

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 15**

MEDIATION

*This fact sheet is intended to help people prepare themselves for mediation.
You should contact the registry named in the claim or notice if you have any
further questions.*

What is mediation?

Mediation is a meeting between the parties and a mediator appointed by the Court or a mediator agreed to by the parties.

The Court may, whether or not the parties agree, order that a person, who is a relevant expert, mediate the case or any issue arising out of it.

This order can be made at a listing conference.

Applying for mediation

Each party must ensure that a mediation conference has been arranged.

The mediator will notify the parties in writing of a date, time and place for mediation. You may also be given instructions relating to preparing for mediation.

If you receive a notice to attend mediation and you are aware of a risk to yourself or others in relation to the matter, you should contact the Court at which you are required to attend.

Cost of mediation

The costs of a mediator who is not a Registrar is to be paid by the parties in equal shares unless the Court orders or the parties agree, otherwise.

Attending Mediation

At mediation, parties will be escorted into a mediation room one at a time and be asked privately by the Registrar if they have any concerns in relation to the matter. Any information provided to the Registrar at this time will remain confidential.

Parties must remain civil and act in a professional manner at all times throughout the mediation process. Any inappropriate or aggressive behaviour may result in mediation being terminated.

Do I need to bring my exhibits?

Exhibits, other than documentation/paperwork, should not be brought to mediation.

What happens if the case does not settle at mediation?

The mediator will mediate the whole of the case or any issue arising in it, as ordered by the Court.

The claimant must within 14 days after the mediation conference, lodge a **Form 34** - Notice of Outcome of the Mediation with the Court.

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

If the case does not settle at the mediation conference, a Registrar must list the case for:

- a further listing conference if the case is a **general procedure** or
- a further pre-trial conference if the case is a **minor case claim** and notify the parties in writing.

Confidentiality

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

Any offers or admissions made at mediation will not be communicated to the Magistrate, if the case goes to trial.

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.