

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 10**

**WHEN SERVED WITH A CLAIM
INFORMATION FOR DEFENDANT**

This fact sheet sets out the options available to you when you have been served with a claim.

You only have a certain period of time to respond to the claim (usually 14 days). This time commences from when you are served with the claim form. If you fail to respond to the claim within this time, the claimant can enter judgment against you.

Paying the claim in full

If you elect to pay the claim in full, the payment must be made direct to the claimant or their lawyer.

You do not need to contact the Court if you intend to pay the amount owing in full.

If you admit the claim but are unable to pay in full

If you admit that the claim is owed and want to put forward an offer of repayment, you can do this by lodging an *Admission of Claim* at the registry of the court where the claim was commenced.

You are encouraged to contact the claimant prior to lodging your statement of admission to arrange a payment plan.

When you have lodged a statement of admission of claim, the Registrar will give judgment. The judgment formalises your admission to the amount claimed, including interest and costs.

The court will inform the claimant of your offer of payment.

All payments must be made directly to the claimant or their lawyer and should start on the day nominated.

You should ask for a receipt and keep it as a record that you have paid.

Does the claimant have to accept my offer of payment?

The claimant does not have to accept your offer and may take enforcement action immediately to enforce the judgment.

If you admit to part of the claim

If you do not owe the claimant the whole amount claimed, you may admit to part of the claim. If you choose to do this, you must also lodge a *Notice of Intention to Defend* for the remaining amount (see the section 'Defend the claim').

If you do not lodge a *Notice of Intention to Defend* the claimant may make application for a default judgment to be given against you, as if you had not responded to the claim.

You may wish to contact the claimant or their lawyer to see whether a settlement can be arranged by consent. If you reach an agreement both parties should complete a consent order form and return it to the registry where the claim was commenced. **Form 49**

If you admit liability but dispute the amount in a claim for an unliquidated amount

If in your response you admit liability for the whole of an unliquidated claim and you do not agree to the amount sought by the other party you may in your response apply to the Court to determine the amount that should be awarded for the claim.

The Registrar will list the case for a pre-trial conference and notify you and the other parties in writing.

See Fact Sheet

No 18 Assessment of Damages under \$10,000

No 19 Assessment of Damages over \$10,000

Defend the claim

You may defend the whole or part of the amount claimed. To do this you must lodge your response at the registry where the claim was commenced.

The period in which you must lodge a response to a claim is detailed in the information to defendant section on the claim form you have been served with. The claimant cannot proceed with any further action until this period expires. The time commences from when the claim was served on you.

When you have lodged your response the Registrar must forward a copy of your response to the claimant along with a notice to both parties advising that an intention to defend has been lodged. For a general procedure claim the claimant must then request a Registrar to list the case for a pre-trial conference within 14 days after the claimant receives from the court a Copy of the response for an intention to defend the claim.

Counterclaim or third party claim

For a minor case claim a Registrar must list a case for a pre-trial conference within 14 days after the defendant lodges a response to a claim that indicates an intention to defend the claim. The Registrar will then notify all parties in writing when and where the pre-trial conference will be.

You may choose to lodge a counterclaim or third party claim against the claimant. If this is the case your counterclaim or third party claim must be lodged and served with your statement of defence.

**See Fact Sheet
No 6 Statement of Defence**

Ignore the claim

If you ignore the claim, the claimant may make application for a default judgment to be given against you for the claim, costs and interest.

The claimant may now proceed to enforce the judgment.

**See Fact Sheet
No. 23 Enforcing a Judgment**

This is a guide only. The content is subject to change. If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.