

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 21**

APPLICATIONS

This fact sheet is intended to help people who do not have legal representation in preparing applications for hearing with or without an appearance by the parties.

What is an application?	An application is a request to the Court to make an order other than a judgment after trial or an order made in or as a consequence of a judgment not being an order to set aside a judgment given under the <i>Magistrates Court (Civil Proceedings) Act 2004</i> section 17(3), 18(6) or 19(3).
Making an application?	<p>Complete and lodge Form 23 and pay the prescribed fee.</p> <p>A Form 23 must be supported by an affidavit. Complete and lodge Form 2 – General Affidavit.</p> <p>These forms and the fee schedule are available from the Magistrates Court website: www.magistratescourt.wa.gov.au.</p> <p>An original application and two copies are to be lodged at the Court registry where the claim was commenced.</p>
When do I need to attend?	<p>You must attend the hearing of your application unless the rules of court provide otherwise or the Court dealing with the application orders otherwise.</p> <p>Depending on the orders being requested, the Court will direct whether the application will require the attendance of the parties.</p> <p>If you receive a notice to attend a hearing 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.</p>
Non-attendance on application	If a party does not attend the hearing, the Court may make an order in the absence of that party, which could be in the terms of the application.
Application not requiring attendance	Example: In the instance where the claimant wishes to amend the defendant's name.

Application requiring attendance

Response to an application

Example: Where a claimant or defendant makes application for summary judgment.

A party who has been served with a **Form 23** - Application must lodge and serve a **Form 24** - Response to the Application and **Form 2** - General Affidavit stating whether they consent or object to each order sought.

The **Form 24** and **Form 2** must be lodged at least three working days before the hearing of the application.

Complete and lodge **Form 24** - Response to Application and **Form 2** - General Affidavit.

Unless you consent to every order sought in the **Form 23** - Application, an affidavit supporting the response and any related application by the party must be lodged.

Serving a Document

The Court can arrange service of your claim by a bailiff. Bailiffs are officers of the Court who are located throughout the State. You must prepay the service fee.

The fee schedule is available from the Magistrates Court website: www.magistratescourt.wa.gov.au.

Alternatively you can make arrangements to serve the claim yourself.

**See Fact Sheet:
No. 8 - Serving a Court Document**

Proof of service

If you have requested the Court to arrange for a bailiff to serve the summary judgment application, the bailiff will complete a **Form 10** - Certificate of Proof of Service by Bailiff and send it to you.

If you serve the application yourself, you will need to complete a **Form 11** - Affidavit of Service. This proves that the summary judgment application was served.

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

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.