements of fact in the Response are merely denied and put in issue.

(3) Subject to any direction of the Tribunal otherwise, on the delivery of a Reply or the expiry of the time allowed by these Rules or by any order of the Tribunal for the delivery of a Reply, the pleadings as between the claimant and respondent concerned shall be deemed to be closed.

III. PROCEDURE PRIOR TO DETERMINATION HEARING

Mediation

15. – (1) The Tribunal may, on the application of a party to Tribunal proceedings, or of its own motion where it considers it appropriate having regard to all the circumstances:

(a) invite the parties to consider mediation as a means of attempting to resolve the Tribunal proceedings;

(b) provide the parties to the Tribunal proceedings with information about the benefits of mediation to settle the Tribunal proceedings.

(2) Where, following an invitation by the Tribunal under sub-rule (1), the parties decide to engage in mediation, the Tribunal may –

(a) adjourn the Tribunal proceedings,

(b) make an order extending the time for compliance by a party with these Rules or with any order or direction of the Tribunal in the Tribunal proceedings, or

(c) make such other order or give such direction as the Tribunal considers necessary to facilitate the effective use of mediation as a means of attempting to resolve the Tribunal proceedings.

Collaboration

16. – (1) Parties and their representatives shall collaborate to the extent reasonably practicable, both before and after Tribunal proceedings are begun, to ensure that such proceedings are conducted and prepared for determination in a manner which is just, expeditious and likely to minimise costs.

(2) The Tribunal shall, in considering the awarding of the costs of Tribunal proceedings, have regard, in addition to other relevant matters, to:

(i) the extent of the parties' compliance with these Rules, any applicable pre-claim protocol or practice direction, and the reasons for any non-compliance;

(ii) the reasonableness of the parties' conduct of the Tribunal proceedings concerned, including the conduct of the determination hearing;

(iii) whether it was reasonable for a party to raise, pursue or contest one or more issues in the Tribunal proceedings or to make, pursue or contest any procedural application in the Tribunal proceedings;

(iv) any delay occasioned to the Tribunal proceedings concerned by the action or omission of a party;

(v) where the parties were invited by the Tribunal to consider mediating the claim or adopting another Alternative Dispute Resolution process, the reasonableness or otherwise of the parties' conduct in response to that invitation;

(vi) the terms of any offer in writing made without prejudice save as to costs offering to satisfy the whole or part of the claim which is the subject of the Tribunal proceedings and of any response to such offer.

Joinder of parties

17. – (1) Order 15, rules 1 to 15 inclusive, RSC shall, with the necessary modifications, apply to the joinder of parties to Tribunal proceedings, provided that, in accordance with section 13 of the 2019 Act, no person shall be joined as a party to Tribunal proceedings without her, his or its agreement. Such agreement shall be in Form 2 with any necessary modifications and shall be lodged in the Tribunal Office and a copy provided by the party joining to every other party to the Tribunal proceedings.

(2) Notwithstanding sub-rule (1), an application by a claimant for the joinder of an additional respondent may not, without the leave of the Tribunal, be made later than 25 weeks after the issuing of the Claim Form or, in a case in which a third party notice has been issued by a respondent, later than 30 weeks after the issuing of the Claim Form.

Third party procedure

18. – (1) Order 16, rules 1 and 2 and rules 8 to 12 inclusive, RSC shall, with the necessary modifications, apply where a respondent wishes to join a third party to a claim in accordance with section 15 of the 2019 Act, with the additional modifications that any such application be made within 28 days of the time limited for the delivery of the Response and that the notice referred to in Order 16, rule 2(2), RSC, which shall be in Form 6, shall, unless otherwise ordered by the Tribunal, be served within seven days from the making of the order, and with that notice there shall be served:

- (a) a copy of the order permitting service of the third party notice;
- (b) particulars of the respondent's claim for contribution or indemnity (unless included in the third party notice);
- (c) copies of the Claim Form and of any Response delivered in the Tribunal proceedings, and
- (d) a written request that the third party consent in writing to having all issues arising in the claim determined by the Tribunal (unless included in the third party notice).

(2) Where the third party so consents in writing (in Form 7), the said third party shall, as from the time of the service by the third party on the respondent of that written

consent, be a party to the Tribunal proceedings with the same rights in respect of defence against any claim made against her, him or it and otherwise as if she, he or it had been duly sued in the ordinary way by the respondent.

(3) The third party shall lodge in the Tribunal Office and deliver any written consent, and shall deliver a written Response to the respondent's particulars of claim for contribution or indemnity in the Form 8 within 28 days from the service of the third party notice.

(4) A third party may, before the expiration of the time limited for delivery of a Third Party Response, having lodged in the Tribunal Office a written consent, and having served notice of the application on the claimant and respondent, apply to the Tribunal to vary any directions given by the Tribunal under Order 16, rule 1(1), RSC.

(5) For the avoidance of doubt, sub-rules (2), (3) and (4) apply in lieu of Order 16, rules 3 to 7 inclusive, RSC.

Change of parties

19. – Order 17, RSC shall, with the necessary modifications, apply to any change of parties to Tribunal proceedings, provided that no personal representative, assignee, trustee, or other successor in interest shall be joined as a party to Tribunal proceedings without her, his or its agreement in accordance with section 13 of the 2019 Act.

Further and better particulars

20. – (1) Order 19, rules 7 and 8, RSC shall, with the necessary modifications, apply to any request for further and better particulars of any matter pleaded in any Claim Form, Response or Third Party Response.

(2) Notwithstanding sub-rule (1), an application to direct a party to deliver further and better particulars may not be made later than 14 days after receipt of that party's affidavit of standard discovery.

Tender offer

21. – Order 22, RSC shall, with the necessary modifications, apply to Tribunal proceedings, with the additional modifications that:

(i) every respondent to Tribunal proceedings shall be deemed to be a qualified party within the meaning of Order 22, rule 14, RSC, and

(ii) where a claimant accepts any tender offer of payment, the claimant shall immediately apply to the Tribunal to determine to make an award on consent in terms of the tender offer and may request the Tribunal to apply to the High Court as soon as may be thereafter in accordance with section 28 of the 2019 Act for confirmation of that determination.

Discontinuance

22.— Order 26, RSC shall, with the necessary modifications, apply to any discontinuance of Tribunal proceedings by a claimant.

Default of Response

23.— (1) If a respondent who has not withdrawn her, his or its agreement under section 13 of the 2019 Act does not deliver a Response within the time allowed, the claimant may, subject to the following provisions of this rule, apply by motion to the Tribunal on notice to the respondent for an order in the terms of the claimant's statement of claim in the Claim Form against that respondent, and for the fixing of a hearing to determine the amount of the award.

(2) A notice of motion under sub-rule (1) may only be issued and served where the claimant has at least 14 days prior to the service of such notice written to the respondent giving notice of the claimant's intention to serve a notice of motion for a determination in default of Response and at the same time consenting to the late delivery of the Response within 14 days of the date of the letter.

(3) If no Response is delivered within the said period the claimant may serve a notice of motion for a determination in default of Response.

(4) The provisions of sub-rules (1) to (3) shall apply *mutatis mutandis* to default in delivery of a Third Party Response.

Standard discovery of documents

24.— (1) The claimant and the respondent shall each, within 28 days following service of the Response, deliver an affidavit of discovery in the form prescribed by the RSC with any necessary modifications, discovering on oath the documents which are or have been in that party's possession power or procurement, relating to the issues of breach of duty, causation and quantification of damages and specifying which, if any, of the documents the party objects to produce and the grounds of such objection.

(2) The schedules in the standard discovery affidavit shall, to the greatest extent possible:

(a) schedule documents (and shall, if requested or ordered, provide documents for inspection) in logical groups or categories and chronologically within such categories and otherwise in a sequence corresponding with the manner in which the documents have been stored or kept in the usual course of business by the party making discovery;

(b) ensure that documents of the same or a similar nature and not in electronic form, when numerous, shall be grouped together and numbered or otherwise sufficiently marked so as to be identifiable.

(3) A party may serve notice (which may be in the form mentioned in Order 31, rule 16, RSC with any necessary modifications) to produce a document scheduled in another party's standard discovery within seven days of receipt of the affidavit.

(4) The notice referred to in sub-rule (3) must be complied with or objected to within 14 days of receipt. The requirement in the notice may be satisfied by production of the document for inspection at a location which is reasonably convenient to the party who has given notice or, with that party's agreement, by delivery to that party of a copy of the document.

(5) Any application to the Tribunal:

(i) to determine any objection to the production of a document (whether on grounds of privilege or otherwise) included in a party's standard discovery;

(ii) to absolve a party who objects to making standard discovery from the obligation to do so;

(iii) by a party who objects to the sufficiency of another party's standard discovery or that a party make discovery of documents additional to those required by standard discovery;

(iv) for relief in default of the making of standard discovery in accordance with this rule,

shall be by motion on notice to every other party affected and shall be made within 14 days of the making of the objection or, as the case may be, within 14 days after the default or non-compliance first occurs.

(6) The provisions of sub-rules (1) to (5) shall apply *mutatis mutandis* to standard discovery as between a respondent and a third party, save that the time limit in sub-rule (1) shall run from service of the Third Party Response.

Further or additional discovery

25. – (1) The Tribunal may, where satisfied on the application of a party to Tribunal proceedings that another party to Tribunal proceedings has failed to comply sufficiently with the obligation to make standard discovery in accordance with rule 24, make an order for further discovery by that party, on such terms as it considers just.

(2) The Tribunal may, where satisfied on the application of a party to Tribunal proceedings that the unusual or exceptional features of the case so require, make an order for additional discovery by a party, on such terms as it considers just, of such additional category or categories of documents as it considers necessary for disposing fairly of the case or for saving costs.

(3) Save to the extent inconsistent with the provisions of rule 24 and this rule, the provisions of Order 31, rules 12 to 20, 25, 27, 29 and 30, RSC shall, with the necessary modifications, apply to discovery in Tribunal proceedings, save that such of the provisions of Order 31, rule 12, RSC as apply to voluntary discovery shall not apply to standard discovery in accordance with rule 24.

Interrogatories

26. – (1) Order 31, rules 1 to 11 and rule 24, RSC shall, with the necessary modifications, apply to any request or application for interrogatories and to any interrogatories in Tribunal proceedings.

(2) Notwithstanding sub-rule (1), an application for leave to deliver interrogatories to a party shall be made not later than 14 days after receipt of that party's affidavit of standard discovery.

Admissions

27. – (1) Order 32, RSC shall, with the necessary modifications, apply to any admission or notice to admit any fact or document.

(2) Notwithstanding sub-rule (1), a notice to a party to admit any fact or to admit any document shall be served not later than 14 days after receipt of that party's affidavit of standard discovery.

Interlocutory and procedural applications

28. – (1) Save as otherwise provided by these Rules, all interlocutory and procedural applications to the Tribunal prior to the determination hearing must be made by motion on notice to the parties affected by the orders or directions sought. A notice of motion in Form 9 must first be filed in the Tribunal Office to be assigned a return date (which may be at a remote hearing) and issued and must thereafter be served (together with copies of any grounding affidavit and any exhibits thereto) on each other party affected by the orders or directions sought, not later than four clear days before the return date.

(2) Unless otherwise provided by a practice direction for the time being in effect, every motion shall be supported by an affidavit setting out succinctly the grounds for seeking each order or direction sought in the motion and exhibiting any relevant correspondence or other document.

(3) In any case where the Tribunal is satisfied that the delay caused by proceeding by motion on notice in accordance with this rule would or might entail irreparable or serious harm, it may make any order *ex parte* on such terms as to costs or otherwise and subject to such undertaking, if any, as the Tribunal considers just; and any party affected by an *ex parte* order may apply on notice to vary it or set it aside, within four

days (or such other period as the *ex parte* order provides) after being served with notice of the *ex parte* order.

(4) Save to the extent inconsistent with sub-rules (1) to (3), Order 52, RSC shall, with the necessary modifications, apply to any interlocutory or procedural application to the Tribunal in Tribunal proceedings.

(5) Without limitation of its power to deal with any interlocutory or procedural application, the Tribunal may, where it considers it just and efficient to do so, adjourn the hearing of any interlocutory or procedural application to a case management hearing or to the determination hearing.

(6) Not later than four clear days prior to the date first fixed for an interlocutory or procedural application, the moving party shall lodge a motion booklet (comprising copies of the motion, all affidavits delivered on the motion and all exhibits) in the Tribunal Office and serve an index to that booklet on each other party served with notice of the application concerned.

IV. CASE MANAGEMENT

Purpose of case management

29. – (1) The purpose of the case management hearing shall be to ensure that the Tribunal proceedings are prepared for the determination hearing, and that the determination hearing is conducted, in a manner which is just, expeditious and likely to minimise costs, and in particular that, as soon as may be in advance of the determination hearing:

(a) the issues, whether as to fact or law, are defined as clearly, as precisely and as concisely, as possible;

(b) all pleadings, affidavits or statements of issues have been or are served;

(c) any applications by letter for particulars and replies thereto, any admissions, or requests for admissions, notices to admit documents or facts and replies thereto, and any affidavits made in pursuance of any notices to admit facts or documents, have been or are served or delivered, as the case may be;

(d) all written statements of witnesses (including expert witnesses) have been or are delivered, and

(e) all applications for relief of an interlocutory nature intended to be made by any of the parties have been or are made and complied with.

Directions and orders: in general, and at case management

30.— (1) The Tribunal may, at any time and from time to time, including at a case management or directions hearing, of its own motion and having heard the parties, give such directions and make such orders, including the fixing of time limits, for the conduct of Tribunal proceedings, as appears convenient for the determination of the Tribunal proceedings in a manner which is just, expeditious and likely to minimise costs.

(2) Without limiting sub-rule (1), the Tribunal may, prior to the determination hearing:

(a) of its own motion and after hearing the parties, or

(b) on the application of a party by motion on notice to the other party or parties—

(i) establish (and where necessary, amend and re-issue) a full or partial case timetable for the completion of all steps necessary to prepare for the determination hearing (or specified issues in the Tribunal proceedings) and for the determination of the hearing itself;

(ii) abridge or extend any time limit fixed by these Rules for the taking of any step in the Tribunal proceedings;

(iii) direct the issuing of any notice of motion or other interlocutory application;

(iv) give directions for the completion, prior to the case management hearing, of such, if any, steps (including the preparation of a case booklet in accordance with rule 33) as the Tribunal considers appropriate;

(v) give directions as to whether the Tribunal proceedings shall continue

(a) with pleadings and hearing on oral evidence,

(b) without formal pleadings and by means of a statement of issues of law or fact or of both law and fact,

(c) without formal pleadings and to be heard on affidavit or with oral evidence;

(vi) order that any issue be tried as a preliminary issue;

(vii) give directions as to the defining of issues by the parties, or any of them, including the exchange between the parties of memoranda for the purpose of clarifying issues;

(viii) make an order fixing any issues of fact or law, including any issues as to causation or liability, to be determined in the Tribunal proceedings;

- (ix) determine the mode by which, or medium through which, the evidence of any witness shall be given;
- (x) make an order permitting any party to alter or amend that party's pleadings or statement of issues;
- (xi) an order requiring the delivery of interrogatories, or discovery or inspection of documents;
- (xii) an order giving a respondent liberty to serve a third party notice on consent of the claimant;
- (xiii) receive and make a determination in terms of a consent;
- (xiv) direct that hearings, or specified parts of hearings, in the Tribunal proceedings shall proceed by way of remote hearing.

Provision of information in aid of case management

31. – Without prejudice to any enactment or rule of law by virtue of which documents or evidence are privileged from disclosure, to assist the Tribunal in deciding whether or not to make any order or give any direction under rule 30 including at a case management hearing, the Tribunal may direct the parties, or any of them, to provide information (which may be directed to be lodged in the Tribunal Office in electronic form or other written form) in respect of the Tribunal proceedings, including:

- (a) a list of the persons expected to give evidence;
- (b) particulars of any matter of a technical or scientific nature which may be at issue or may be the subject of evidence;
- (c) a reasoned estimate of the time likely to be required to -
 - (i) prepare the Tribunal proceedings for the determination hearing, and
 - (ii) hear and determine the Tribunal proceedings;
- (d) whether the parties have, prior to the commencement of the Tribunal proceedings, had recourse to mediation or any other Alternative Dispute Resolution process, and whether any such Alternative Dispute Resolution process is available to the parties following commencement of the Tribunal proceedings.

Case management hearing

32. – (1) Every Claim Form, in respect of a claim which was not the subject of proceedings before a court, shall be listed before the Tribunal for a case management hearing (which may be by remote hearing) on the earliest available date following the

expiry of 30 weeks after the issuing of the Claim Form or, in a case in which a third party notice has been issued by a respondent, following the expiry of 37 weeks after the issuing of the Claim Form. The Registrar shall schedule such listing and notify the time and place of the sitting concerned to the parties to the Tribunal proceedings.

(2) All claims that were earlier the subject matter of proceedings before a court will be listed for a case management hearing on a date to be fixed by the Tribunal on the Directions hearing provided for in rule 11.

(3) Notwithstanding sub-rule (1), the Tribunal may, where it is satisfied that it would be appropriate to do so, having regard to the complexity of the Tribunal proceedings, the number of issues or parties, the likely volume of evidence, or for other special reason, direct the convening of a case management hearing at an earlier time -

(a) on the application by motion of any party, on notice to the other party or parties -

(i) subsequent to the closing of pleadings, or

(ii) with leave of the Tribunal, prior to the closing of pleadings, or

(b) of the Tribunal's own motion.

(4) The Tribunal shall have the power to dispense with a case management hearing in the case of urgency or for other good reason.

Case booklet and case timetable

33.— (1) Not later than four clear days prior to the date first fixed for a case management hearing, the claimant (or another party with the claimant's consent) shall, having consulted with the other parties for the purpose as necessary, lodge in the Tribunal Office:

(a) a case booklet (an index to which shall be served on each other party);

(b) a completed case timetable in accordance with Form 10.

(2) Subject to the provisions of any relevant practice direction, a case booklet shall contain

(a) a case summary, comprising

(i) an agreed outline of the claim;

(ii) a list of those issues and events which are agreed;

(iii) a list of those issues and events which are in dispute;

(iv) a list of the persons principally involved in the matters or events the subject of the Tribunal proceedings, and

(v) where appropriate, a glossary of technical terms which are likely to be used in the course of the determination hearing;

(b) pre-determination hearing documentation in chronological sequence, including (where appropriate) any notice served under section 8 of the Civil Liability and Courts Act 2004, copies of pleadings exchanged, affidavits filed (other than affidavits of service), statements of issues, orders made or directions given, written statements of witnesses, expert reports and any correspondence between the parties, not being expressed to be “without prejudice”, relating to the preparation of the Tribunal proceedings for the determination hearing.

(3) The case booklet shall, where directed by the Tribunal, be produced, updated and maintained in such form, if any, as is provided for in a practice direction or as the Chairperson otherwise directs.

(4) The party responsible for preparing a case booklet shall, subject to any direction in that regard of the Tribunal-

(a) revise or add to the contents of the case booklet from time to time as necessary in consultation with the other party or parties, or by direction of the Tribunal,

(b) update the case booklet and lodge the updated case booklet in the Tribunal Office not later than four clear days before the determination hearing date. Order 36, rules 24 to 27, RSC shall not apply in Tribunal proceedings.

(5) Not later than four clear days prior to the date first fixed for a case management hearing, each party (including any third party) shall, having consulted with the other parties for the purpose as necessary, and having consulted with their respective counsel (if any), lodge in the Tribunal Office a completed pre-determination hearing questionnaire in Form 11.

Conduct of case management hearing

34.— (1) The case management hearing shall be conducted and regulated by a Member.

(2) Where the case management hearing is adjourned, it shall be adjourned to a specific date.

(3) The case management hearing shall be attended by the solicitor or counsel appearing for each of the parties or, where a party, not being a body corporate, is not represented by a solicitor, by the party herself or himself. Where the Member conducting the case management hearing considers it necessary or desirable, she or he may direct that party, or, where the party is a body corporate, the proper officer of a party, to attend the case management hearing (which may, where relevant, be by

way of participation in a remote hearing), notwithstanding the fact that the party may be represented by a solicitor.

(4) Where a member considers it just and convenient to do so, she or he may direct that the case management hearing be conducted as a remote hearing, and sub-rules (5) and (6) of this rule shall apply to a case management hearing so conducted subject to the modification that references in those sub-rules to attendance at the case management hearing shall be construed as references to participation in the case management conducted by way of remote hearing.

(5) Each solicitor or counsel attending the case management hearing shall ensure that she or he is sufficiently familiar with the Tribunal proceedings and has authority from the party she or he represents to deal with any matters that are likely to be dealt with at the case management hearing.

(6) Where a party is represented by counsel, the attendance of only one of such counsel at the case management hearing, shall be allowed in the taxation or fixing of costs.

Case Management Directions

35. – (1) The Member conducting the case management hearing shall establish what steps remain to be taken to prepare the case for the determination hearing, the likely length of the determination hearing and the arrangements, if any, for witnesses, information and communications technology (including video conferencing) and any other arrangements which require to be made for the determination hearing, and may make any orders and give any directions in respect of arrangements for the determination hearing (including directions that the determination hearing, or specified parts of the determination hearing shall proceed by way of remote hearing) as the Member considers necessary.

(2) The Member chairing the case management hearing may:

(a) fix a timetable for the completion of preparation of the case for the determination hearing, and may for that purpose adopt any proposed timetable agreed by the parties if satisfied that it is reasonable;

(b) make any orders or give any directions which the Member may make or direct under rules 30, 31 and 32;

(c) if the Member considers that there is undue delay in, or is otherwise dissatisfied with, the conduct of the Tribunal proceedings, require the party appearing to be responsible, or the proper officer of or solicitor instructed in the Tribunal proceedings by that party, to attend before the Tribunal to explain the delay or other conduct with which the Member is dissatisfied, and may thereupon make or give such ruling or direction as the Member considers appropriate for the purposes of expediting the Tribunal proceedings or the conduct thereof;

(d) direct each party, in consultation with their respective counsel, to complete and/or update and lodge in the Tribunal Office a pre-determination hearing questionnaire in Form 11.

Time management and fixing of hearing date

36.— (1) The time available for any step or element in the determination hearing of Tribunal proceedings shall be under the control and management of the Member chairing the case management hearing, subject always to any direction made in that regard by the Member presiding at the determination hearing, and either such Member may, from time to time, make such orders and give such directions as are expedient for the just and expeditious conduct of the determination hearing.

(2) The Member chairing the case management hearing may, having considered the materials delivered to the Tribunal in advance of the case management hearing and having heard the parties, make such orders and give such directions as expedient for the just and expeditious conduct of the determination hearing, which may, without limitation, include:

(i) orders fixing or limiting the amount of time allowed to each party for opening and closing the case (including, subject to paragraph (ii) (d), the making of oral submissions on points or issues of law) and for examining and cross-examining each witness, which may include an order allowing each party an amount of time (out of the total time set aside for the determination hearing) for its presentation of its case, which may be used in opening the case, in closing the case, in examining in chief or in re-examining any witness called by that party, and in cross-examining any witnesses called by any other party, and

(ii) directions:

(a) as to the issues on which the Tribunal requires evidence;

(b) as to the nature of the evidence required to enable such issues to be determined;

(c) as to the manner in which such evidence is to be put before the Tribunal;

(d) where written submissions on points or issues of law have been lodged in advance of the determination hearing, as to whether the Member presiding shall require any oral submissions on points or issues of law in addition to those written submissions, or

(e) requiring the parties or any party at any stage of the determination hearing to identify the issues which arise or remain for determination by the Tribunal and the questions which the Tribunal is required to decide in order to determine each such issue.

(3) For the purpose of considering the making of an order under sub-rule (2) or otherwise, the Member chairing the case management hearing may require counsel for each party (or a party, if appearing in person) to indicate how much time is requested by that party to be taken in the examination or cross-examination of any witness, or in any other step in the determination hearing.

(4) The Member chairing the case management hearing may, having regard to any order or direction given in accordance with sub-rule (2), allow the time proposed by any party, or may allow such other period of time as the Member considers is consistent with the just and expeditious conduct of the determination hearing.

(5) When the Member chairing a case management hearing is satisfied that the Tribunal proceedings are ready to proceed to the determination hearing, and having regard to any orders made in accordance with sub-rule (2), the Member shall, in consultation with the Chairperson (if necessary), fix the commencement date and duration of the determination hearing.

(6) It shall not be necessary to serve notice of trial for Tribunal proceedings or to set Tribunal proceedings down for hearing and Order 36, rules 1-23 inclusive, RSC, shall not apply in Tribunal proceedings.

(7) The re-examination of witnesses shall be limited to new matters that were raised for the first time on cross-examination and shall be concise.

(8) A party shall avoid duplicating the same evidence by different witnesses, save where such duplication is necessary for the just determination of the Tribunal proceedings.

(9) Without prejudice to any other powers conferred on the Tribunal by rule 47, in any case in which the Tribunal is satisfied that the evidence of a witness called by a party was (in whole or in part):-

(a) unnecessary for the determination of any question or issue arising in the Tribunal proceedings, or

(b) merely duplicative of the evidence given by another witness called by that party,

the Tribunal may:

(i) make an order disallowing (in whole or in part) recovery by a party of the expenses of the witness concerned or the costs caused by calling the evidence of the witness concerned, or

(ii) order, the payment by that party (in whole or in part) of the costs caused to any other party by the calling of the witness concerned, provided that no such order shall be made where the Tribunal is satisfied that any duplication of evidence was necessary for the just determination of the Tribunal proceedings.

(10) This rule is subject to the provisions of any practice direction for the time being in effect concerning the management of time at a determination hearing.

V. EVIDENCE

Non-expert evidence

37. – (1) Where a claimant intends to adduce non-expert evidence from any person in support of the claim-

(a) the claimant shall deliver to each respondent a written statement, signed and dated by the person concerned, containing a detailed statement of that evidence, either when serving the Claim Form or, in any event, not later than seven days after service of the Claim Form,

(b) each respondent to whom the written statement is delivered shall within seven days of such delivery furnish the statement to any person from whom that party intends to adduce evidence where the statement may be material to that evidence.

(2) Where a respondent intends to adduce non-expert evidence from any person in support of the response to the claim-

(a) the respondent shall deliver to the claimant and each other respondent a written statement, signed and dated by the person concerned, containing a detailed statement of that evidence, either when serving the Response or, in any event, not later than seven days after service of the Response,

(b) the claimant shall within seven days of such delivery furnish the written statement to any person whose statement has been delivered by the claimant in accordance with paragraph (a) of sub-rule (1) where the statement may be material to that evidence,

(c) a co-respondent (if any) shall within seven days of such delivery furnish the statement to any person from whom the co-respondent intends to adduce evidence (whether or not that person's statement has at that time been delivered by the co-respondent in accordance with paragraph (a)) where the statement may be material to that evidence,

(d) the claimant may, within four weeks from receipt of the statement delivered by a respondent in accordance with paragraph (a), deliver to the respondent a supplemental written statement from any person whose statement has been furnished by the claimant in accordance with paragraph (a) of sub-rule (1),

(e) a co-respondent (if any) may, within four weeks from receipt of the statement delivered by a respondent in accordance with paragraph (a), deliver to that

respondent a supplemental written statement from a person referred to in paragraph (c).

(3) A supplemental written statement shall be confined to material facts in the statement referred to in paragraph (a) of sub-rule (2) with which they are in dispute.

(4) Notwithstanding the preceding sub-rules, a claimant or respondent wishing to adduce additional evidence from -

(a) a person who has signed a written statement or a supplemental written statement delivered by that party under this rule, or

(b) another person,

in support of her or his case may, where the Tribunal in the interests of justice so permits, and within such time as the Tribunal may allow, deliver to the other party or parties a further written statement, signed and dated by the person concerned, containing a detailed statement of such further evidence.

(5) Where a written statement, supplemental written statement or further written statement of a person has not been delivered within the time prescribed by this rule, or such further time as the Tribunal may, on application to it on notice to the other party or parties, allow, that person shall not be at liberty to give evidence in the Tribunal proceedings save where the Tribunal in the interests of justice otherwise permits.

(6) The Tribunal may direct that -

(a) a written statement,

(b) a supplemental written statement,

(c) a further written statement

or any part of any such statement,

shall be treated as the evidence in chief of the witness concerned, but only after it has been verified on oath by such witness.

Expert evidence

38. – (1) Save where the Tribunal in exceptional circumstances so permits -

(a) a claimant and a respondent may each offer evidence from one expert only in a particular field of expertise on a particular issue,

(b) in Tribunal proceedings where there are two or more respondents, the respondents shall jointly offer evidence from one expert only on any issue relating to -

- (i) quantum of damages, or
- (ii) the physical condition of the claimant, or
- (iii) the mental or psychological condition of the claimant, or
- (iv) the prognosis as to the physical, mental or psychological condition of the claimant.

(2) Permission shall not be granted under sub-rule (1) unless the Tribunal is satisfied that evidence of an additional expert is necessary in order to do justice between the parties.

Exchange of expert reports

39. – (1) The claimant and the respondent shall, on a date agreed between them, being a date not later than 12 weeks from the delivery of the Response, deliver to the other party or parties a report of each expert (if any) on whose evidence they respectively wish to rely, signed and dated by each expert concerned, containing a detailed statement of the evidence of that expert.

(2) The report referred to in sub-rule (1), and any supplemental report referred to in sub-rule (5), shall have appended to it (or if provided in electronic form, sent therewith) -

- (i) any unpublished reports, articles, papers or other materials,
- (ii) a list of any published articles, papers or other materials

on which the expert concerned proposes to rely in giving evidence.

(3) A claimant or a respondent shall furnish to any expert whose evidence that party intends to adduce in support of her or his claim a copy of any written statement, supplemental written statement, or further written statement the contents of which, or part of the contents of which, may be material to the preparation by the expert of that expert's report.

(4) A copy of a written statement, supplemental written statement or further written statement referred to in sub-rule (3) shall be furnished to the expert within a sufficient time to enable the expert concerned to consider fully its contents for the purpose of the preparation of the expert's report, and in any event not later than two weeks before the expiry of the time limited by sub-rule (1) for the delivery of the expert's report.

(5) Where any expert who has provided a report to a claimant or respondent for the purposes of sub-rule (1) wishes to give evidence by way of comment on or reply to the report of another expert, or any part of that report, the party proposing to rely on the evidence of that expert shall, not later than four weeks from the date of receipt of the report concerned from the other party, deliver to the other party or parties a

supplemental report, containing such comment or reply, signed and dated by the expert making such comment or reply.

(6) A report or supplemental report of an expert shall contain a statement that the expert -

(a) understands that she or he has a duty to assist the Tribunal on matters within her or his expertise and that this duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid, and

(b) has complied with that duty.

(7) Any report or other material in writing referred to in a report or supplemental report provided for the purposes of this rule shall be appended to the report or supplemental report concerned, unless the same has previously been appended to another report or supplemental report so provided.

(8) Where a report of an expert has not been delivered within the time prescribed by this rule, or such further time as the Tribunal may, on application to it on notice to the other party or parties, allow, that person shall not be at liberty to give evidence in the Tribunal proceedings save where the Tribunal in the interests of justice otherwise permits.

(9) The Tribunal may direct that the report of an expert referred to in sub-rule (1), or any part of such report, and any supplemental report of that expert referred to in sub-rule (5), or any part of such report, shall be treated as the evidence in chief of the expert concerned, but only after it has been verified on oath by such expert.

Experts meeting

40. – Where the reports and supplemental reports referred to in rule 39 have been delivered by the claimant and respondent -

(a) the parties shall -

(i) within four weeks of the expiry of the time prescribed in rule 39(5) for the delivery of any supplemental report of an expert, arrange for the experts on whose evidence in, or in respect of, the same field of expertise those parties intend to rely, to discuss in the absence of the legal representatives of the parties (including by way of use of electronic communications technology), without prejudice to the parties, the issues in respect of which those experts intend or will be asked to give evidence, for the purpose of preparing the memorandum referred to in paragraph (b),

(ii) in advance of that discussion prepare a list of the issues referred to at paragraph (i) which list shall form the agenda for the discussion,

(b) following the conclusion of the discussion referred to in paragraph (a), the experts concerned shall, without having recourse to the parties or their respective solicitors or counsel for the purpose, prepare a memorandum for the Tribunal in Form 12 identifying, respectively, the areas relating to the issues concerned on which they have reached agreement and those on which they have failed to reach agreement,

(c) the memorandum referred to at paragraph (b) shall, not later than two weeks after the conclusion of such discussion, be completed and jointly submitted by the experts concerned to the Registrar and delivered by them to the parties, provided that the memorandum shall not be in any way binding on the parties.

Rules on witnesses where third party claim arises

41. – (1) Subject to sub-rule (2), rules 37 to 40 shall, save where the Tribunal, on application by motion on notice, otherwise directs apply *mutatis mutandis* to -

(a) proceedings between a respondent and a third-party, reference to “third party notice” being substituted for the reference to “Claim Form” in paragraph (a) of rule 39(1), and

(b) a claim for contribution or indemnity by a respondent against a person already a party to the proceedings.

(2) In a case to which paragraph (b) of sub-rule (1) applies, the periods within which a written statement, any supplemental written statement, any further written statement, an expert’s report or any supplemental expert’s report shall, respectively, be furnished shall, in the absence of agreement between the parties, be fixed by the Tribunal on the application of the respondent making the claim for contribution or indemnity, on notice to the party against whom that claim is being made, which application shall be made within three weeks of service by the respondent of the notice of contribution or indemnity on that party.

Evidence by video link or other means

42. – (1) The Tribunal may, in accordance with section 21(1)(c) of the 2019 Act, allow a witness to give evidence, whether from within or outside the State, through a live video link or by other means referred to in section 21(1)(c) of the 2019 Act and in such case, the Tribunal shall give such further directions as to the evidence as are necessary for the efficient conduct of the determination hearing consistently with the requirements of justice.

(2) Evidence given in accordance with sub-rule (1) shall be recorded electronically or otherwise as the Tribunal may direct.

(3) The provisions of sub-rules (1) and (2) shall be in lieu of Order 39, rule 55, RSC and Order 39, rule 55, RSC shall not apply in Tribunal proceedings.

Witness direction

43. – (1) An application by a party for a direction of the Tribunal under section 22(1)(a) of the 2019 Act that a person attend before the Tribunal (including at a remote hearing) and give evidence or produce any document (in this rule, a “**witness direction**”) shall be made in writing addressed to the Registrar and shall include:

- (i) the name and address of the person requested to be directed to attend;
- (ii) confirmation of whether the person has provided a written statement of evidence in accordance with rule 37;
- (iii) brief particulars of any documents which it is requested the person produce to the Tribunal, and
- (iv) a brief statement of the reasons why it is asserted that it is necessary to issue a witness direction to the person.

(2) The Registrar may consult a Member of the Tribunal concerning an application for a witness direction, or may direct the party requesting same to apply *ex parte* to the Tribunal for a witness direction.

(3) A witness direction shall be in Form 13 and shall be authenticated by the signature of the Registrar and issued to the applicant for the witness direction.

(4) A witness direction shall be served upon the person to whom it is addressed personally or by registered prepaid post.

(5) The service of a witness direction shall not be effective unless effected at least four clear days before the date to which it is returnable.

(6) Where there is default in compliance with a witness direction, the Tribunal shall, if so requested by the applicant for the witness direction, apply to the High Court for an order under section 22(4) of the 2019 Act and for that purpose may require an affidavit as to service of the witness direction to be provided by the applicant for the witness direction.

(7) The provisions of sub-rules (1) to (6) shall be in lieu of Order 39, rules 25 to 34, RSC and Order 39, rules 25 to 34, RSC shall not apply in Tribunal proceedings.

Request to examine witness abroad

44. – Order 39, rules 5 and 5A, RSC and the forms therein referred to shall, with the necessary modifications, apply to any application in Tribunal proceedings by a party for a direction of the Tribunal under section 22(1)(h) of the 2019 Act for the issue of a commission or request to examine witnesses abroad.

Application of RSC provisions concerning trials and evidence

45. – Save to the extent inconsistent with any foregoing provision of these Rules (in which case the provision of these Rules shall prevail), the provisions of:

- (i) Order 36, rules 28-42, RSC;
- (ii) Order 39, rules 1-24, RSC;
- (iii) Order 39, rules 56-61, RSC,

shall, with the necessary modifications, apply in Tribunal proceedings.

VI. DETERMINATIONS, COSTS, ACCEPTANCE AND APPEAL

Determinations

46. – (1) Following the conclusion of a determination hearing, the Tribunal may:

- (i) announce its determination, including its determination as to the amount of an award, if any, to which the clamant may be entitled, immediately;
- (ii) announce its determination in respect of any issue of liability but defer making any determination in respect of an award, if any, to which the claimant may be entitled, or
- (iii) defer announcing both its determination in respect of liability and the amount of an award, if any, to which the claimant may be entitled, and any announcement referred to in paragraphs (i) to (iii) inclusive may be delivered at a remote hearing or, where the announcement of the determination or part thereof is deferred, a copy of the written determination may be sent to the parties by electronic means.

(2) Every determination of the Tribunal shall be drawn up in writing, show the date on which it was made, and shall take effect accordingly.

(3) Clerical mistakes or errors arising from any accidental slip or omission may at any time be corrected in a written determination by the Registrar, where undisputed, or, where disputed, by a Member by motion of the party seeking correction on notice to the party to be affected by such correction.

(4) A party to Tribunal proceedings may obtain a certified copy of a determination of the Tribunal in those Tribunal proceedings on application to the Tribunal Office.

(5) An application for extension of the period for acceptance or rejection of an award by a claimant or for the making of an appeal in accordance with section 27(1) of the 2019 Act may be made, without the necessity of a motion, at the sitting of the Tribunal

at which the relevant determination is announced but if not so made, may be made by motion on notice to the other parties.

Costs

47. – (1) The Tribunal may determine any issue as to the costs of Tribunal proceedings at any stage of those proceedings or after the conclusion of those proceedings; and an award of costs may require the costs to be paid forthwith, notwithstanding that the Tribunal proceedings have not been concluded.

(2) The Tribunal may, upon determining any interlocutory application and having heard the parties, make an award of costs of the interlocutory application where the Tribunal considers that it is possible justly to do so.

(3) The Tribunal may, having heard the parties, determine any issue as to the costs of the determination hearing and any remaining issue as to any reserved costs, costs in the cause or other costs of and incidental to the Tribunal proceedings concerned at any time following the announcement of its determination and award.

(4) In exercising its discretion to award costs in relation to a claim which is the subject of Tribunal proceedings, the Tribunal shall have regard to:

(i) the general principle that costs should follow the event;

(ii) the issue or issues in the Tribunal proceedings on which each party has succeeded and on which each party has not succeeded and the extent to which each such issue has contributed to the costs of the Tribunal proceedings;

(iii) the matters set out in rule 16(2), and

(iv) the role of awards of costs in doing justice between the parties.

(5) In exercising its discretion to award costs in relation to a claim which is the subject of Tribunal proceedings, the Tribunal may also have regard to the extent to which parties have complied with time limits set out in these rules and with directions given and orders made in the course of the Tribunal proceedings.

(6) The provisions of Order 99, RSC shall, with the necessary modifications, apply to the taxation or adjudication of costs in Tribunal proceedings.

Acceptance

48. – (1) Where a claimant wishes to accept an award, a completed notice of acceptance and waiver in Form 14 shall be lodged and a copy served on each respondent within the time permitted for that purpose by section 17(3) of the 2019 Act.

(2) Where a claimant wishes explicitly to reject an award, a completed notice of rejection of award in Form 15 may be lodged and a copy served on each respondent within the time permitted for that purpose by section 17(3) of the 2019 Act.

Appeal

49. — Where a party appeals to the High Court for a rehearing of a determination of the Tribunal in accordance with section 27(1) of the 2019 Act, notice of the appeal shall be in the form for the time being prescribed by the RSC and a copy of the notice of appeal to the High Court shall be lodged in the Tribunal Office within the time permitted for that purpose by section 27(2) of the 2019 Act.

Application to confirm determination

50. — An application by the Tribunal to the High Court for confirmation of a determination in accordance with section 28(1) of the 2019 Act shall be in the form and manner for the time being prescribed by the RSC and a copy of the application shall be served on the parties to the Tribunal proceedings by the Registrar.

Application to High Court for directions

51. — (1) Where a Member of the Tribunal considers that the Tribunal should make an application to the High Court for directions in accordance with section 24(1) of the 2019 Act, the Member shall first consult with the Chairperson and the other Members.

(2) Where the matter to which the contemplated application to the High Court for directions relates would affect, or would be likely to affect, one or more parties to particular Tribunal proceedings, the Tribunal may invite oral or written submissions from those parties before determining whether to make the application.

(3) Where the matter to which the contemplated application to the High Court for directions relates would affect, or would be likely to affect, parties to Tribunal proceedings generally or parties to Tribunal proceedings of a particular class, the Tribunal may invite oral or written submissions from representatives nominated by it of such parties before determining whether to make the application.

(4) Any application to the High Court for directions shall be in the form and manner for the time being prescribed by the RSC and a copy of the application shall, subject to any direction of the High Court, be served by the Registrar:

(a) in a case to which sub-rule (2) applies, on the parties who were invited to make submissions, or

(b) in a case to which sub-rule (3) applies, on the nominated representatives who were invited to make submissions.

Stay or suspension of award or determination

52. – (1) The Tribunal may impose a stay on any award or determination on such terms as it considers just.

(2) No intermediate determination of the Tribunal is invalidated or suspended by reason of an appeal to the High Court, except so far as the Tribunal or the High Court directs.

Recording of Tribunal Proceedings

53. – (1) In this rule “record” means a contemporaneous record of the Tribunal proceedings concerned made by any one or more means, including, without limitation:

- (i) any shorthand or other note, whether written, typed or printed, and
- (ii) any sound recording or other recording, capable of being reproduced in legible, audible or visual form, approved by the Tribunal.

(2) The Tribunal shall make or cause to be made a record of all Tribunal proceedings (including proceedings at a remote hearing). Access to such records or any part thereof shall be provided to the relevant parties in accordance with the provisions of any practice direction for the time being in effect concerning the recording of Tribunal proceedings.

(3) Unless otherwise permitted by the Tribunal (subject to any undertakings or conditions as the Tribunal may consider necessary), no person, other than the Tribunal or a person authorised by it on its behalf shall make any record of Tribunal proceedings otherwise than by written or shorthand notes.

SCHEDULE

Form 1: Claim form

CERVICALCHECK TRIBUNAL

†[PROPOSED] CLAIM FORM

Claim record no.:

†only applies when proposed Claim Form is served
to obtain respondents' consent to submission to Tribunal;
delete where Claim Form is presented to be issued

1. Details of claimant(s) and respondent(s)

[1st]* Claimant

Full name:

Date of birth:

Address at which the claimant ordinarily resides:
.....

PPS No.:

Occupation:

Where the claimant is suing in a representative capacity or as a dependant, state that capacity (e.g. executor, administrator) or the relationship of dependant to deceased (e.g. spouse, civil partner, child):

** Where there is more than one claimant, the details for each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following those for the 1st claimant.*

[1st]* Respondent

Full name:

Address at which respondent ordinarily resides/carries on business:
.....

Occupation/Description:

** Where there is more than one respondent, the details for each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following those for the 1st respondent.*

E-mail address for Claimant/Solicitor(s) for claimant:
.....

Telephone number for Claimant/Solicitor(s) for claimant:
.....

Postal address for service of notices on Claimant/Solicitor(s) for claimant:
.....

2. Details of relevant court proceedings and payments

Is the claim intended to be determined by the CervicalCheck Tribunal the subject of civil proceedings before a court? Yes/No

If yes, please specify:

Court:.....

Record number:

Current status of proceedings:

Has the CervicalCheck non-disclosure *ex-gratia* scheme administered by the Minister for Health in furtherance of a decision of the Government of 11th March 2019 previously determined that an *ex-gratia* payment should be made in respect of the claimant's claim? Yes/No

If yes, please specify the sum paid or payable in respect of the circumstances giving rise to the claim under the CervicalCheck nondisclosure *ex-gratia* scheme: €.....

3. Agreement of Claimant to Determination of Claim by the Tribunal

I / We the claimant(s) agree to the determination by the CervicalCheck Tribunal of the claim set out in this form and, subject to the agreement of the respondent(s) to the determination of this claim by the Tribunal, I/we agree that while this claim remains before the Tribunal for determination in accordance with section 13 of the CervicalCheck Tribunal Act 2019, I/we will not progress any right of action I/we may otherwise have against the same respondent(s) to this claim in the High Court, (otherwise than by appeal to the High Court from the Tribunal's determination under section 27 of the CervicalCheck Tribunal Act 2019).

The agreement of the respondent(s) to such determination:

†has been requested

is appended to this Form

delete whichever is inapplicable

4. Statement of claim*

[Set out, in numbered paragraphs, full and detailed particulars of:

- (a) the nature of the claim and of each allegation, assertion or plea comprising that claim;
- (b) the acts of the respondent constituting the said wrong and the circumstances relating to the commission of the said wrong;
- (c) each instance of negligence by the respondent;
- (d) all other relevant circumstances in relation to the commission of the said wrong and any other assertion or plea concerning same;
- (e) the injuries to the claimant alleged to have been occasioned by the wrong of the respondent; and
- (f) the reliefs sought.]

* The details in sections 4 and 5 should conform exactly to those in the corresponding section of the Consent Form signed by respondent.

5. Schedule of full particulars of all items of special damage claimed*

Item	Amount €
Total	

* The details in sections 4 and 5 should conform exactly to those in the corresponding section of the Consent Form signed by respondent.

***6. Statements of non-expert evidence**

Detailed signed statements of evidence from the following person(s) on which the Claimant intends to rely in support of the claim are appended to this Form at

Appendix 1:

1. [Insert name and address of signatory of statement]
2. etc.

**If serving statements with the Claim Form, they should be attached to the completed and issued Claim Form which is being served. If not served with the Claim Form, statements must be delivered within seven days after service of the Claim Form (rule 39(1)).*

7. Affidavit of verification

I of, the (claimant or state other capacity or authority), aged eighteen years and upwards MAKE OATH and say as follows:

1. The assertions, allegations and information contained in this Claim Form which are within my own knowledge are true. I honestly believe that the assertions, allegations and information contained in this Claim Form which are not within my own knowledge are true.
2. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN etc

To: Registrar
CervicalCheck Tribunal at.....

And to:of, respondent

Dated:

Signed:

[Print name]:

Claimant/Solicitor(s) for claimant

[Tribunal Office use only]

This Claim Form has been issued by the CervicalCheck Tribunal on20...

†As the claim is the subject of civil proceedings before a court, the Claim Form will be listed before the Tribunal sitting at at on20... for initial directions.

The projected date for the case management hearing if all time limits are complied with isday of20...

†delete where inapplicable; where the claim is the subject of civil proceedings before a court but not all respondents' agreement to submission of the claim to the Tribunal have been lodged, the date of the initial directions hearing will be notified to the claimant following lodgment of all respondents' agreement.

APPENDIX 1

Detailed statement(s) of non-expert evidence intended to be relied on

**Form 2: Agreement/refusal of respondent to submit claim to Tribunal
CERVICALCHECK TRIBUNAL**

***AGREEMENT/*REFUSAL OF RESPONDENT TO SUBMIT CLAIM TO
TRIBUNAL**

NB: Where the Claim Form has been issued and served on you, you must complete this form and lodge it in the Tribunal Office (and send a copy to the claimant) within [21] days after the Claim Form is issued

Claim record no.:

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

**I / We the respondent(s) agree to the determination by the CervicalCheck Tribunal of the claim set out at sections 3 and 4 of Claim Form of the above claimant.*

OR

**I / We the respondent(s) refuse to agree to the determination by the CervicalCheck Tribunal of the claim set out at sections 3 and 4 of Claim Form of the above claimant.*

**strike out whichever option does not apply*

Dated:

Signed:

[Print name]:

Respondent /Solicitor(s) for [1st] respondent

**Add an additional signature block for each additional respondent*

To:of, claimant

To: Registrar
CervicalCheck Tribunal at.....

Form 3: High Court case summary for directions hearing

CERVICALCHECK TRIBUNAL

CASE SUMMARY REPORT

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

Step or event	Date completed†
Any notice served under section 8 of the Civil Liability and Courts Act 2004	
Have the parties, prior to the commencement of personal injuries proceedings, had recourse to any mediation arrangements?	
Personal injuries summons issued	
Personal injuries summons served on the defendant(s)	
Appearance entered by the defendant(s)	
Any notice for particulars of claim delivered	
Any particulars of claim delivered	
Defence(s) delivered	
Any notice for particulars of Defence delivered	
Any particulars of Defence delivered	
Plaintiff's request for discovery delivered	
Defendant's request for discovery delivered	
Discovery agreed/order for discovery	
Plaintiff's affidavit of discovery delivered	

Defendant's affidavit of discovery delivered	
Inspection by plaintiff of defendant's discovery	
Inspection by defendant of plaintiff's discovery	
Any request for further and better discovery	
Any order for further and better discovery	
Any affidavit of further and better discovery delivered	
Inspection of further and better discovery	
Notice of trial served	
Reports of expert witnesses exchanged	
Any further particulars (e.g. of special damages) delivered	
Any notices to admit facts/documents delivered	
Any replies to notices to admit facts/documents delivered	
Papers for trial lodged in court	

Date _____

Signed _____

(Solicitor for the) Claimant

(Solicitor for the) Respondent

To: The Registrar, CervicalCheck Tribunal

† Where there are several defendants, include the date of each defendant if separately represented. State if the step was not applicable or was not completed. Where the personal injuries proceedings involved proceedings between a defendant and a third-party, the form should be modified as appropriate.

Form 4: Response to Claim
CERVICALCHECK TRIBUNAL
RESPONSE TO CLAIM

Claim record no.:

1. Details of claimant(s) and respondent(s)

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

2. Response to Statement of Claim

The respondent's Response to the claim of the claimant is as follows:

[(a) Specify, in numbered paragraphs –

- (i) the allegations specified, or matters pleaded, in the claim of which the respondent does not require proof,*
- (ii) the allegations specified, or matters pleaded in the claim of which the respondent requires proof,*
- (iii) the grounds upon which the respondent claims that the respondent is not liable for any injuries suffered by the claimant, and*
- (iv) where the respondent alleges that some or all of the personal injuries suffered by the claimant were occasioned in whole or in part by the claimant's own acts, the grounds upon which he or she so alleges and*

(b) provide full and detailed particulars of each denial or traverse, and of each allegation, assertion or plea, comprising the respondent's response and, where appropriate, a counter-schedule setting out the response to items of special damage claimed by the claimant.

Particulars of a general denial, traverse, allegation, assertion or plea should be set out under the paragraph containing same and headed "Particulars of etc."]

3. Counter-Schedule of special damage

Item	Amount claimed €	Whether item agreed in principle (yes/no)	Amount allowed if agreed €
Total			

***4. Detailed statement of non-expert evidence**

Detailed signed statements of evidence from the following person(s) on which the Respondent intends to rely in support of the Response are appended to this Form:

1. [Insert name and address of signatory of statement]
2. etc.

**If serving statements with the Response, they should be attached to the Response which is being served and lodged. If not served with the Response, statements must be delivered within seven days after service of the Response (rule 39(2)).*

5. Affidavit of verification

I. of, the (respondent or state other capacity or authority), aged eighteen years and upwards MAKE OATH and say as follows:

1. The assertions, allegations and information contained in this Response which are within my own knowledge are true. I honestly believe that the assertions, allegations and information contained in this Response which are not within my own knowledge are true.

2. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN etc

E-mail address for Respondent/Solicitor(s) for respondent:

.....

Telephone number for Respondent /Solicitor(s) for respondent:

.....

Dated:

Signed:

[Print name]:

Respondent/Solicitor(s) for respondent

To: Registrar

CervicalCheck Tribunal at.....

And to:of, claimant

APPENDIX 1

Detailed statement(s) of non-expert evidence intended to be relied on

Form 5: Reply
CERVICALCHECK TRIBUNAL
REPLY

Claim record no.:

..... **Claimant(s)**
..... **Respondent(s)**

[Set out in numbered paragraphs any allegation or statement in the Response which is accepted or not disputed.]

Save as set out above and save insofar as the Response contains admissions, the Claimant joins issue with the Respondent on the Response.

Dated:

Signed:

[Print name]:

Claimant/Solicitor(s) for claimant

To: Registrar
CervicalCheck Tribunal at.....

And to:of, respondent

Form 6: Third party notice
CERVICALCHECK TRIBUNAL
THIRD PARTY NOTICE

Claim record no.:

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

ISSUED pursuant to Order of the CervicalCheck Tribunal datedof20....
(a copy of which is attached)

To:of

TAKE NOTICE that these Tribunal proceedings have been brought by the Claimant against the Respondent in which the Respondent claims [*set out brief particulars of claim*] particulars of which are contained in the certified Claim Form a copy of which is delivered herewith.

The Respondent claims against you to be indemnified against the Claimant's claim and the costs of these Tribunal proceedings or that you make a Contribution to such extent as the Tribunal shall deem fit on the grounds that the injury, loss and damage complained of by the Claimant was solely caused or contributed to by reason of alleged negligence and breach of statutory duty and breach of contract on the part of the Third Party, which led to the injury which the Claimant claims caused her personal injuries, loss and other damage.

[*Set out any further particulars of the respondent's claim for contribution or indemnity*]

AND TAKE NOTICE that in accordance with section 15 of the CervicalCheck Tribunal Act 2019, the claim will proceed before the Tribunal where you the third party consent to having all issues arising in the claim determined by the Tribunal, and if you do not consent to having all issues arising in the claim so determined by the Tribunal, the Tribunal shall not continue to hear and determine the claim (but proceedings on the claim may be brought or continued in the High Court).

AND TAKE NOTICE that if you consent to having all issues arising in the claim determined by the Tribunal, and wish to dispute the Claimant's claim against the Respondent, or the Respondent's claim against you, you are required within 21 days after service of this notice upon you to lodge in the Tribunal Office and deliver to all parties a Consent and Third Party Response in Form 5 in the Schedule to the Rules of the Procedure of the Tribunal and if you do not so consent, you are required within 21 days after service of this notice upon you to lodge in the Tribunal Office and deliver to all parties notice to that effect in Form 5.

You are hereby requested to consent to having all issues arising in the claim determined by the Tribunal.

AND TAKE NOTICE that the Tribunal has given the following directions under the said Order datedof20.....: [*specify directions*]

If you wish to apply to the Tribunal to vary any of the said directions you may do so before the expiration of the time limited for delivery of your Third Party Response and having lodged in the Tribunal Office a written consent to having all issues arising in the claim determined by the Tribunal.

Datedof.....20....

*(Solicitor for) Respondent

To:....., third party, of

And: Registrar
CervicalCheck Tribunal at.....

Form 7: Agreement/refusal of third party to submit claim to Tribunal
CERVICALCHECK TRIBUNAL
AGREEMENT/REFUSAL OF THIRD PARTY TO SUBMIT CLAIM TO
TRIBUNAL

Claim record no.:

NB: You must complete this form and lodge it in the Tribunal Office (and send a copy to all of the parties within 28 days after the Third Party Notice is served on you)

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

[1st]* Third party

Full name:

*I / We,of, having been served with a third party notice datedof.....20..., consent to having all issues arising in this claim determined by the Tribunal in accordance with section 15 of the CervicalCheck Tribunal Act 2019, and I/we understand that by so consenting the claim will proceed before the Tribunal, and that if I/we do not consent to having all issues arising in the claim so determined by the Tribunal, the Tribunal shall not continue to hear and determine the claim.

OR

* I / We,of, having been served with a third party notice datedof.....20..., refuse to consent to having all issues arising in this claim determined by the Tribunal in accordance with section 15 of the CervicalCheck Tribunal Act 2019. I/we understand that by refusing such consent, the Tribunal shall not continue to hear and determine the claim.

**strike out whichever option does not apply*

Dated:

Signed:

[Print name]:

Third Party /Solicitor(s) for third party

To:of, claimant

To:of, respondent

To: Registrar

CervicalCheck Tribunal at.....

Form 8: Response to Third Party Notice

CERVICALCHECK TRIBUNAL

RESPONSE TO THIRD PARTY NOTICE

Claim record no.:

1. Details of claimant(s) and respondent(s)

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

2. Response to Respondent’s Particulars of Claim

The Third Party’s Response to the particulars of claim of the Respondent is as follows:

[(a) Specify, in numbered paragraphs –

- (i) the allegations specified, or matters pleaded, in the claim, of which the respondent does not require proof,*
- (ii) the allegations specified, or matters pleaded in the claim of which the respondent requires proof,*
- (iii) the grounds upon which the respondent claims that the respondent is not liable for any injuries suffered by the claimant, and*
- (iv) where the respondent alleges that some or all of the personal injuries suffered by the claimant were occasioned in whole or in part by the claimant’s own acts, the grounds upon which he or she so alleges and*

(b) provide full and detailed particulars of each denial or traverse, and of each allegation, assertion or plea, comprising the respondent's response and, where appropriate, a counter-schedule setting out the response to items of special damage claimed by the claimant.

Particulars of a general denial, traverse, allegation, assertion or plea should be set out under the paragraph containing same and headed “Particulars of etc.”]

3. Counter-Schedule of special damage (where relevant)

Item	Amount claimed €	Whether item agreed in principle (yes/no)	Amount allowed if agreed €
Total			

4. Detailed statement of non-expert evidence

Detailed signed statements of evidence from the following person(s) on which the Third Party intends to rely in support of the Third Party Response are appended to this Form:

1. [Insert name and address of signatory of statement]
2. etc.

5. Affidavit of verification

I, of, the (third party or state other capacity or authority), aged eighteen years and upwards MAKE OATH and say as follows:

1. The assertions, allegations and information contained in this Third Party Response which are within my own knowledge are true. I honestly believe that the assertions, allegations and information contained in this Third Party Response which are not within my own knowledge are true.
2. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN etc

E-mail address for Third Party /Solicitor(s) for Third Party:

.....

Telephone number for Third Party /Solicitor(s) for Third Party:

.....

Dated:

Signed:

[Print name]:

Third Party /Solicitor(s) for Third Party

To: Registrar
CervicalCheck Tribunal at.....

And to: of, respondent

APPENDIX 1

Detailed statement(s) of non-expert evidence intended to be relied on

Form 9: Notice of Motion
CERVICALCHECK TRIBUNAL
NOTICE OF MOTION

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

TAKE NOTICE that the *[insert claimant/respondent]* will apply to the CervicalCheck Tribunal sitting atato'clock or as soon as may be thereafter onof.....20.... (the "**return date**") for the following pre-trial orders in the above Tribunal proceedings:

[Set out orders, directions or other reliefs sought in numbered paragraphs. Where no grounding affidavit is filed or served, set out succinctly the grounds for seeking each such order, direction or other relief.]

Dated:

Signed:

[Print name]:

Moving Party /Solicitor(s) for moving Party

To: Registrar
CervicalCheck Tribunal at.....

And to:of,

Form 10: Case Timetable

CERVICALCHECK TRIBUNAL

CASE TIMETABLE

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

Section A. Compliance with Tribunal Rules

Step or event	Complete Yes/No and date/estimated date, details where applicable
Any notice served under section 8 of the Civil Liability and Courts Act 2004	Yes/No
Any exchange between the parties under any pre-claim protocol	Yes/No
Have the parties, prior to the commencement of Tribunal proceedings, had recourse to any mediation, conciliation or arbitration arrangements?	Yes/No
Tribunal Claim Form issued	
Tribunal Claim Form served on the respondent/respondents	
Claimant's written statements of non-expert witnesses delivered (if not delivered with Claim Form)	

Any notice/notices seeking particulars of claim delivered*	Yes/No
Any particulars of claim delivered	Yes/No
Response/responses delivered	Yes/No
Respondent's/Respondents' written statements of non-expert witnesses delivered (if not delivered with Response)	
Any notice seeking particulars of the Response/responses delivered	Yes/No
Any particulars of Response/responses delivered	Yes/No
Any Notice/Notices claiming contribution and/or indemnity delivered between respondents	Yes/No
Any Order joining a third party	Yes/No
Any third party notice delivered	Yes/No
Any third party Response delivered	Yes/No
Claimant's standard discovery delivered	
Respondent's/Respondents' standard discovery delivered	
Any request by the claimant for inspection/further or additional discovery delivered	Yes/No
Any request by the respondent/respondents for inspection/further or additional discovery delivered	Yes/No
Respondent's/Respondents' reply to any request by the claimant for inspection/further or additional discovery delivered	
Claimant's reply to any request by the respondent/respondents for inspection/further or additional discovery delivered	

Any motion for discovery/inspection issued by claimant.	Yes/No
Any motion for discovery/inspection issued by respondent/respondents	Yes/No
Any order/orders for discovery made	Yes/No
Supplemental written statements of non-expert witnesses - if any - exchanged	
Reports of expert witnesses exchanged	
Supplemental reports of expert witnesses - if any - exchanged	
Any further particulars (e.g. of special damages) delivered	Yes/No
Any notices to admit facts/documents to be delivered	Yes/No
Any replies to notices to admit facts/documents to be delivered	Yes/No
Meeting of experts from same field of expertise held	Yes/No
Memorandum of experts lodged with Tribunal	Yes/No

Date _____

Signed _____

Solicitor for the Claimant _____

Solicitor for the Respondent _____

Form 11: Pre-determination hearing questionnaire
CERVICALCHECK TRIBUNAL
PRE-DETERMINATION HEARING QUESTIONNAIRE

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

Section A: Pre-Determination Hearing Procedures

1. Pleadings and Proofs

Are all Pleadings exchanged? yes/ no

If not, what pleading was last exchanged?

2. Have proofs been advised? yes/ no

(a) If proofs have not been advised, please confirm whether or not same will be sought and advised prior to case management conference yes/ no

(b) If proofs have been advised, please confirm that you are in a position to comply yes/ no

3. Have all pre-trial procedures been fully complied with including:-

(Delete where not applicable)

(a) Standard discovery? yes/ no

(b) Further/ additional discovery? yes/ no

(c) Admissions; Notices to admit facts? yes/ no

(d) Interrogatories? yes/ no

- (e) Service of third party notices? yes/ no
- (f) Service of notices of contribution and indemnity? yes/ no
- (g) Fixing of issues? yes/ no
- (h) Any other directions given by the Tribunal? yes/ no

4. If any matters referred to at paragraphs 1-2 above remain outstanding, please set out reasons for same.

5. State which of the following issues remain in dispute, and as between which parties:

Parties

- (a) causation? yes/ no
- (b) liability? yes/ no
- (c) quantum yes/ no

6. Are there any further directions required to prepare the case for trial? yes/ no

If yes, please explain the directions required and give reasons.

Section B: Determination Hearing

1. Please attach chronology of the relevant events likely to be referred to in the course of the determination hearing.
Has this been agreed with the other parties and if not, why not?
((Un)agreed chronology attached)

2. Please furnish an agreed statement of the issues to be determined at the Determination Hearing or, insofar as such issues may not be agreed, a brief statement thereof as perceived by you.
((Un)agreed statement attached)

3. Do the parties intend to have overnight transcripts? yes/ no

Section C: Expert and other Witnesses

1. List the witnesses you intend to call, indicating which of these are expert witnesses, and in the case of expert witnesses, stating their qualifications and field of expertise.

(Mr /Ms (expert – field of expertise:)

(Mr /Ms)

2. [Where two or more respondents] Have the respondents agreed on a single expert to offer evidence on any issue relating to -

(i) quantum of damages, yes/no

(ii) the physical condition of the plaintiff, yes/no

(iii) the mental [or psychological] condition of the plaintiff, yes/no

(iv) the prognosis as to the physical or mental condition of the plaintiff. yes/no

3. (a) Have the claimant’s written statements of non-expert witnesses been delivered? yes/no

If not, why not?

(b) Have the respondent’s written statements of non-expert witnesses been delivered? yes/no

If not, why not?

4. (a) Have the claimant’s reports of expert witnesses been delivered? yes/no

If not, why not?

(b) Have the respondent’s reports of expert witnesses been delivered? yes/no

If not, why not?

5. (a) Has the claimant delivered any supplemental or further written statements of non-expert witnesses? yes/no

If so, please identify each statement concerned.....

(b) Has the respondent delivered any supplemental written statements of non-expert witnesses? yes/no

If so, please identify each statement concerned

6. (a) Has the claimant delivered any supplemental expert report(s)? yes/no

If so, please identify each report concerned.....

(b) Has the respondent delivered any supplemental expert report(s)? yes/ no

If so, please identify each report concerned

7. Have the parties' expert witnesses from the same field of experience met with each other and submitted to the registrar a memorandum in accordance with rule [41(b)]? [Identify each field of expertise and the related meeting required] yes/ no

If not, why not?

8. Are special facilities required at the venue for the determination hearing to facilitate the giving of any expert evidence (including video-conferencing or other courtroom technology)? yes/ no

If so, give details.

9. Does any witness require special facilities? yes/ no

If so, give details.

10. Does any witness require an interpreter? yes/ no

If so, give details.

11. Are any special information and communications technology facilities (e.g. digital audio voicerecording, video-conferencing) required at the venue for the determination hearing? yes/ no

If so, give details.

Date _____

Signed _____

(Solicitor for the) Claimant

(Solicitor for the) Respondent

Continue any answers on separate sheets where necessary

To: The Registrar, CervicalCheck Tribunal

Form 12: Joint experts' memorandum

**CERVICALCHECK TRIBUNAL
JOINT EXPERTS' MEMORANDUM**

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

We confirm as follows:

The joint experts' meeting in connection with the above claim was held on

In attendance:

Name of expert	Specialisation	Party instructing this expert

From the list of issues prepared as the agenda for the joint experts' meeting, the issues in respect of which we have reached agreement and a summary of the agreed position is as follows:

Table 1	
Issue	Agreed conclusion of experts

From the list of issues prepared as the agenda for the joint experts' meeting, the issues in respect of which we have not reached agreement and a summary of each expert's position is as follows:

Table 2		
Issue	Conclusion of claimant's expert	Conclusion of respondent's expert

We each-

(a) understand that our duty is to assist the Tribunal on matters within our expertise and that this duty overrides any obligation to the person from whom we have received instructions or by whom we are paid, and

(b) have complied with that duty in the conduct of the joint experts' meeting and the preparation of this memorandum.

Date _____

Signed _____

Name in block capitals

Signed _____

Name in block capitals

*Insert additional columns in Table 2 and additional signature blocks as necessary

To: The Registrar, CervicalCheck Tribunal

Form 13: Witness direction
CERVICALCHECK TRIBUNAL
WITNESS DIRECTION

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

To:of.....

TAKE NOTICE THAT YOU ARE HEREBY DIRECTED pursuant to section 22(1)(a) of the CervicalCheck Tribunal Act 2019 to attend before a Member of the CervicalCheck Tribunal sitting aton the day of20... at o'clock and so on from day to day until the above claim is determined, to give evidence *and also to bring with you and produce at the time and place aforesaid:

[Specify any documents sought, e.g. all notes, records and patient files of [name], etc]

Dated:of.....20...

Signed:
Registrar
On behalf of the CervicalCheck Tribunal

*delete where inapplicable

Form 14: Notice of acceptance of award and waiver
CERVICALCHECK TRIBUNAL
NOTICE OF ACCEPTANCE OF AWARD AND WAIVER

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

_____ **TAKE NOTICE** that I accept the award in the amount of €..... **(plus costs to be taxed in default of agreement)* made in the above-entitled Tribunal proceedings by the CervicalCheck Tribunal onof.....20...

AND TAKE NOTICE THAT I hereby waive any right of action which I may otherwise have had or maintained against any other relevant party or parties (within the meaning of section [2] of the CervicalCheck Tribunal Act 2019) to the claim concerned in respect of the circumstances of the claim before the CervicalCheck Tribunal.

Dated:

Signed:

[Print name]:

Claimant /Solicitor(s) for Claimant

In the presence of

Witness:

[Print name and address]:

To: Registrar
CervicalCheck Tribunal at.....

And to:of, respondent

Form 15: Notice of rejection of award

**CERVICALCHECK TRIBUNAL
NOTICE OF REJECTION OF AWARD**

Claim record no.:

[1st]* Claimant

Full name: **(add "and others" where there is more than one claimant)*

[1st]* Respondent

Full name: **(add "and others" where there is more than one respondent)*

TAKE NOTICE that, **claimant/*respondent* in the above claim, rejects the award in the amount of €..... **(plus costs to be taxed in default of agreement)* made in the above-entitled Tribunal proceedings by the CervicalCheck Tribunal onof.....20...

Dated:

Signed:

[Print name]:

In the presence of

Witness:

[Print name and address]:

**(solicitor for) *claimant/*respondent*

To: Registrar
CervicalCheck Tribunal at.....

And to:of

**delete where inapplicable*

Form 16: Withdrawal of Respondent's consent to submit claim to Tribunal
CERVICALCHECK TRIBUNAL
WITHDRAWAL OF RESPONDENT'S CONSENT TO SUBMIT CLAIM TO
TRIBUNAL

Claim record no.:

[1st]* Claimant

Full name:

** Where there is more than one claimant, the name of each further claimant (numbered 2nd Claimant, 3rd Claimant etc.) should be set out in the same manner immediately following the name of the 1st claimant.*

[1st]* Respondent

Full name:

** Where there is more than one respondent, the name of each further respondent (numbered 2nd Respondent, 3rd Respondent etc.) should be set out in the same manner immediately following the name of the 1st respondent.*

*I / We the respondent(s) (having noted the provisions of rule 10(4) of the Rules of the Procedure of the Tribunal) withdraw the consent previously given in writing on theof.....20.....to the determination by the CervicalCheck Tribunal of the claim set out at sections 3 and 4 of Claim Form of the above claimant.

Dated:

Signed:

[Print name]:

Respondent /Solicitor(s) for [1st] respondent

**Add an additional signature block for each additional respondent*

To:of, claimant

To: Registrar
CervicalCheck Tribunal at.....
