

ESI QUESTIONNAIRE¹

PART 1 – YOUR DISCLOSURE

Extent of a reasonable search

Date range and custodians

1. What date range do you consider that your searches for documents should cover ("the date range")?
2. Identify the custodians or creators of your documents whose repositories of documents you consider should be searched.²

Communications

3. Which forms of electronic communication were in use during the date range (so far as is relevant to these proceedings)?

A Communication	B In use during the date range? (yes/no)	C Are you searching for relevant documents in this category? (yes/no)	D Where and on what type of software/equipment/media is this information stored? ³	E (a) Are back-ups or archives of this information available, and (b) if so, are you searching the back-ups or archives?
i) E-mail ⁴				
ii) Other (provide details for each type ⁵) 				

¹ See Schedule 3 of the Practice Direction Governing Disclosure Of Electronically Stored Information (CPR PD 31 B) for guidance on answering this Questionnaire and the Glossary of technical expressions in Schedule 1 of PD 31 B .

² Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

³ State the geographical location (if known). Consider (at least) servers, desktop PCs, laptops, notebooks, handheld devices, PDA devices, off-site storage, removable storage media (eg CD-ROMs, DVDs, USB drives, memory sticks) and databases.

⁴ Consider all types of e-mail system (eg Outlook, Lotus Notes, web-based accounts), whether stored on personal computers/portable devices or in web-based accounts (e.g. Yahoo, Hotmail, Gmail etc.).

⁵ For example, instant messaging, voicemail, VOIP (Voice Over Internet Protocol), recorded telephone lines, text messaging, audio files, video files etc.

Electronic documents

4. Apart from attachments to e-mails, which of the following other forms of electronic documents were created or stored by you during the date range?

A	B	C	D	E
Document Type	In use during date range? (y/n)	Are you searching for relevant documents in this category? (yes/no)	Where and on what type of software /equipment/ media is this information stored? ⁶	(a) Are back-ups or archives of this information available, and (b) if so, are you searching the back-ups or archives?
i) Word (or equivalent – state which)				
ii) Excel (or equivalent - state which)				
iii) Imaged documents ⁷				
iv) Other ⁸ (state which)				

Databases of electronic records

5. In the following table identify database systems, including document management systems, which may contain data which may be disclosable and which were used by you during the date range.

A	B	C	D	E
Name	Brief description	Nature of data held	Are you disclosing data held in this database? (yes/no)	Proposals for provision of relevant data to or access by other parties to this litigation
1.				
2. (etc)				

⁶ State the geographical location (if known). Consider (at least) servers, desktops and laptops.

⁷ For example, .pdf, .tif, .jpg.

⁸ For example, Powerpoint or equivalent, specialist documents (such as CAD Drawings) etc.

Method of search

Key words

6. Do you consider that keyword searches should be used as part of the process of determining which documents you should disclose?

If yes, provide details of

- (1) the keywords used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges),⁹
- (2) the extent to which the keyword searches have been or will be supplemented by a review of individual documents.

Other types of automated searches

7. Do you consider that automated searches or automated techniques other than keyword searches (eg concept searches or clustering) should be used as part of the process of determining which documents you should disclose?

If yes, provide details of

- (1) the process(es) used or to be used (by reference, if applicable, to individual custodians, creators, repositories, file types and/or date ranges),
 - (2) the extent to which the processes have been or will be supplemented by a review of individual documents, and
 - (3) how the methodology of automated searches will be made available for consideration by other parties.
8. If the answer to Question 6 or 7 is yes, state whether attachments to (a) e-mails (b) compressed files (c) embedded files and (d) imaged text will respond to your keyword or other automated search.
9. Are you using or intending to use computer software for other purposes in relation to disclosure (eg de-duplication)? If so, provide details of the software, processes and methods to be used.¹⁰

⁹ Where keyword searches are used in order to identify irrelevant documents which are to be excluded from disclosure (for example a confidential name of a client or customer), a general description of the type of search may be given.

¹⁰ Eg how de-duplication is to be carried out.

Potential problems with the extent of search and accessibility of documents

10. Do any of the sources and/or documents identified in this Questionnaire raise questions as to the reasonableness of the search which ought to be taken into account?¹¹ If so, give details.
11. Are any documents which may be disclosable encrypted, password-protected or for other reasons difficult to access, or do you have any reason to believe that they may be?¹² If so, state which of the categories identified at Questions 3, 4 and 5 above are affected, and your proposals for making them accessible.
12. Are you aware of any other points in relation to disclosure of your electronic documents which require discussion between the parties? If so, give details.

Preservation of ESI

13. Do you have a document retention policy?
14. Have you given an instruction to preserve ESI, and if so, when?

Inspection

15. Subject to re-consideration after receiving the responses of other parties to this Questionnaire, (a) in what format and (b) on what media do you intend to provide to other parties copies of disclosed documents which are or will be available in electronic form?
16. Subject to re-consideration after receiving the responses of other parties to this Questionnaire, do you intend to provide other parties with disclosure data¹³ electronically, and if so, (a) in what format (eg CSV, MS Word, MS Excel) and (b) on what media?
17. Insofar as you have available or will have available searchable OCR versions of electronic documents, do you intend to provide the searchable OCR version to other parties?¹⁴ If not, why not?

¹¹ See Practice Direction, which refers to the following matters which may be relevant: (a) the number of documents involved, (b) the nature and complexity of the proceedings, (c) the ease and expense of retrieval of any particular document, and (d) the significance of any document which is likely to be located during the search.

¹² Eg back-ups, archives, off-site or outsourced document storage, documents created by former employees, documents stored in other jurisdictions, documents in foreign languages.

¹³ Disclosure data is data relating to disclosed documents, including for example the type of document, the date of the document, the names of the author/sender and the recipient, and the party disclosing the document.

¹⁴ There is no requirement that you should obtain OCR versions of documents, and this question is directed only to OCR versions which you have available or expect to have available to you. If you do provide OCR versions to another party, they will be provided by you on an "as is" basis, with no assurance to the other party that the OCR versions are complete or accurate. You may wish to exclude provision of OCR versions of documents which have been redacted.

PART 2 – THE DISCLOSURE OF OTHER PARTIES

The extent and content of their search

18. Do you at this stage have any proposals as to the date ranges which should be searched by other parties to the action? If so, provide details.
19. Do you at this stage have any proposals as to the custodians or creators whose repositories of documents should be searched for disclosable documents by other parties to the action? If so, provide details.¹⁵
20. Do you consider that the other party(ies) should disclose all available metadata attaching to any documents? If yes, provide details of the documents or categories of documents.

Proposals for the method to be adopted for their searches

21. Do you at this stage have any proposals as to the keyword searches, or other automated searches, which should be applied by other parties to their document sets? If so, provide details.

Inspection

22. Subject to re-consideration after receiving the responses of other parties to this Questionnaire, (a) in what format and (b) on what media do you wish to receive copies of disclosed documents which are or will be available in electronic form?
23. Subject to re-consideration after receiving the responses of other parties to this Questionnaire, do you wish to receive disclosure data electronically, and if so, (a) in what format (eg .CSV, MS Word, MS Excel) and (b) on what media?

STATEMENT OF TRUTH

The [] believes that the facts stated in the answers to this questionnaire are true and I am duly authorised by the [] to sign this statement

Signed:

Name:

Position held: [Claimant] [Defendant] [Claimant's / Defendant's Solicitor] *delete as appropriate*

Date:

¹⁵ Include names of all those who may have or have had custody of disclosable documents, including secretaries, personal assistants, former employees and/or former participants. It may be helpful to identify different dates for particular custodians.

WARNING: Unless the Court makes some other order, the answers given in this document may only be used for the purposes of the proceedings in which the document is produced unless it has been read to or by the court or referred to at a hearing which has been held in public or the Court gives permission or the party who has completed this questionnaire agrees.