

SUPREME COURT OF QUEENSLAND

COMMERCIAL LIST NOTE ABOUT EXPERT EVIDENCE

1. Chapter 11, Part 5 of the *Uniform Civil Procedure Rules 1999 (Qld)* (“*UCPR*”) applies to all proceedings on the Commercial List.

Preparation of expert evidence

2. When a proceeding is placed on the Commercial List, the parties are expected to give early consideration to whether expert evidence is to be called in the proceeding. In a usual case, the parties will be expected to address the need for expert evidence at the first review.
3. The retainer of any expert always remains subject to the objects of rule 5 of the *UCPR*. The parties are not to retain an expert whose availability to prepare and complete a report is likely to cause undue delay to the efficient conduct and resolution of the proceeding.
4. Where contentious expert evidence is to be adduced in a proceeding, the questions to be answered by the expert are, as far as possible, to be those specified by the Court or agreed by the parties. Questions for an expert should be framed with a view to assisting the resolution of a real issue or real issues in the proceeding.
5. The parties should consider whether it is cost effective and expeditious to prepare a joint statement of assumptions to be made by the experts including any competing assumptions to be made in the alternative.
6. The unnecessary duplication of effort in preparing chronologies and other materials briefed to experts is to be avoided with the intent that experts in the same field are briefed with the same or similar materials.

Expert conferences

7. Where contentious expert evidence is to be adduced, the Court will usually direct the experts to confer before trial and may direct the experts to confer before they have completed their respective reports. It is important that experts

are instructed that the code of conduct (as defined by r 425 *UCPR*) applies with full force and effect to the conference and the preparation of the joint report.

8. Following any conference, the experts are to prepare a joint report for the Court (at all times mindful of their obligations under the Code of Conduct) stating:
 - (a) the matters upon which they were directed to confer;
 - (b) that they have met and discussed each matter upon which they have been directed to confer;
 - (c) the matters on which they agree;
 - (d) the matters on which they disagree; and
 - (e) a concise statement of the reasons for any disagreement.
9. In a case where the experts have experienced difficulty in preparing the joint report, a Commercial List Judge may direct that the preparation of the joint report be facilitated by the Resolution Registrar or another suitably qualified person.

Expert evidence during a hearing

10. A Commercial List Judge may give directions to the effect that:
 - (a) expert evidence at trial will follow the factual evidence upon which the expert evidence is predicated;
 - (b) two or more experts present their evidence concurrently and may, if permitted by the Judge, question each other in relation to their evidence.