



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 10 – When Served with a Claim

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

Information for Defendant

When served with a claim

You only have a certain period to respond to the claim. This time commences from the date you are served with the claim. The period to respond is **14 days** if service occurred in Western Australia or **21 days** if service is within another state or territory of Australia. If you fail to respond to the claim within this time the claimant can apply for default 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 a **Form 15, 15A, 15B, 15C** or **15D – Response to Claim**.

The forms are available on the Magistrates Court website:

www.magistratescourt.wa.gov.au.

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

When you have lodged a **Form 15, 15A, 15B, 15C** or **15D** 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 lodge a **Form 15, 15A, 15B, 15C** or **15D – Response to Claim** to notify of your part admission of the claim and an intention to defend for the remaining amount (see in this Fact Sheet the section '**Defend 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 lodge a **consent order form – Form 49**. All forms are available on the Magistrates Court website: www.magistratescourt.wa.gov.au.

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.

In the case of a General Procedure Claim the Registrar will list the case for a Pre-Trial Conference and notify you and the other parties in writing.

In the case of a Minor Case Claim the Registrar will list the case for a Status 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 whole or part of the amount claimed. To do this you must lodge your response at the registry where the claim was commenced.

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 a response indicates an intention to defend has been lodged.

In a Minor Case Claim a Registrar must list a case for a status conference within **14 days** after the defendant lodges a response to claim. The Registrar

will then notify all parties in writing when and where the status conference will be.

See fact sheet: No 14A - Status Conference Minor Case

In a General Procedure Claim if the claimant has served a statement of claim together with the claim the defendant must together with the response to claim file a statement of defence. Otherwise the claimant must lodge and serve a statement of claim on you within **14 days** of receiving your intention to defend. You must file a statement of defence within **14 days** of being served with a statement of claim.

The claimant must, within **14 days** of being served with a statement of defence or lodging a statement of defence to counterclaim, request the Registrar to list the case for a Pre-Trial Conference.

See fact sheet: No 13 - Pre-Trial Conference General Procedure Claim

Counterclaim or third-party claim

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

In a Minor Case Claim you may request a Counterclaim or Third Party Claim by completing Part I of **Form 15A Response to Minor Case Claim**. The Registrar will provide the response to every party and list the case for a status conference.

See fact sheet: No 14A - Minor Case Status Conference

In a General Procedure Claim you must lodge and serve a **Form 8 – Counterclaim** and/or a **Form 9 – Third Party Claim** with your statement of defence however a third party claim must be served personally on the third party.

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.