

Caseflow Management: A Plain English Guide

What is Caseflow Management?

Caseflow Management is a system by which the Court intervenes in proceedings which are progressing slowly to help parties bring them to a timely resolution.

The system is regulated by [Practice Direction 17 of 2012](#). This Guide explains how the system works.

When will the Court intervene?

Proceedings to which Caseflow Management applies are commenced when a plaintiff files a claim in the registry and serves it on the defendant(s).¹ The defendant(s) must then file a notice of intention to defend within 28 days.

If any proceeding has not been concluded within 180 days of the filing of the last notice of intention to defend, the Court will send the plaintiff an Intervention Notice (CFM1).

If you receive the Intervention Notice by post, you must file a [notice of address for service](#) stipulating your email address within 14 days.

What must I do when I receive an Intervention Notice?

What you should do when you receive an Intervention Notice depends on what stage the proceedings are at. You must take action by doing one of the following within 28 days:

- If the matter has been settled, you must notify the [Caseflow manager](#).
- If the matter has been resolved, you must file a [notice of discontinuance](#), and serve a sealed copy on all parties to the proceeding.
- If the matter is ready for trial, you must file a [request for trial date](#), signed by all parties to the proceeding.
- If the matter is not ready for trial, you must submit a plan for the progress of the proceeding to the [associate to Justice Bowskill](#), cc to the [Caseflow manager](#).

¹ Some proceedings may be started by filing and serving an application, but Caseflow Management generally does not apply to those proceedings: See Practice Direction X of 2012, paragraph 3.1.

How do I submit a plan?

You may submit a plan for the progress of the matter by emailing the following documents to the [associate to Justice Bowskill](#), cc to the [Caseflow manager](#):

- A [draft order](#) which Justice Bowskill can sign to give effect to the plan; and
- Evidence that all parties to the proceeding consent to the plan.

What should the draft order contain?

The draft order should include specific dates for the matter to be brought to a resolution. You will find an example of a draft order which would be acceptable attached to the Intervention Notice.

In particular, you should take note of the following when drafting the order:

- All orders should contain **specific dates**, rather than phrases such as “by 28 days from service of the amended Statement of Claim”.
- If the claim is within the **jurisdiction** of the District or Magistrates Courts, the draft order should provide for a date by which an application is to be brought to transfer the matter to that court.
- If the parties propose to seek **expert reports**, the draft order should provide either:
 - (a) for the appointment of a joint expert as required by the [practice direction on experts](#); or
 - (b) for the experts to meet and identify the matters on which they agree and disagree and the reasons why, and attempt to resolve any disagreement.
- A draft order relating to **mediation** should provide for a date by which the parties are to file a consent order for mediation, and a date by which the mediation is to be actually conducted. If there is no draft order relating to mediation or other alternative dispute resolution, you should stipulate in your email that mediation has already occurred, or why mediation would not be appropriate.
- The final direction should provide for the filing of a **request for trial date** (or a notice of discontinuance) on a Caseflow review date, so that if the matter needs to be brought back on in court, it can be. That order should conclude with the words “or the matter be deemed resolved”.

What evidence of consent do I need and why?

Caseflow orders will only be made without the need for a court appearance if all parties consent to those orders. If the parties cannot agree, they will have to appear in court at a Caseflow review.

You must forward some evidence of the consent of all parties. It is not sufficient to say that the parties have agreed. This may be a copy of the proposed orders signed by the parties, or email or written correspondence clearly stating that the parties consent.

Alternatively, you may submit a signed [Request for Consent Order of Registrar](#); however, because points 5 (“The order sought does not call for the exercise of judicial discretion”) and 6 (“The order sought does not relate to a case on the supervised case list, or commercial list, or that is otherwise a managed case”) are not true, they should be struck out.

If the consent of any party is not required, for example because judgment has been entered against them, you should stipulate this in your email.

What happens after I submit the plan?

You will be notified by email if Justice Bowskill makes an order to give effect to your plan. A sealed copy of the order will then be available to collect from the Civil Registry. You should pick this up for your records.

If your plan is unacceptable or incomplete, you will be notified by email. You may have an opportunity to resubmit, if there is sufficient time before the coming Caseflow review.

What happens if I do not submit an acceptable plan within 28 days?

If a plan is not submitted within 28 days of the date of the Intervention Notice, or if the plan does not comply with the [Practice Direction](#) or is unacceptable for reasons set out above, all parties will be required to attend court at the next Caseflow review date.

When are Caseflow Reviews held?

Caseflow reviews are generally conducted once per month, on the last Friday of every month, unless it is more convenient to the Court to conduct it at a different time. The future Caseflow review dates which have been set are:

- 21 February 2020
- 20 March 2020
- 17 April 2020
- 22 May 2020
- 19 June 2020

What happens at a Caseflow Review?

At a Caseflow Review, Justice Bowskill will set out a timetable for the matter to be brought to an expeditious resolution. The orders which are made are procedural; this is not the time to argue the merits of your case.

You should prepare a draft order ready to hand up to her Honour, in compliance with the [Practice Direction](#) and as set out above.

Do I have to attend the review?

Attendance at Caseflow Reviews by all parties or their legal representatives is compulsory. If you do not attend, orders adverse to your interests may be made in your absence. Legal practitioners not based in Brisbane may employ other solicitors as town agents to appear on their behalf.

Can I appear by telephone?

Leave to appear by telephone is only granted where exceptional circumstances prevent a party or their legal representatives from attending. It is only possible for one party to appear by telephone, so leave will not be granted unless and until the views of the other parties have been sought and the Court is satisfied that it will not create any undue disadvantage.

What can I do if I am unable to comply with a Caseflow order?

If it becomes apparent that a party will be unable to comply with an order, the party must do one of two things *before* the order is breached:

- submit an amended plan; or
- request that the matter be listed for directions at the next Caseflow review, by emailing the [Caseflow manager](#).

How do I submit an amended plan?

You may submit an amended plan for the progress of the matter by emailing the following documents to the [associate to Justice Bowskill](#), cc to the [Caseflow manager](#):

- A [draft order](#) which Justice Bowskill can sign to give effect to the plan; and
- Evidence that all parties to the proceeding consent to the amended plan;
- An explanation for the proposed amendment; and
- A copy of the previous Caseflow order(s).

The first order of the draft order should be that “orders X to Y of the order dated DD MMMM YYYY be vacated”. The rest of the order should comply with the [Practice Direction](#) and the points set out above.

When can I submit the amended plan?

You may submit an amended plan at any time up to 12 noon on the day before the day on which a request for trial date must be filed under the previous order. As a rule, that will generally be the day before a Caseflow review.

If you are unable to submit an amended plan by that time, you should email the [Caseflow manager](#) so the matter can be listed at the Caseflow review. Amended plans submitted after 12 noon may not be dealt with before the matter is deemed resolved.

What happens when a matter is deemed resolved?

The final direction in a Caseflow order will generally be that the parties file a request for trial date by a certain date “or the matter be deemed resolved”.

This is a self-executing order, meaning that if a request for trial date is not filed by that date, and no further order has been made in the matter extending the deadline, the proceeding is in abeyance and no step can be taken unless and until the matter is reactivated by the court.

How can the proceedings be reactivated?

A party may apply for the proceedings to be reactivated by filing an [application](#) for reactivation in the registry. The application must be supported by an [affidavit](#), which must:

- explain and justify why the matter was deemed resolved, as well as any delay and failure to comply with directions;
- address any prejudice caused by the delay, the parties’ capacity to prepare the case for trial in a timely manner, and whether a trial is required for the resolution of the matter; and
- set out an acceptable plan in accordance with the [Practice Direction](#).

Applications for reactivation may not be made by email but must be made before the caseflow judge.

What can happen on an application for reactivation?

On an application for reactivation, the Court may make a range of orders, including:

- grant the application, reactivate the matter and set a timetable for its timely determination;

- refuse the application and leave the matter in abeyance, such that no further step can be taken until the applicant can show cause why it should be reactivated;
- impose sanctions under [rule 371](#) for failure to comply with the rules, including setting aside all or part of the proceeding; or
- on application by a party, impose sanctions under [rule 374](#) for failure to comply with an order, including giving judgment against the respondent.

Caseflow correspondence is by email

In general, all correspondence relating to Caseflow is by email. This means that, except for specific exceptions, you do not need to file any Caseflow documents in the registry, or send anything by fax or post.

The Caseflow manager can be contacted at caseflowmanager@justice.qld.gov.au
The associate to the Hon Justice Bowskill can be contacted at associate.bowskillj@courts.qld.gov.au. Her Honour has a different associate each year.

Legal documents

The system is regulated by [Practice Direction 17 of 2012](#).

The [Uniform Civil Procedure Rules](#) (UCPR) prescribe timeframes and other procedures for parties or practitioners to progress proceedings to a timely and cost-effective resolution.

In particular, rule 5 provides that the purpose of the UCPR is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense. It also provides that in a proceeding in a court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way. If that is not done the court may impose appropriate sanctions.