



## Magistrates Court of Western Australia Civil Jurisdiction

### Fact Sheet 13 – Pre-Trial Conferences General Procedures

*This fact sheet is intended to help parties who do not have legal representation in preparing 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 compulsory pre-trial conference is a meeting between the parties to **attempt settlement** of a case before a Registrar.

#### **When is a pre-trial conference held?**

A pre-trial conference is held on application by a party, with consent of all the parties, made before a statement of defence is served or when the **claimant** requests a Registrar to list the case for a pre-trial conference within 14 days after the claimant is served with a statement of defence or has lodged a statement of defence to counterclaim.

#### **Why have a pre-trial conference?**

An essential part of the Court's objectives 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 party must complete and lodge **Form 28 – Request for Pre-Trial Conference** with a **Form 49 – Memorandum of Consent** (if required) and pay the prescribed fee.

The form and the fee schedule are available on the Magistrates Court website: [www.magistratescourt.wa.gov.au](http://www.magistratescourt.wa.gov.au).

Unless a Registrar or the Court orders otherwise, a party must attend a pre-trial conference.

If a party is a corporation it may be represented by one of its officers whom it has authorised to do so.

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.

## Informal Disclosure

At least **14 days** before the date of a pre-trial conference the parties must disclose document relating to any matter in question in the case by providing an informal list of documents to the other parties

## What happens if I do not attend the pre-trial conference?

If a party fails to attend a pre-trial conference, the Registrar at the pre-trial conference may give **default judgment** against the party.

## Do I need to bring my witnesses?

Witnesses are **not** required to attend.

## Role of the Registrar at the pre-trial conference?

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.**

### The Registrar may:

- determine what facts, if any, are agreed by the parties
- order parties to lodge and serve **Form 19, 19A or 19B – Statement of Claim** and/or **Form 21, 21A or 21B – Statement of Defence**
- order what statements of claim or defence must contain
- extend the time for making counterclaims and third-party claims
- allow parties to amend its **Form 19, 19A or 19B – Statement of claim**
- 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 settlement
- list the case for a further pre-trial conference and
- List the case for a status conference.

## Offers of settlement

Any party may make an offer (or several offers) to settle the dispute.

Any attempt to settle a case at a pre-trial conference is taken to be said or done **without prejudice**.

If a settlement is reached, the Registrar will draw up a **Form 49 – Memorandum of Consent Orders** for both parties to sign.

This order becomes a judgment of the Court and can be **enforced** by the successful party.

**See Fact Sheet: No. 23 - Enforcing a Judgment**

## **What happens if the case does not settle at the pre-trial conference?**

If a settlement is not reached at the pre-trial conference, the Registrar must list the matter for a Status Conference.

### **Confidentiality**

The pre-trial conference is conducted 'without prejudice' and is confidential. Matters discussed at the pre-trial conference, or any admissions made, cannot be used outside the conference.

**Only orders made at the conference are noted on the court record.**

**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.