

PRACTICE NOTE SC Eq 11
Disclosure in the Equity Division

Commencement

1. This Practice Note was issued on 22 March 2012 and commences on 26 March 2012.

Application

2. This Practice Note applies to all new and existing proceedings in the Equity Division, except in the Commercial Arbitration List.

Purpose

3. This Practice Note is for the guidance of practitioners in preparing cases for hearing in the Equity Division with the aim of achieving the just, quick and cheap resolution of the real issues in dispute in the proceedings.

Disclosure

4. The Court will not make an order for disclosure of documents (disclosure) until the parties to the proceedings have served their evidence, unless there are exceptional circumstances necessitating disclosure.
5. There will be no order for disclosure in any proceedings in the Equity Division unless it is necessary for the resolution of the real issues in dispute in the proceedings.
6. Any application for an order for disclosure, consensual or otherwise, must be supported by an affidavit setting out;

the reason why disclosure is necessary for the resolution of the real issues in dispute in the proceedings;

the classes of documents in respect of which disclosure is sought; and

the likely cost of such disclosure.

Costs

7. The Court may impose a limit on the amount of recoverable costs in respect of disclosure.

T F BATHURST

Chief Justice of New South Wales

22 March 2012

Amendment history

22 March 2012: This Practice Note was issued with a commencement date of 26 March 2012.