

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 13**

PRE-TRIAL CONFERENCES GENERAL PROCEDURES

This fact sheet is intended to help people who do not have legal representation in preparing themselves for a pre-trial conference. It does not cover all aspects of preparation for pre-trial conferences. Further information is available from any Court Registry.

What is a pre-trial conference?

A pre-trial conference is a compulsory meeting between the parties to attempt settlement of a case before a Registrar.

When is a pre-trial conference conducted?

When the claimant requests a Registrar to list the case for a pre-trial conference within 14 days after the claimant is served with a statement of defence.

Why have a pre-trial conference?

An essential part of the Court's objective is to bring the parties to a settlement that will prevent the need to go to a trial.

At the pre-trial conference, the parties should be in a position to explore settlement.

Applying for a pre-trial conference

The claimant must complete and lodge **Form 28** – Request for Pre-Trial Conference and pay the prescribed fee.

The form and the fee schedule are available on the Magistrates Court website:

www.magistratescourt.wa.gov.au.

Unless a Registrar or the Court orders otherwise, a party must attend a pre-trial conference.

If a party is a corporation it may be represented by one of its officers whom it has authorised to do so.

If a party's attendance is likely to cause undue expense or the party is of ill health, a party may apply to the Registrar prior to the pre-trial conference for the hearing to be conducted by audio link.

What happens if I do not attend the pre-trial conference?

If a party fails to attend a pre-trial conference, the Registrar at the pre-trial conference may give default judgment against the party.

Do I need to bring my witnesses?

Witnesses are not required at a pre-trial conference.

Role of the Registrar at a pre-trial conference

The primary role of the Registrar is to attempt to bring the parties to a settlement that is acceptable to all the parties. **The Registrar cannot give legal advice.**

The Registrar may:

- determine what facts, if any, are agreed by the parties
- order parties to lodge and serve **Form 19, 19A or 19B** – Statement of Claim and/or **Form 21, 21A or 21B** – Statement of Defence
- order parties to exchange other documents or information
- extend the time for making counterclaims and third party claims
- allow parties to amend its **Form 19, 19A or 19B** – Statement of Claim
- order parties provide additional information by disclosing documents relevant to the case
- order parties to answer interrogatories
- make any other directions necessary to facilitate a settlement and
- list the case for a further pre-trial conference.

These forms are available on the Magistrates Court website: www.magistratescourt.wa.gov.au.

Offers of settlement

Any party may make an offer (or a number of offers) to settle the dispute.

Any attempt to settle a case at a pre-trial conference is taken to be said or done without prejudice.

If a settlement is reached, the Registrar will draw up a **Form 49** – Memorandum of Consent Orders for both parties to sign.

This order becomes a judgment of the Court and can be enforced by the successful party.

See Fact Sheet: No. 23 - Enforcing a Judgment

What happens if the case does not settle at the pre-trial conference?

If a settlement is not reached at the pre-trial conference, the Registrar must order each party to lodge a **Form 32** – Listing Conference Memorandum.

This form is available on the Magistrates Court website: www.magistratescourt.wa.gov.au.

When all parties have complied with the order, the Registrar will give a copy of each party's **Form 32** to the other party and list the case for a listing conference.

See Fact Sheet: No. 14 - Listing Conference.

If a party does not comply with the order, the Registrar may after giving 10 days notice to the party, give default judgment against the party.

Confidentiality

The conference is conducted 'without prejudice' and is confidential. Matters discussed at the conference, or any admissions made, cannot be used outside the conference.

Only orders made at the conference are noted on the court record.

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.