



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 1 - Understanding Civil Proceedings

The Magistrates Court of Western Australia has a civil jurisdiction to deal with the following:

- A monetary claim for debt or damages
- A consumer/trader claim
- A residential tenancy claim and/or
- A claim for recovery of real (real estate) property.

Parties are encouraged to try and reach an agreement or settlement before making a claim through the court.

There is no guarantee that monies will be recovered through the court process and failure to successfully prove a claim, could result in the award of costs to the other party.

Parties involved in a claim

Claimant

This is the party who **starts the claim**.

They may be an individual person(s), corporation or association who is owed money for a debt or damages, or a consumer or a trader.

Defendant

This is the party **against whom the claim is made**.

They may be an individual person(s), corporation or association against whom a claim for debt or damages is made, or a consumer or a trader.

General Procedure Claim

Deals with claims for debt or damages **up to \$75,000**.

In this jurisdiction a lawyer **can** represent you. However, if the amount being claimed is for \$10,000 or less you may **only recover allowable costs** as prescribed under the *Magistrates Court (Civil Proceedings) Act 2004* unless the Court orders otherwise.

Proceedings are **formal**.

If the claim is disputed and you proceed to trial, there will be a requirement for you to attend either or all the following:

- pre-trial conference
- status conference and/or
- mediation conference.

See Fact Sheet: No. 2 - How to Commence a General Procedure Claim

Minor Case Claim

Deals with claims for debt or damages **up to \$10,000**.

If you make a claim under this procedure a lawyer **cannot** represent either party, **unless** the court grants permission, due to special circumstances.

Proceedings are **less formal** than a general procedure claim.

When the defendant lodges a notice of intention to defend, the case will be **automatically listed** for a status conference.

At a status conference, the court will attempt to bring the parties to a settlement. If the case cannot be settled, it may proceed to trial.

See Fact Sheet: No. 3 - How to Commence a Minor Case Claim

Consumer/Trader Claim

This is a claim between a consumer and a trader where a dispute has arisen over the sale, supply or hire of goods or services **up to \$75,000**.

Either a consumer or trader may start a consumer/trader claim and it may be commenced as a general procedure or minor case consumer/trader claim.

See Fact Sheet: No. 4 - Consumer/Trader Claim

Residential Tenancy Application

This is an application where **either an owner or a tenant**, who is a party to a residential tenancy agreement, wants to enforce certain conditions of the agreement or to claim monies under the agreement.

For more information on how to proceed with a residential tenancy application, please contact the:

Department of Mines, Industry Regulation and Safety

Website: <https://www.commerce.wa.gov.au/consumer-protection>

General Advice Line – 1300 304 054

Recovery of Real (Real Estate) Property

This is a claim by a **property owner** to recover possession of real property, which is not subject to an agreement under the *Residential Tenancies Act 1987*, where the amount of gross annual rental value is **less than \$75,000**.

For example, commercial property or people in illegal occupation.

Role of registry staff

It is important to note that court staff **cannot** give legal advice, as they are not qualified to do so. Court staff will assist wherever possible with procedural advice.

You should seek legal advice if you are in doubt about whether to start a civil claim.

Website: <https://www.magistratescourt.wa.gov.au>

Legal Advice Providers

You may want to obtain legal advice from a private lawyer. Otherwise, there are several organisations, including those below, which may provide legal advice at a minimal cost.

Legal Aid WA

32 St Georges Terrace, PERTH WA 6000

Website: <https://www.legalaid.wa.gov.au>

General Enquiries: 1300 650 579

Community Legal Centre WA

Website: <https://www.communitylegalwa.org.au>

General Enquiries (08) 9221 9322

Law Society of Western Australia

4/160 St Georges Terrace, PERTH WA 6000

Website: <https://www.lawsocietywa.asn.au>

Citizens Advice Bureau of Western Australia

1/25 Barrack Street, PERTH WA 6000

General Enquiries (08) 9221 5711

Website: <https://www.cabwa.com.au>

Consumer Credit Legal Services

General Enquiries (08) 9221 7066

Website: <http://cclswa.org.au/contact>

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.