

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

PRE-TRIAL CONFERENCES - GENERAL PROCEDURE

This fact sheet is intended to help parties who do not have legal representation prepare 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 a case before a Registrar.

When is a pre-trial conference conducted?

Within 14 days of the Claimant being served with a Statement of Defence, the Claimant must request a Registrar to list the case for a Pre-Trial Conference.

Within 14 days of the Claimant lodging a Statement of Defence to Counterclaim, where the Claimant was served with a Statement of Defence with Counterclaim.

If the Claimant has lodged and served a Statement of Claim but has not yet been served with a Statement of Defence, or a Statement of Defence with Counterclaim, and both parties agree, the claimant may apply to the Court for an early Pre-Trial Conference.

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.

Where a party applies for an early Pre-Trial Conference, they must complete and lodge a **Form 28 – Request for Pre-Trial Conference**, a **Form 49 – Memorandum of Consent Order**. The claimant must pay the prescribed fee.

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| | <p>The form and the fee schedule are available on the Magistrates Court website: www.magistratescourt.wa.gov.au.</p> |
| | <p>Unless a Registrar or the Court orders otherwise, a party must attend a pre-trial conference.</p> |
| | <p>If a party is a corporation it may be represented by one of its officers whom it has authorised to do so.</p> |
| | <p>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.</p> |
| <p>Informal Disclosure</p> | <p>At least 14 days before the Pre-Trial Conference, each party to the case must disclose documents relevant to the case by completing a Form 36 – List of Documents, and providing a copy to the other parties.</p> |
| <p>Amending case statements prior to the Pre-Trial Conference</p> | <p>A party may amend its case statement without leave of the court until a date is set for trial, or with leave of the court if a trial date has been set.</p> |
| <p>What happens if I do not attend the pre-trial conference?</p> | <p>If a party fails to attend a pre-trial conference, the Registrar at the pre-trial conference may give default judgment against the party.</p> |
| <p>Do I need to bring my witnesses?</p> | <p>Witnesses are not required at a pre-trial conference.</p> |
| <p>Role of the Registrar at a pre-trial conference</p> | <p>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.</p> |
| | <p>The Registrar may:</p> <ul style="list-style-type: none"> ➤ determine what facts, if any, are agreed by the parties ➤ order parties to lodge and serve a Statement of Claim and/or a 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 Statement of Claim and/or Statement of Defence ➤ 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 |

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| | <p>settlement and</p> <ul style="list-style-type: none"> ➤ list the case for a further pre-trial conference. <p>These forms are available on the Magistrates Court website: www.magistratescourt.wa.gov.au.</p> |
| <p>Offers of settlement</p> | <p>Any party may make an offer (or a number of offers) to settle the dispute.</p> <p>Any attempt to settle a case at a pre-trial conference is taken to be said or done without prejudice.</p> <p>If a settlement is reached, the Registrar will draw up a Form 49 – Memorandum of Consent Orders for both parties to sign.</p> <p>This order becomes a judgment of the Court and can be enforced by the successful party.</p> <p>See Fact Sheet: No. 23 - Enforcing a Judgment.</p> |
| <p>What happens if the case does not settle at the pre-trial conference?</p> | <p>If a settlement is not reached at the pre-trial conference, the Registrar may list the matter for another pre-trial conference or a status conference.</p> |
| <p>Confidentiality</p> | <p>The conference is conducted 'without prejudice' and is private and confidential. Matters discussed at the conference, or any admissions made, cannot be used outside the conference.</p> <p>Only orders made at the conference are noted on the court record.</p> |

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.