

PRACTICE GUIDELINE No.2

Production of Documents

Part A - Introductory matters

1. This Practice Guideline relates to the production and use of documents and other information as part of the work of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry (**Inquiry**). It should be read in conjunction with the *Commissions of Inquiry Act 1950* (Qld) (**Act**) and the Terms of Reference (**TOR**) contained in the *Commissions of Inquiry Order (No. 2) 2025* made 1 August 2025 (**Order**).
2. The Commissioner may require persons (including individuals, organisations, government departments or agencies) to provide documents to the Inquiry. This Practice Guideline is designed to facilitate the prompt delivery of documents to the Inquiry by ensuring that all persons required to produce documents, and the public, are aware of and understand the Inquiry's procedures for the provision of documents to the Inquiry and how it will treat such documents.
3. This Practice Guideline and any future practice guidelines may at any time be varied, changed or replaced. The Commissioner may, at any time, dispense with compliance with this Practice Guideline if he considers it appropriate to do so, subject to the Act and the Order.

Part B - Production of documents

Definitions

4. In this Practice Guideline:

Notice - means a written requirement of the Commissioner that a person produce to the Inquiry any books, documents, writings and records or property or things in the person's custody or control or give written information to the Commission under section 5(1) of the Act.

Summons - means a written requirement of the Commissioner that a person attend before the Inquiry to give evidence, provide information, or answer questions under section 5(1) of the Act.

Non-Publication Order - means an order, issued by the Inquiry under section 16 of the Act prohibiting the publication of any evidence before it or the contents of any Document.

Document - means any information of any description that is recorded, whether in paper or electronic form, and includes, but is not limited to, reports, reviews, board/committee minutes, meeting/attendance notes, manuscript notes, memoranda, circulars, governing/constitutional documents, contract documents, legislation, letters/emails (internal and external), SMS and other instant messages, information from websites, guides/codes of conduct, policy documents/statements, articles, photographs, video and audio recordings, physical evidence, witness statements and their exhibits.

Procedure for producing documents

5. A person's obligations in relation to the production of documents in response to an exercise of the Commissioner's powers under the Act are governed by the Act, other legislation and the general law, and nothing in this Practice Guideline modifies those obligations.
6. Generally, the Inquiry will first approach the person with a request for documents (which may include a request for a witness statement to be prepared) pursuant to a written Notice or Summons issued in accordance with section 5(1) of the Act.
7. Persons producing documents, including their legal representatives, should provide documents requested by the Inquiry within the time limits specified by the Inquiry in the relevant Notice. In the event that an extension of time is sought by the person the subject of the Notice or Summons, an application to the Inquiry in writing should be made as soon as possible to legal@cfmeuinquiry.qld.gov.au. Any grant of an extension (including its duration) is at the Commissioner's discretion.
8. Persons producing documents are required to undertake comprehensive, thorough and rigorous searches in response to a Notice or Summons. This includes searches of archived documents within the care and control of the person. Once the person has identified relevant documents in response to a Notice, every care should be taken to ensure that all such documents are preserved in their original form.

Requirement for electronic documents unless otherwise stated

9. The Inquiry requires that documents be produced electronically, unless a Notice or Summons specifies that hard copy documents are required to be produced. Any person seeking to produce documents in hard copy format should communicate in advance with the Inquiry.

10. Persons producing large numbers of electronic documents or who require an exception to the requirement for information to be provided electronically should contact legal@cfmeuinquiry.qld.gov.au.
11. In circumstances where persons are producing only a small number of electronic documents and do not propose to use a document management database, all electronic documents should be produced electronically in their original format. That is, in the file format in which they exist on the system or systems of the person producing the documents.

For example, Microsoft Outlook emails are to be produced as .msg files and Microsoft Word documents are to be produced as .doc or .docx files.
12. Where an electronic copy does not already exist, hard copy material should be scanned and rendered directly to Portable Document Format (PDF) that is machine-readable, word-searchable and if appropriate booked marked relevant to the contents of the document.
13. Persons producing electronic documents must ensure they produce all parts of the document.

For example, where the electronic file is an email chain, all parts of that chain should be produced, and where the electronic file is an email with an attachment, both the email and its attachment should be produced.
14. Persons required to produce electronic documents should not convert the original electronic documents to paper for the purposes of production.
15. Persons required to produce hard copy documents should produce a copy of the original hard copy documents.

Part C - Claims of a reasonable excuse for not complying with a notice

16. The Inquiry requires that all documents be produced in a clean, native format without any redactions applied. The Inquiry acknowledges that there may be instances where a person required to produce a document wishes to make a claim not to produce all or part of a relevant document for a reasonable excuse (**Reasonable Excuse Claim**).
17. Reasonable excuse, in relation to any act or omission by a witness or a person summoned to attend before the Inquiry as a witness, means an excuse which would excuse an act or omission of a similar nature by a witness or person summoned to attend before a court of law as a witness.

18. A Reasonable Excuse Claim may include, but not be limited to:
 - a. Legal professional privilege (subject to any relevant exceptions, including public policy exceptions);
 - b. Parliamentary privilege; and/or
 - c. Public interest immunity.
19. If a person wishes to make a Reasonable Excuse Claim in response to a Notice, the following process is to be observed:
 - a. Prior to production in response to the Notice, the person is to provide an index identifying any documents over which a Reasonable Excuse Claim is made and must state the basis for each claim.
 - b. The Inquiry will consider whether such documents may assist it to fulfil its TOR such that the document ought to be admitted into evidence, published, cited or otherwise referred to in the course of the Inquiry.
 - c. If the Inquiry considers that it may wish to utilise the document, it will give the person an opportunity to provide submissions (of a specified length and within a specified timeframe) in support of the claim for reasonable excuse, or to otherwise withdraw the claim.
 - d. Where the Inquiry does not accept a document as being subject to a reasonable excuse, and agreement cannot be reached between the Inquiry and the person as to how that document should be dealt with, it is open to the Commissioner or the party making the Reasonable Excuse Claim to make application to the Supreme Court of Queensland for determination and relief.

Part D – Non-Publication Orders

20. The Inquiry may order that any evidence given before it, or the contents of any document produced at the Inquiry, shall not be published under s 16 of the Act.
21. Where the Inquiry accepts that the whole or part of a document is not to be published, it may make such Non-Publication Order.

Part E - Disclosure and handling of documents by the Commission

22. Documents will be held securely when in the custody of the Inquiry and will be managed in accordance with the *Public Records Act 2023* (Qld). The

Inquiry will maintain an electronic database that will contain, among other things, copies of all material produced to the Inquiry including material produced in response to a Notice, informal requests for information and all other documents obtained by the Inquiry.

23. Any person who produces documents and those granted leave to appear before the Inquiry may be required to sign confidentiality undertakings regarding information received during the course of the Inquiry. All disclosures made to those entities and individuals by the Inquiry will be subject to the undertaking until such time as the document is made public by the Inquiry, if publication occurs.
24. At the conclusion of the Inquiry, all documents will be transferred to the Queensland Department of Justice (**DoJ**). DoJ will take custody of and manage those records until they are transferred to Queensland State Archives or destroyed under the relevant retention and disposal schedule.

Stuart Wood AM KC

Commissioner

18 September 2025