

SUPREME COURT OF QUEENSLAND

COMMERCIAL LIST NOTE TO PARTIES AND THE PROFESSION

Purpose

1. This Note supplements the Commercial List Practice Direction 1 of 2023 and addresses practical matters to aid parties and the profession in ensuring that the Commercial List operates efficiently.

Contact details

2. The Commercial List Principal Judge is Applegarth J.
3. The Commercial List Judges and their contact details are:

Applegarth J.	07 3738 7594	Associate.ApplegarthJ@courts.qld.gov.au
Brown J.	07 3738 7666	Associate.BrownJ@courts.qld.gov.au
Bradley J.	07 3738 7645	Associate.BradleyJ@courts.qld.gov.au
Freeburn J.	07 3738 7619	Associate.FreeburnJ@courts.qld.gov.au
Kelly J.	07 3738 7603	Associate.KellyJ@courts.qld.gov.au
Cooper J.	07 3738 7655	Associate.CooperJ@courts.qld.gov.au
Hindman J.	07 3738 7599	Associate.HindmanJ@courts.qld.gov.au
4. Once a matter is placed on the Commercial List and allocated to a particular Judge, the parties' principal point of contact for listing and other purposes is that Judge's Associate.
5. The Commercial List Manager who assists the Commercial List Principal Judge and the Commercial List Judges with administration and management of the Commercial List may be contacted on:

07 3738 7973 comlistmanager@justice.qld.gov.au

Request to place matter on Commercial List

6. A request to place a matter on the List is to be made to the Commercial List Principal Judge. A copy of the request must be sent to the other parties (whether or not those parties have yet appeared in the matter).
7. If possible, the request should be made in the online [Commercial List request form](#). The request to list should include a concise statement of the nature of the dispute and the main issues that are expected to arise, contact details of the parties, and such other matters that will assist the Court to deal with the request and to allocate the matter to a Commercial List Judge.
8. If it will assist the Court with case management, a party requesting that a matter be placed on the Commercial List may supplement the Request Form with additional information about the nature of the dispute and the main issues that are expected to arise (not exceeding one page), and information that will assist the Court to make initial directions and list the matter for an early review.

Draft Directions

9. Parties on the Commercial List should propose directions that are suited to the circumstances of the case.
10. The Court encourages parties to adapt common forms of draft directions to those circumstances.
11. Draft directions can be accessed in the [Commercial List Note About Draft Directions](#) in relation to:
 - (a) the parties conferring for the purpose of resolving or narrowing the issues in dispute and identifying the real issues that remain in dispute;
 - (b) a document plan for the efficient management of both paper and electronic documents in the proceeding;
 - (c) disclosure, including early exchange of critical documents and specific disclosure directions;

- (d) possible referral to alternative dispute resolution;
- (e) the manner in which lay evidence is expected to be presented (e.g., witness summaries, witness statements, affidavits or a combination of the same);
- (f) expert evidence;
- (g) trial directions; and
- (h) agreeing a trial plan.

Use of technology

12. Where appropriate, the use of technology permitting the taking of evidence or other conduct of proceedings by video link or telephone conference, and the electronic management of documents and transcripts is encouraged. Practitioners should propose the use of such technology when appropriate, and the Court may give directions involving its use (e.g., in major cases with a view to statements, documents and transcripts being available to all concerned on a common database).

Electronic document filing and management of proceedings on the Commercial List

13. This matter is the subject of the separate [Commercial List Note About Electronic Document Filing and Management](#).
14. If the parties have not agreed a protocol for the electronic filing and management of documents, then they should follow the process that the Commercial List has established.

Disclosure

15. Parties are subject to the general obligation in Practice Direction 18 of 2018 to adopt “a proportionate and efficient approach to the management of both paper and electronic documents at all stages of the litigation”.
16. The Court endorses a flexible rather than a prescriptive approach to disclosure and the management of documents at all stages of proceedings on the Commercial List.
17. Unless exceptional circumstances necessitate such a course, an order for disclosure is unlikely to be made until:

- (a) the parties have identified the real issues in dispute;
- (b) a document plan is developed to facilitate disclosure and inspection;
- (c) the parties have considered and conferred about the documents or categories of documents that should be the subject of a specific order, and the searches that are reasonable to undertake to locate them; and
- (d) possibly, until the parties have served their evidence.¹

18. Depending on the circumstances, the parties may agree, or the Court may order, one or more of a variety of options for the management of documents. These include:

- (a) the exchange of critical documents;²
- (b) specific disclosure directions;
- (c) the exchange or disclosure of documents to be relied upon, supplemented by additional requested documents; and
- (d) the exchange or disclosure of documents limited to certain categories of documents or directions that exclude certain categories of documents.

¹ This last possible course reflects Practice Note SC Eq 11 in the Supreme Court of New South Wales which has been said to be “effective in reducing cost and delay. In the vast majority of cases, the practical reality is that discovery before evidence is not genuinely needed (and never was). Many commercial disputes are about the nature and effect of communications between the parties and all parties usually know enough about their position to put on their evidence without the necessity for prior disclosure. It has encouraged parties to examine the real issues in the case early and has engendered a more disciplined analysis of the need for disclosure by reference to those real issues.”: *Hammerschlag’s Commercial Court Handbook* 2nd ed 2.26.10

² See [PD 18 of 2018](#) [11] and [Commercial List Note about Draft Directions](#) regarding “Critical Documents draft directions and guidelines”.