

Procedural Fact Sheets (Civil) – Supreme and District Courts

Non-party disclosure

Obtaining documents by non-party disclosure

You may apply for access to documents in the control of others who are not involved in the proceeding (including corporations and government agencies) by serving a Notice of non-party disclosure (**Notice**) on them, requiring them to produce the documents.

You should only use the non-party disclosure process where there is no other way for you to obtain the documents. For example, if the documents are about you, you may be able to obtain them by applying pursuant to the [Freedom of Information Act 1982](#), (Cth), [Right to Information Act 2009 \(Qld\)](#) or [Information Privacy Act 2009 \(Qld\)](#). ([rule 242](#))

As you are applying for the documents, you are referred to in the Notice as the “requesting party”. The person who has possession or control of the documents is known as the “respondent”.

You can only apply for production of documents by a respondent:

- That are directly relevant to an **allegation** in issue in the proceeding,
- Which the respondent could be required to produce at the trial, should they be served with a subpoena.
- Where there is no other reasonably simple and inexpensive way of proving the matter which may be proved by the documents. [rule 242](#)

Preparing a Notice of non-party disclosure

- Use [Form 21](#). [rule 243\(d\)](#)
- Review the pleadings to identify the allegations that are relevant to the issues you want to prove by obtaining the documents.
- Insert the allegations, where required, in the Notice.
- Carefully describe the documents to be produced in the schedule to the Notice.
- Complete the certificate at the end of the Notice.
- Sign and date the Notice where indicated. [rule 243](#)

Serving a Notice of non-party disclosure

You must serve a sealed copy of the Notice, within three months of the date of issue, on:

- any person, except a person who is a party, that the notice seeks information about (the **affected person**). [rule 244\(1\)\(a\)](#)
- the owner of the documents, where the respondent is not the owner. [rule 244\(1\)\(b\)](#)
- the respondent. You should serve the respondent after you have served any other persons required to be served. [rule 243\(2\)](#)

Serve the Notice in the same way as you would serve a claim. [rule 243\(1\)\(e\)](#)

- If the respondent is a person, the Notice must be personally served on the respondent.
- If the respondent is a company, post the Notice to the company's registered office. [section 109X Corporations Act 2001 \(Cth\)](#)

Responding to a Notice of non-party disclosure

- The respondent need not respond to the Notice until at least seven days after service of the Notice on them. [rule 242\(3\)](#)
- the respondent must produce the documents specified in the notice for inspection by the requesting party at the place of business of the respondent, or the respondent's solicitor, within ordinary business hours, or at another place or time agreed by the requesting party and respondent. [rule 248\(1\)](#)
- If the respondent fails to produce the documents, the requesting party may apply for a court order for production of the documents by making an interlocutory application. [rule 248\(2\)](#)
- The requesting party may copy a document produced by a respondent pursuant to a Notice. [rule 248\(3\)](#)

Costs of producing documents

- The requesting party must pay the respondent's reasonable costs and expenses of producing a document. [rule 249\(1\)](#)
- The respondent must notify the requesting party of those reasonable costs and expenses within one month. [rule 249\(2\)](#)
- If the requesting party disputes the amount of those costs and expenses, they may apply for an assessment of the costs and expenses within one month of receiving notice from the respondent. [rule 249\(3\)](#)

Objecting to producing documents

- A respondent, an affected person, or an owner of documents may object to producing some or all of the documents mentioned in the Notice. [rule 245](#)
- A person must make an objection within 7 days after being served with the Notice. They must obtain the court's leave if they want to object at a later time.
- A person who has not been served with the Notice, but who is affected by the Notice, may also object to the production of some or all of the documents. They must obtain the court's leave to object. [rule 245\(2\)](#)

How to object

The objection must:

- Be in writing.
- Be served on the requesting party.
- Be served on the respondent if the objector is a person other than the respondent.
- Clearly state the reasons for the objection. [rule 245\(3\)](#)

The reasons for making an objection may include:

- The expense and inconvenience of complying with the Notice.
- The lack of relevance to the proceeding.
- The lack of particularity with which the documents are described.
- A claim of privilege.



- The confidential nature of the documents or their contents.
- The effect disclosure would have on any person.
- If the objector was not served with the Notice—the fact that the objector should have been served. [rule 245\(4\)](#)

Responding to an objection

- Service of an objection “stays” the Notice. This means that the Notice is on hold, and no action can be taken to enforce the Notice, unless and until a court order is made. [rule 246](#)
- If a respondent, an affected person, or an owner of documents objects to producing documents, and you disagree with their objection, you may make an interlocutory application for a court order for production of the documents.
- You must make the application within 7 days of the objection being served on you. [rule 247](#)

