

## PD18/2018: A Plain English Guide

### What is PD18/2018?

[PD18/2018](#) contains directions issued by the Chief Justice of Queensland to ensure that civil claims are resolved quickly, fairly and at a minimum of expense.

### What do I need to do?

The Practice Direction requires the parties to a claim<sup>1</sup> to do certain things so that preparation for trial progresses quickly and efficiently and a mediation or trial proceeds in a cost-effective and well-organised way. The steps must be completed as required by the [Uniform Civil Procedure Rules](#) (UCPR).<sup>2</sup>

#### 1. Documents

Parties must adopt a proportionate and efficient approach to the management of both paper and electronic documents *at all stages* of the litigation. This direction applies from the start.

Once the claim is filed and served, the parties must discuss and agree on the types of documents that should be disclosed and how they should be disclosed. They should record their agreement in an initial and basic Document Plan. There are some [example formats for a Document Plan](#) on the Queensland Courts' website. The Document Plan should specify a date by which the parties will exchange critical documents. Please [see below](#) for more information about this process.

If the claim is to be supervised by a judge, the parties should submit the Document Plan by email to the Associate to that Judge. Claims are supervised by a Judge when they have been assigned to the [Commercial List](#), the [Supervised Case List](#) or the [Self-Represented Litigants Supervised Case List](#). If the claim does not belong to one of these lists, the parties should submit the plan by [email](#) to the Resolution Registrar.

The parties should regularly revisit the Document Plan and make necessary changes to it to suit the nature of the case.

#### 2. Defining and narrowing the issues in dispute

As early as reasonably possible, or as directed by the court, the parties should confer for the purpose of resolving or narrowing the issues in dispute, identifying the real issues that remain in dispute and agreeing steps for the just and expeditious resolution of those issues at a minimum of expense.

#### 3. Directions

Parties should also discuss and agree on a timetable for carrying out the steps necessary to progress the claim to trial. These steps may include exchanging documents, obtaining expert reports and participating in a mediation.

A draft directions [order](#) setting out the agreed timetable of steps should be prepared in Word format and submitted with the Document Plan. Some [example directions](#) are available on the Courts' website. If the claim is not supervised by a Judge, a signed [Consent](#) should also be submitted. This is a court document recording the parties' agreement to the timetable.

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<sup>1</sup> The parties are usually the plaintiff (the person making the claim) and the defendant (the person defending the claim).

<sup>2</sup> These are the rules that set out how a claim must be conducted and contain information about how to action each step in the claim.

What should be included in the draft order?

The draft order should comprise a timetable of specific times and dates rather than phrases, for example, state *By 4.00pm on 20 August 2019...* rather than *Within 14 days of service of the Defence...*

If amended pleadings are to be filed (that is, an Amended Statement of Claim, an Amended Defence and/or an Amended Reply), the draft order should specify dates for this.

If one party needs more information about another party's pleading, the draft order should specify dates for the party to request the information (known as a request for further and better particulars) and for the other party to respond.

The draft order should specify when and how documents are to be disclosed. The parties may agree to defer disclosure until the real issues in dispute are identified; or limit disclosure to specified documents or classes of documents. They may agree to have disclosure in stages.

If the parties intend to rely on expert opinion in proving their case, 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 in the same area of expertise to meet and identify the matters on which they agree and disagree, and the reasons why, and attempt to resolve any disagreement.

If the parties agree to participate in a [mediation](#), the draft order should specify the date by which the parties are to file a consent order for mediation and the date by which the mediation is to be conducted. [Rule 323 UCPR](#) sets out what needs to be included in the [consent order](#).

The final paragraph of the draft order should provide for the filing of a [Request for Trial Date](#). This document notifies the court that the parties believe the claim is ready for trial. See the readiness checklist annexed to the [practice direction about obtaining trial dates](#) for the steps to be completed by the parties before signing and filing a Request for Trial Date.

#### **4. Critical Documents, exchanging documents and saving costs**

Once the pleadings have been filed and served, critical documents should be exchanged. Critical documents are a party's disclosable documents likely to have a decisive effect on the outcome of the dispute. They may either support or undermine the disclosing party's case.

If the parties agree to initially restrict the exchange of documents to certain categories of documents, as permitted by [rule 224 UCPR](#), they should record this agreement in the Document Plan and in the draft order for directions.

If there are only a small number of documents to be disclosed in the claim, the parties may agree to exchange all disclosable documents at this time.

The parties should exchange documents as full text searchable, multi-page pdf files on USB, CD or DVD, unless there is a cost-effective and simpler alternative. The exchange of paper documents may be easier and less expensive where there is a relatively small number of documents to be disclosed.

The [Practice Direction about technology in the Supreme Court](#) contains useful information about managing documents electronically.

Each party's documents can be stored and exchanged in an [electronic version of a List of Documents](#). It will then be quicker and more cost effective to prepare an electronic Resolution Bundle for the court before trial. A Resolution Bundle contains those documents that each party intends to rely on at trial in proving their case.

Experience shows that in practically every type of claim the parties will save costs and time if they exchange documents and prepare for mediation or trial using the Court's simple and inexpensive eTrials facility. This applies to cases that have only a small number of documents and cases that are likely to resolve at mediation. [More information](#) on how to use this facility is available on the Courts' website.

## **5. Issues Conference**

Once pleadings have been filed and served, the parties and their legal representatives must meet to discuss the issues in dispute, which issues are important and what steps need to be carried out to resolve the dispute quickly and efficiently. The parties must record the important issues identified at the meeting in a [List of Issues](#) and should record agreed facts and issues by preparing a [List of Matters not in Dispute](#) or by amending the pleadings.

If the claim is supervised by a Judge, the parties should submit the draft Lists by email to the Associate to that Judge. If not, the parties should submit the draft Lists to the Resolution Registrar.

The parties should regularly revisit the Lists and make any necessary changes as new issues arise and/or as more matters are agreed.

Once the trial is placed in the court calendar, the supervising Judge or the Resolution Registrar will direct the parties to sign and file the final agreed versions of the List of Issues and List of Matters not in Dispute by a date before the start of trial.

## **6. Trial Conference**

As early as possible, the parties' legal representatives must meet to discuss how the trial is to be conducted and to prepare a basic [Trial Plan](#). The Trial Plan should contain information about the witnesses who will give evidence at trial and how long the trial is likely to take.

If the proceeding is supervised by a judge, the draft Trial Plan should be submitted by email to the Associate to that Judge following the conference. If not, the parties should submit the draft plan by email to the Resolution Registrar.

The parties should revisit the draft Trial Plan before trial and make changes as required.

Once the trial is placed in the court calendar, the supervising Judge or the Resolution Registrar will direct the parties to sign and file the final agreed version of the Trial Plan by a date before the start of trial.

## **7. Trial Directions**

At the trial conference, the parties should agree on a timetable for trial preparation, and submit a draft directions order in Word format (and a signed Consent where the matter is not subject to judicial supervision) with the Trial Plan.

Please [see above](#) for information about what should be included in the draft order.