Talbot Sayer Notepool

LAWS5215 - Civil Procedure Answer Plans

TALBOTSAYER

Answer Plans & Timelines

1. Initial Assessment

- Client interview: facts
- Who
  - Parties
  - Joinder
- Where
  - Jurisdiction
  - Governing law
  - Transfer
- What
  - Causes of action
  - Can also be managing your client's expectations
- Why
  - What does your client actually want
  - Case strategy
- When
  - Limitation periods
  - Urgency: injunction? Access to docs? Anton Pillar orders; Mareva Injunctions; other orders?
- How
  - Case strategy

2. Commencement

- Pleadings
  - Statement of Claim
  - Defence
  - Reply
  - Particulars
  - Interlocutory steps
  - Other orders?
- Concerns
  - Timeframes
  - Rules and principles
  - Obligations
  - Default

3. Conduct of Matter

- Case management
- Disclosure
  - Party-to-party
  - Third-party
    - § Notices of non-party disclosure; or
    - § Subpoena
- Evidence
  - E.g. experts
  - Obtained through disclosure
  - Obtained from own client's document
- Costs
- ADR
  - The 'ations'
  - Can do this at any time
- Obligations
  - Court
  - Other party
  - Client
  - Gates
- Offers to settle

4. Conclusion

- Ready for Trial?
- Pre-trial proper
- Trial
- Judgment
- Enforcement & Costs

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Limitation Periods

11. Bill spent his 20s working in a factory. 10 years later, he has been diagnosed with a serious illness that the Dr tells him was most likely caused by chemicals he worked with at the factory. Is he prohibited from commencing his personal injury claim against his former employer? What rules, principles and arguments would be relevant to assist Bill in commencing his claim?

This is a personal injury action and the 3 year limitation period generally applying to such actions has elapsed. Pursuant to section 31(2) of the Limitation of Actions Act 1974 (Qld), in any action for damages which consist of or include damages in respect of personal injury to any person or damages in respect of injury resulting from the death of any person, where it appears to the Court:

(a) That a material fact of a decisive character relating to the right of action which was not within the means of knowledge of the applicant until a date after the commencement of the year last preceding the expiration of the period of limitation for the action; and

(b) There is evidence to establish the right of action apart from a defence founded on the expiration of a period of limitation, that person may apply to the Court to extend the period of limitation for a period ending one year after that date.

In this case, it appears that both of these provisions apply. Bill did not know and likely could not have known about material facts (the fact, nature and cause of his illness) until his diagnosis 10 years after the damage was incurred. These facts and the Dr's report are also crucial in establishing a right of action against Bob's employer.

SEPA

Service

- R 123 – originating process must be serviced in accordance with the SEPA
- S15 SEPA – gives P right to serve originating process issued in one state in another state or territory
    - (2) service on an individual must be effected in the same way as service of an originating process to a person in the same state (so gotta do it the same way even if you have to fly to Victoria).
    - (3) **service on corporation**: confirms also that the same rules that apply for corporations also apply under SEPA – so can post it to a corporation with a registered office interstate (refer also to s9 SEPA)
- Additional procedural step to comply with – s16 SEPA, service is only effective if **Form 1** of SEPA is attached to the service (sets out all the Ds rights)
- S17 SEPA – gives D 21 days or the period that would have been allowed in the place of issue, whichever is the longer, to enter an appearance (process of entering a notice to defend and a defence). In Qld, period is 28 days.

Have the proceedings heard elsewhere?

- S 20 SEPA – allows court in place of issue (except if Supreme Court) to grant a stay of the proceedings if it is satisfied that a court in another state (e.g. where you served the D) is the appropriate court to determine the matters
    - (4) sets out factors that the court will take into account when making such a determination e.g. place of residence of parties and witnesses, financial circumstances of the parties etc. etc.
    - This is a direct means for you to transfer between district courts (can avoid the cross vesting process)
    - More appropriate forum test is much more flexible than inappropriate forum test – ***Voth v Manildra Flour Mills Pty Ltd*** (be aware of this for service outside of Aus)
    - S 20 appears to adopt the case law for more appropriate forum tests – ***Spiliada Maritime Corp v Cansulex***. Court must assess where balance of convenience lies and determine where the natural forum is for the matter
    - Supreme Court – cross-vesting change of jurisdiction – also can use the 'more appropriate forum' test – ***BHP Billiton Ltd v Schultz*** – but different basis (under the rel Act)
- S 21 SEPA – once originating process served in the act, a court in the place of service is not entitled to restrain the continuance of proceeding on the basis that it is not the appropriate forum (so no jurisdiction to refuse that the other court deals with).
    - S21 "If an initiating process has been served under this Division, a court of a State that is not the place of issue must not restrain a party in the proceeding from taking a step in the proceeding on the ground that the place of issue is not the appropriate forum for the proceeding."

Pleadings

Pleading	**Responsible Party**	**Applicable Timeframes**
Statement of Claim	Plaintiff	As provided in the relevant limitation act. One filed, have 1 year – r 24
Counter-claim	Defendant	Same as defence (r 179)
Defence	Defendant	With notice of intention to defend, 28 days – rr 137 and 139(1)(b)
Reply	Plaintiff	14 days after defence (or answer to counterclaim) – r 164

Practice Directions

Applications: Amended Practice Direction No. 6 of 2004 (should try and be 4 pages long)

Commercial List: Practice Direction No. 3 of 2002

Supervised Case List: Practice Direction No. 11 of 2012

Case Flow Management List: Practice Direction No. 17 of 2012

Supervised case list for self-represented parties

Note that there is a separate supervised case list for cases involving self-represented parties, which is established by PD10/2014.

Paragraph 1.2 thereof provides that: A Judge may direct that a case in which a party is or becomes self represented is to be entered on the SRL Supervised Case List. However, such a direction will not ordinarily be made until at least one party has filed a defence, or otherwise taken a step in the proceeding to oppose the granting of relief sought by another party.

Trial Process – Timeline

Pre-Trial

Before filing request for trial date:

- Pleadings are how you want them to be
- Both parties are satisfied with disclosure
- Expert reports are finalised
- Rule 467 – runs through everything else (basically want disclosure to be done, interlocutory questions delivered and answered, disclosure and particulars up to date, expectation of documents etc. all complete.)
- Want to make sure barrister is available for trial, when they are available, when your witnesses are available.
- Costs estimated, cost up to date?

After filing request for trial date

- Prepare trial bundle
- Exchange summaries of evidence
- Idenfity docs in trial bundle
    - To be admitted without objection
    - Containing statements which are to be admitted as evidence of the truth of the statement
- Witness evidence to be given orally or by other form? Are they friendly..
- Prepare and exchange schedules of objections to evidence, and identify grounds of objection and responses
- Prepare trial plan i.e. witnesses, order, timing
- Liaise with the judge about providing docs
- Exchange written submissions and copies of authorities (i.e. trial plan, pleadings, schedules of objections to evidence; not witness summaries [not ev])
- See practice directions for matters relevant to particular trial (e.g. if eTrial evidence by videolink)

The general course of a civil trial is:

(a) Any applications for amendments of pleadings are usually dealt with first
(b) Counsel for the plaintiff opens her/his case
(c) Counsel for the P calls her/his witness and examines her/him in chief. That witness is cross-examined by opposing counsel and then re-examined by her/his own counsel
    (i) Can't ask leading questions (evidence though)
(d) The same procedure is followed with the P's other witnesses
(e) When all the P's witnesses have been called, counsel for the P says "that is my case, your Honour" and her/his case is then closed. Before closing your case you should briefly consult with your instructing solicitor
(f) Counsel for the D then opens her/his case, and after that calls her/his first witness. He/she examines that witness in chief. That witness is then cross-examined by counsel for the P and re-examined by counsel for the defendant
(g) The same procedure then follows for the other witnesses for the defendant
(h) At the conclusion of the evidence for the D, the D's counsel will close her/his case again by saying "that is my case, your Honour"
(i) If the law of evidence permits, the P's counsel may then call evidence in rebuttal, and that is dealt with in the same way as the evidence which he/she called in chief. When that evidence is concluded, he/she closes her/his case in Rebuttal
(j) The evidence then being concluded, addresses commence. If counsel for the D has tendered any evidence (oral or documentary), whether through the P's witnesses or her/his own. He/she normally addresses first
(k) Where there are more than two parties separately represented, the order of cross-examination and addresses is normally determined by the title of the action. The normal rule is, "cross-examine down, address up" – in other words, counsel normally cross-examine in the order in which their clients are named in the title of the action and (unless they have called no evidence) address in reverse order. This may be varied by consent, and in all cases the judge has an over-riding discretion to direct a different order of cross-examination addresses.
    (i) Rule is you go top down with your witnesses and cases, but for addresses you go bottom to top of the list on your Form 1

Post Trial

- Judgments generally reserved – rare you get one on the spot so the judge needs time to consider their reasons, and make it logical and preferably appeal proof
- So want something that is well-reasoned and logical, and that takes time
- Process is that they tend to list it for the parties to come back and get judgment
- It is courtesy of the court that someone appears to listen to the judgment
- Tend to tell you the order and then give you the paper reasons
- But sometimes they read it out, not so nice when they do this
- Once receive order?
    - Have to go through the enforcement process
    - Might be an appeal
    - UCPR has rules about these, depends on the type of order (for enforcement)

Appeals

1 Procedure to Start One

Starting it off

- Time for appealing – rule 748 – 28 days since the decision

- Each party to the proceeding that is directly affected by the relief sought in the appeal has to be made a party to the appeal (so may drop some from the OG proceedings)
- Appeal is started according to rule 745 by lodging a notice of appeal, or an application or re-trial
- Rule 747 – contents of notice of appeal
    - Must state grounds of appeal, briefly and specifically
    - Must indicate if whole or part of judgment is appealed
    - Must also set out the decisions or orders that you seek on appeal
- Rule 783 – deals with appeals for the district court from the mags court
- Rule 784 – appeals to court from other entities

<u>Do you need leave?</u>

- Some statutes do require that an appeal can only be granted by leave, in some cases by leave of the judge at first instance, others by leave of appellate court
- If already have leave then state this in the notice of appeal
- If in Supreme Court and appeal from interlocutory order (e.g. re discovery), then need to get leave; or if it is an appeal on costs only, also need leave

Respondent – cross-appeal?

- If the respondent wants to appeal and say decision should be varied and some other order should be made – notice of cross appeal – comply with rule 755
- Also note rule 757 – if a respondent wishes to contend that the grounds – notice of contention
    - E.g. P sues based on breach of contract and the D says no not enforceable because required to be in writing and was not, and secondly it was repudiated by conduct of the P. If the judge then orders that yes had to be in writing, and does not deal with the second matter raised by D, and the P then appeals on this ground. The court of appeal could find that did not need to be in writing, but the D can still provide a notice of contention saying that they are entitled to a judgment on the alternative basis that entitled to judgment on that – so even if didn't need to be in writing could still succeed

Once all filed – conference

- Once all the notices filed, registrar sets a date for a conference with the parties for the purpose of settling the contents of the appeal.
- This is not to be taken lightly.
    - Oftentimes parties will just dump in everything they used in the first trial
    - But actually all that is needed for the appeal is a quarter of those documents
    - This sit down then allows a sort through of the material so that the court of appeal judges do not have the worst time ever

2 Powers of Court of Appeal

- Rule 761: the commencement of an appeal does not automatically operate as a **stay** of the proceedings being appealed, but they may
    - E.g. If a P has a monetary judgment on the D, and the D lodges notice of appeal, this does not prevent the P from enforcing the OG judgment. BUT court of appeal, or a single judge of the CoA on an application may stay all or part of the judgment, and it may be on terms
- The court has **all the powers** which are set out in rule **766**
    - The court has all the powers and duties of the court that made the original decision
    - May make the order as to the whole or part of the costs of the appeal as they consider appropriate
    - Extensive
- Rule 765: an appeal to the CoA under this chapter is an appeal by way of rehearing
- Rule 772: **security for costs** of an appeal
    - CoA may order any security within their general discretion
    - Will not do so w/out some evidence that such a decision is necessary in the interests of justice
    - If you have a company in liquidation or a wandering P, that is ordinarily sufficient
    - Often security required where a bank has recovered money from a D under a mortgage and the D appeals, then often require security here and often actually require to pay into the court a debt
- Rule 774: If **security is not given**, appeal is stayed until the security is provided. If it is not provided in reasonable time, this can be sufficient grounds for dismissing the appeal

3 Offers to Settle and Costs

Offers to Settle

- No provisions for offers to settle re appeals – the rules on offer to settle limit the procedure to pre-trial
- So what often happens where there is an appeal is to have recourse to the *Calderbank* procedure
    - Making offer to party and specifying in that offer that the party intends to bring the contents of the offer to the judge when the issue of costs arises
    - So can become relevant and a significant factor (provided you let the other side know you will be letting the judge know)

Costs

- *Appeal Costs Fund Act* – provides that if there is a successful appeal because of an error of law made by the trial judge which was not in response to a specific submission by one of the parties, then the costs of both parties to the appeal can be ordered to pay out of the fund
- The fund is created out of part of all filing fees in the Supreme Court – it is there for this purpose

4 The Actual Appeal and Beyond

- Practice direction that requires both parties to put forward an **outline of arguments** before appeal date
    - Should only be about a page long that sets out only the very broad basis for which the appeal will be conduct
- Can reduce submissions to writing and put in written submissions to the court of appeal
- Appeal will be heard by three judges, judgment will follow
- This is generally the final, general court of appeal for all state matters (the end of the road)

What about the High Court?

- Can only get to the High Court by grant of special leave
    - Means have to show your case is worth being one of the 50ish the HC will hear within the space of a year
    - Very difficult to predict what will constitute a sufficient argument to get special leave – not necessarily sufficient to say decision was wrong
    - Must show there is some important question of law that is not generally limited to a particular state (so of importance to all Australians)
- Practice direction for special leave application – what you need to set out, what supporting material is needed

Oral or Written Submissions for Leave to HC?

- Until recently, most if not all special leave applications were finally determined by a 20min oral hearing to convince 2 judges of the HC that you should get special leave – often by way of video
- But there has been a recent trend that people should put in written submissions and the docs in support of the application for special leave and you will just get a notice that it will be granted or refused on the papers
- Now the oral ones are probably limited to instances where the HC wants to raise one particular issue with the counsel

5 Rehearing Appeal – Specifics

What is it for?

- Court examines the evidence given at first instance, and any fresh evidence (if the fresh evidence is admissible) in order to determine if there has been an appellable error

Why grant one? (Test)

- Was the trial unfair? Did the trial judge draw inference of fact from evidence that were not rationally supported? Some error of law? Credibility findings were glaringly improbable, or contrary to compelling influence?
- Used to be: Appeal on questions of fact – treat the findings of fact made by a trial judge as finding of facts of a jury – could only be set aside if there was clear evidence

- This changed in ***Warren v Coombes*** **[1979] HCA 9 (**at 551?): in a case of negligence where the primary facts are not in question, the decision of the trial judge is not to be treated as a decision of the jury, do not get the same benefits as a jury because it is a single judge, and have to give reasons for their decision.
- Followed by ***Fox*** **[2003] HCA 222** – finding of fact of a trial judge can only be set aside on appeal if the facts demonstrate that judge's conclusions are erroneous, or that the decision was glaringly improbable or contrary to compelling evidence
- In both these cases the trial judge drew inferences as to evidence as to where on the road the actual impact occurred. In both cases it was held that this conclusion was glaringly improbable when all the evidence was considered as a whole, so the decisions were varied.

Most appeals? (Common things)

- Most appeals concern questions of law, but in many instances concern questions of fact and in most of those they involve the drawing of inferences from established facts
- A lot of cases require this: Given all of the intermediate facts, what was the ultimate fact? And it is on this drawing of inference that the issues arise.

Evidence

- Fresh evidence will only be admitted in very limited circumstances (r 766(1)(c) and (2)):
    - it is discretionary,
    - must be shown that the evidence could not with reasonable diligence have been found at the time of trial, and
    - if admitted would have a significant effect on findings, and that the evidence is credible

Federal Court System

How the court operates and is structured

- In October 2016 the entire structure of the Fed Court was restructured
- What happened was that a whole range of practice notes were issued about its various jurisdiction
- Central practice note – explains the structure (on Fed Court website): CP 1 ?
- Prior to restructure, court had jurisdiction in wide range of matters but then the court decided that really because there needs to be national consistency with how matters are conducted, the court elected to decide itself up into 9 national practice areas.
- These practice areas a run and coordinated by two judges each.
- The idea is that if you commence a proceeding in the fed court in one city, there is a consistent body of practice approach for those things such that citizens in one state do not have a vastly different process to that of another

    - Hwo should pleadings be run
    - Process for discovery
    - Statements and affidavits, or oral evidence?
- This is important because although we live in a federation, it is not great for federal jurisdiction for there to be state differences
    - Want there to be a sense of national consistency
- So have the nine national practice areas
    - Admin, HR
    - Native Title
    - Employment
    - Commercial & corporations
        - § Got sub areas
        - § Commercial contract
        - § Banking finance and insurance
        - § General and personal insolvency
        - § Access s
        - § Regulatory and consumer protection
        - § Arbitration
        - § Trademarks, copyright and industrial designs
        - § (More)
    - Taxation
    - Maritime
    - Criminal Proceedings
- When file a proceeding, allocated to a judge. That judge will then have the conduct of that matter from the beginning to end – have a docket system. A hallmark of the fed court.
    - Good because it means you a
    - When come to trial, very familiar with the journey the matter has travelled
    - Only problem is with interlocutory matters and people weren't being good..
    - Management and conduct of matter is squarely in the hands of an individual from the beginning
- Aspects of regime, which is unlike the Supreme Courts (embraced by the two major regulators):
    - Idea is that hen start proceeding, would ordinarily start with application document – in this say that you seek certain remedies, identify basis for which those remedies are sought, identify source of jurisdiction for which those remedies are sought
    - Then would ordinarily have a statement of claim which sets out all the material foundation of the facts going to the claim. When done, that is sought to be done with a degree of simplicity and efficiency.
    - But what has happened in the modern world, can get very large pleadings of wide ranging factual thingies.
    - Introduced a thing called a concise statement (concise SoC), can't be any more than 5 pages long and is designed to set out the material facts without pleading and identifying every variation, just setting out material contentions supported by some facts at the outset

    - Then the judges decide if the case can proceed on the basis of this concise statement of claim, or if the matter is complex enough to require a full statement of claim (same for the defence – do a concise one pls that engages with the concise statement of claim)
    - Since October, regulators have been embracing these concise statements
- Frame of reference for all of this is contained in ss 37M, 37N and 37P of *Federal Court of Australia Act*. Overarching purpose – facilitate the resolution of disputes as inexpensively, efficiently and justly as possible.
- The question of all the discovery matters it to try and understand what exactly is the relevant body of material that needs to be produced that falls within the overarching purpose
- Everything is informed by how the overarching purpose is being served
- Redfern discovery protocol
    - Comes out of arbitrations
    - Requires the parties to get together and say I want you to give me this class of docs, and the other side will say why do you want them? Have to show relevant.
    - They might agree, court resolves any disagreements
    - Then they come up a with a joint list of documents to be produced
    - Trying to get parties to engage early and resolve it themselves
- Overarching purpose is reflected in the concise statement of claim and the approach to discovery
- On evidence
    - In this court, historically we have allowed the parties to put on the remedies in statements
    - It's quite interesting, general orthodoxy is that there is a claim doc, defence doc, responsive doc, process of producing doc, those pleadings frame the controversy between the parties which in turn determines the scope of the documents to be produced
    - Then that contest on the pleadings because it frames the controversy, it determines what evidence is enabled to be called and what evidence is likely to be relevant
    - Another way of doing this is to put all the statements up front, the other side sees all the evidence, knows all the evidence and then can respond to all of that – been quite useful but one of the inefficiencies is that the statements can be often very large and wide ranging and so what trying to do is to confine the statements to non-controversial and non-technical matters so that in the main witnesses give oral evidence on various matters
        - § Reasons for this is that oral evidence for witnesses tends to be in their own language and own terms
        - § A person is giving oral evidence can then explain the matter in their own terms, get a sense of it as it emerges
        - § Rather than a pile of material
        - § Great utility of emails – when you want to know what someone was actually doing, and what actually thinking, emails are fantastic

QCAT

Matter Types

- Adult guardianship
- Anti-discrimination
- Building disputes
- Children
- Consumer disputes
- Debt disputes
- Minor Civil disputes
- Occupational regulation
- Residential tenancy disputes
- Administrative review
- Right to information
- Some of these have gone over to a workplace body thing for some of the workplace things

Structure of Tribunal

- Legal personnel
    - President
    - Deputy president
    - Supplementary Judicial Members
    - 4 Senior Members
- Administrative people

Members

- 2 Supplementary Judicial Members
- 4 Senior Members
- 12 permanent members
- 96 sessional members (usually lawyers with particular skills)
- Lawyers or other people who have knowledge, expertise or experience

Adjudicators

- Same powers and functions as members
- Usually lawyers

Justice of the Peace

- Introduced by the last government – wanted to increase the things they did
- A panel of two HPs, one of whom must be legally qualified, constitute each hearing's tribunal to resolve minor civil disputes up to $5000
- JP trial now business as usual – for a while under a consultation and evaluation process, because it's proven to be a pretty good thing it is now a fully functional, approved thing

QCAT President

- Jurisdictions
    - Legal discipline
    - Child protection
    - Right to information
    - Racing board
    - Appeals
- Administration
    - Complaints
    - QCAT practice directions
    - Selection of members
    - Advising the AG

Judicial Members

- Do the right to information applications
- Appeals from magistrates
- Racing Queensland
- Legal health and the likes

How different from Court?

- Tribunals are a creature of statute; jurisdiction is defined by statute
- So there is no inherent jurisdiction
- Solicitors often find themselves in QCAT, because it is a jurisdiction
- Courts
    - Courts are typically highly regulated by complex rules and processes
    - People often have legal representation
    - Litigation can result in hefty legal fees
- QCAT
    - Tribunals are designed for a more informal approach to decision-making
    - Tribunals encourage people to represent themselves
    - Tribunals usually much cheaper than courts
- Informality was recommended in the early reports for QCAT
    - No robes worn
    - Addressed as Member or Mr/Ms
    - Address judicial members as 'your honour'
    - Everyone remains seated
    - Proceedings recorded
    - Litigants usually self-represented
        - § With these, duty under s29 to ensure that each party understands the practices, the nature of the assertions and the legal implications
        - § So notice that you will explain things more for these people

Legal representation –s 43

- Parties represent themselves unless interests of justice require legal representation:

- Child or impaired capacity
- Disciplinary proceedings
- Enable Act
- Leave is granted
    - § The party is a state agency
    - § Complex questions of fact or law
    - § Other party has representation
    - § Parties agree to be represented
    - § Good lawyers will always make process more efficient and allow a better outcome for everyone
    - § President's approach is that don't need to show too much to get leave

Reform Area?

- Thinks that legal representation area requires reform
- Good lawyers can assist the process
- Helps promote the QCAT objectives
- Increasing prevalence of ADR lawyers
- Assist weaker parties vs increased costs
- Often big companies have in house lawyers, so the power-less person are often the people who need the lawyers to protect them. To make those duty schemes effective it is better to have representation
- Maybe impose a s29 type obligation on a lawyer when dealing with a non-litigant to make sure that everyone in the room understands what is going on

Proceedings

- Managed process
    - Members supervise the process
- Directions hearings – case management tool to decide how things will proceed
    - Cross between Supreme and Federal court systems
    - Will come in and member in control of the list you are in will manage it
    - Will make sure gets progressed through to the end stage
    - So will determine how the steps will go, checks on the steps and how they are proceeding, so by the time you get to the end result it's a much better prepared and organized lead up
    - Helpful for self-rep because they are to some extent directed through the process
- Broad discretion
    - Very wide power and need to be aware of
    - Take advantage of it if you can I suppose

ADR in QCAT

- Compulsory conference – form of mediation
    - Aims of CoCo – s69

§ Identifies and clarifies issues
§ Settle matter if possible
§ If doesn't settle, identify the questions to be decided at hearing
§ Make orders and give directions for any future proceedings
- Presided over by a member who has the same powers to order things as the person who finally hears the matter
- Can order non-party discovery, can ensure things are processing
- Often leads to agreed positions on facts, on how to characterize conduct etc. which can be presented to the final member/president – can cut down the length of hearings
- Effective for settlement
- These are unique to QCAT

- Mediation

Hearings

- Public hearings
  - Open justice
  - Can be orders for non-publication
- On the paper hearings
  - Entirely on documents
  - No appearance necessary

Evidence

- Not bound by the rules of evidence – s28(3)(b) so can inform selves however they want
- Can inform itself in any way considers appropriate – s 28(3)(c)
- Act with as little formality and technicality as possible – s 28(3)(d)
- Must ensure that all relevant material is disclosed to tribunal – s 28(3)(e)
- Rules of evidence exist to ensure the best evidence comes before the court or tribunal
- Wide power to direct things, if evidence is going on too long can stop it, if cross examination is going on too long can stop it

Internal Appeals

- QCATA matters are heard more quickly and less expensively than external appeals to the court
- Heard by QCAT members who are equally well-versed in QCAT procedure and the law
- 480 appeals lodged in 2015-16, 107% clearance rate (cleared all in one year and some from previous year as well)

Appeals from QCAT and enforcement

- Court of Appeal
- Decisions can be enforced by a court
- Decisions published at the supreme court library website

Costs

- Parties bear their own costs – s 100
- Discretion to award –s 102
- Order specifically against legal representatives – s 103
- Offers to settle – indemnity costs – useful for case management – s 105
- Fix costs where possible – s 107
- If there is a referring act, the cost provisions in the referring act will govern this area