

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 16**

TRIAL

This fact sheet is intended to help people who do not have legal representation in preparing themselves for trial. You should contact the registry named in the claim or notice if you have any further questions.

Preparing for Court on the day

- Get to Court on time.
- Make sure your witnesses are there.
- Ensure you have your papers and documents (evidence) and make sure you have copies for the other party and the Magistrate.
- Should you wish to tender exhibits other than paperwork/documents, please ensure you comply with the requirements of Practice Direction 1 of 2012 that applies to all exhibits. This can be located at http://www.magistratescourt.wa.gov.au/files/practice_direction_1_2012.pdf
- If you receive a notice to attend a trial 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.

How do I address the Magistrate?

The Magistrate is to be called “Your Honour”
Speak clearly to the Magistrate, and read your presentation if you would feel more comfortable.

Information for the claimant

As the claimant, you will usually be the party who begins by making an opening address outlining your claim to the Court.

After you have made your opening address, you will need to give your evidence in support of your claim and then call your witnesses and tender documents as exhibits.

**See Fact Sheet:
No. 17 - Summoning a Witness**

The defendant is given the opportunity to cross-examine your witness. You will be given the same opportunity to cross-examine each of the defendant’s witnesses.

When you have completed presenting your evidence, you will close your case.

The defendant will now proceed with their defence to your claim and go through the same procedure as you have done.

Information for the defendant

Once the defendant has completed presenting their case you may then make your final address to the Court. This will give you the opportunity to persuade the Court that your claim should succeed and to make any legal submissions.

In most cases you will be given the opportunity to present your defence to the claim after the claimant has closed their case.

You will begin with your opening address to the Court, by giving your evidence. Tendering documents as exhibits and calling your witnesses.

See Fact Sheet:
No. 17 - Summoning a Witness

The claimant is given the opportunity to cross-examine each of your witnesses after they have given their evidence.

Before closing your case you will also be given the opportunity by the Court to proceed with your final address. This involves explaining to the Court why the claim against you should not succeed and make legal submissions (if any).

Magistrate's decision

In most cases, the Magistrate will give a verbal decision at the hearing. This decision takes the form of a judgment.

In some cases the Magistrate may adjourn the decision to a later date. The Magistrate may give written reasons for the decision.

Non-appearance at trial

If any party does not appear at the trial, the Court may order that the case be adjourned to a new date or the Court may give judgment against the party who did not appear.

Adjourning the trial date

An adjournment of the trial date will only be considered, upon the parties satisfying the Court that it is for reason out of their control.

Cancelling your trial date

If parties reach a settlement of the case prior to the trial date, they must advise the Court in writing or may complete and lodge a **Form 49** – Memorandum of Consent Order.

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

**Applying
for a refund
of fees**

If a request for cancellation is made 35 days prior to the trial date, the Court will consider refunding or transferring 75% of the daily hearing allocation fee to the claimant.

If a request is made no later than 21 days prior to trial date, the Court will consider refunding or transferring 50% of the daily hearing allocation fee to the claimant.

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.