

MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 2

HOW TO COMMENCE A GENERAL PROCEDURE CLAIM
INFORMATION FOR CLAIMANTS

What is a general procedure claim?

A claim where the value of the claim or the relief claimed does not exceed \$75,000.

How do I issue a general procedure claim?

Complete and lodge **Form 3 – General Procedure Claim**, and pay the prescribed fee.

This claim can be lodged through the website www.magistratescourt.wa.gov.au in Online Forms if you have a credit card. The form is also available on the Magistrates Court website.

Consumer / Trader General Procedure

If your claim is a consumer/trader claim you will need to complete a **Form 7- General Procedure Claim (Consumer/Trader)**.

This claim can be lodged through the website www.magistratescourt.wa.gov.au in Online Forms if you have a credit card. The form is also available on the Magistrates Court website.

Can a lawyer represent me?

Parties are entitled to be represented by a lawyer. However, if your claim is for \$10,000 or less and you did not elect to have the claim dealt with as a minor case, you will have to pay all your legal costs even if you win unless the Court orders otherwise.

Completing Form 3

Claimant

Your name, the name of your company or business name if you are trading as a partnership.

Address for service

Your claim must contain a residential, or business address for service. If you are represented by a lawyer, the address for service must be the principal place of business of your lawyer, or the lawyer's

number (if any) at a document exchange approved by the Chief Magistrate.

Address for service of a company

If the corporation is not represented by a lawyer, it must be the registered office or principal place of business of the corporation.

Defendant

The name and address of the person, company or business name, if the defendant is trading as a partnership, you are commencing the claim against.

If the claim is to be served on a defendant that is a corporation the address to where the claim is to be served may be served by any of the following methods:

- By leaving at or posting the claim to the registered office of the corporation
- Handing the claim to a person who on reasonable grounds, is believed to be a Director of the corporation who resides in Australia; or
- Handing the claim to a lawyer who is acting for the corporation.

If the corporation is not represented by a lawyer, it must be the registered office, or principle place of business address of the corporation. You can do a search by visiting Australian Securities & Investments Commission (ASIC) Perth Service Centre between 9am and 5pm (excluding public holidays) at:

ASIC
Level 1
11 Mounts Bay Road
PERTH WA 6000
Telephone: 1300 300 630
Fax: 08 9261 4227

You may have to pay fees depending on the type of search.

There are different kinds of service requirements for other types of organisations and certain individuals. Information is available from any Court Registry.

Method of service

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 pre-pay the service fee.

Alternatively, you can make arrangements to serve the claim yourself.

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

Description of claim

These are the details of the claim that you are making against the defendant.

Amount of claim

The amount of money that you are claiming from the defendant, must be included in your description of claim, you can also include a claim for interest.

See Fact Sheet:
No. 7 - Claiming Interest

Small business or non-profit association

If you are a small business or a non-profit association, you must complete a Form 1 – Declaration that a person is a small business or a non-profit association to qualify to have your lodgement fee reduced.

The *Magistrates Court (Fees) Regulations 2005* defines a small business or a non-profit association as:

- an individual or individuals in partnership who wholly own and operate a business that has less than 20 full-time equivalent employees and partners;
- a corporation that has less than 20 full-time equivalent employees and that is not a subsidiary of a corporation that has 20 or more full-time equivalent employees; or
- a non-profit association is a society club, institution or body that is not for the purpose of trading or financial profit for its members.

Signature

You are required to sign each copy of the claim form unless you electronically lodge your claim through the Magistrates Court Online Forms.

Where do I lodge my general procedure claim form?

You may lodge your claim in person at any court registry within the State or you may choose to lodge your claim electronically through the Magistrates Court website (www.magistratescourt.wa.gov.au) in Online Forms.

However, any party may make an application to the court for a change of venue. If the court is satisfied it would be more convenient, or fair, to the parties if the whole or part of the proceedings in a case were conducted at another place in the State, the court may

What happens after my claim is lodged and served on the defendant?

order accordingly.

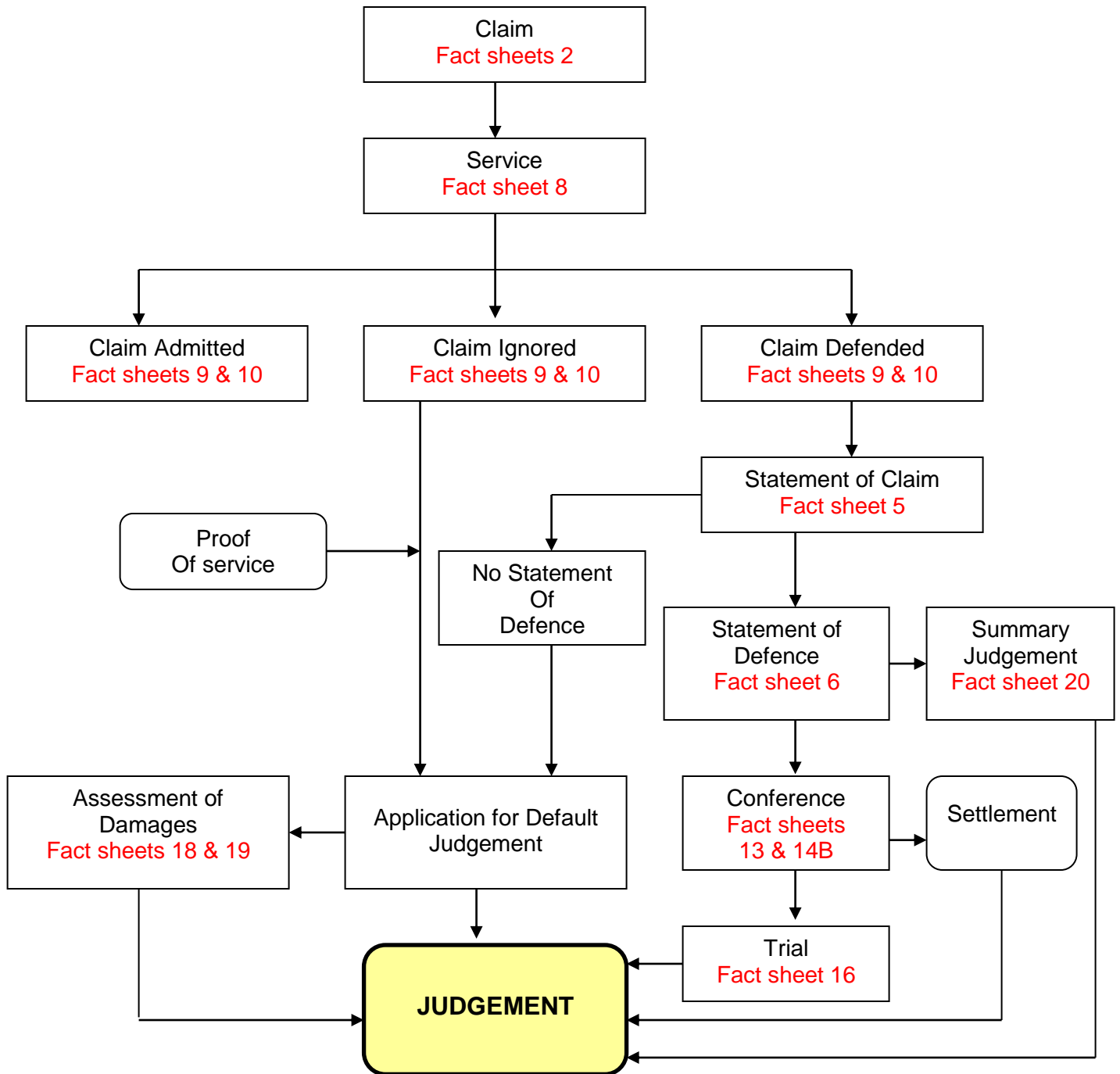
From the date that the defendant is served with the claim they have a period of time to respond (14 days if the address for service of the defendant is within Western Australia and 21 days if the address for service of the defendant is outside of Western Australia).

You cannot do anything until the defendant's time to respond has expired.

What happens next depends on how the defendant responds to the claim:

- Admission to claim;
- Notice of intention to defend; or
- The claim is ignored.

General Procedure Claim



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.