

**MAGISTRATES COURT OF WESTERN AUSTRALIA
CIVIL JURISDICTION
FACT SHEET 6**

STATEMENT OF DEFENCE

This fact sheet provides general information for the defendant on how to complete a statement of defence for a general procedure claim.

What is a statement of defence?

A statement of defence helps narrow the issues in dispute and reveals your case.

A statement of defence is lodged when the case is defended or within 14 days of the statement of claim being served.

When do I file my statement of defence?

You may lodge your statement of defence together with your response or in any event 14 days after being served with the relevant statement of claim.

An original and copies for every party to the matter, of the relevant statement of defence must be lodged at the registry of the court where the claim was commenced.

What information should be in my statement of defence?

Statement of Defence to General Procedure Claim or Claimant's Reply to Statement of Defence with Defence to Counterclaim – [Form 21, 21B & 67](#)

Your statement of defence must state the following:

1. Material facts relevant to the defence.

It is important that you restrict your statement of defence to the facts that are relevant to your defence.

The facts should be set out in date order and based on how each allegation of fact will be proved.

You must not include allegations of a general nature, just details of where and when relevant events happened.

2. Any necessary particulars of the defence.

Particulars are the precise details of your response to the allegations made by the claimant. For example, if

the claim against you relates to a contract and you do not agree with the terms alleged by the claimant, the particulars would be the precise details of the terms you say were in the contract.

3. *The legal basis of the defence.*

This is the area of law you are relying on to support your defence.

4. *The details of anyone who you allege is liable for the claim and the grounds upon which you so allege.*

What happens if I do not file my statement of defence?

The claimant may make an application to the Court to give default judgment against you.

What should I do if I am having trouble completing my case statement?

If you have any doubts over completing your statement of defence, then you must seek legal advice.

What happens next?

If the **defendant has been served with a statement of claim, but has not yet lodged and served a statement of defence, or a statement of defence with counterclaim**, either party may apply for an early pre-trial conference. The request must be lodged at the court registry where the claim has commenced, by completing and lodging a **Form 28 – Request a Pre-Trial Conference**, and a **Form 49 – Memorandum of consent order**. The claimant must pay the hearing fee as prescribed by the *Magistrates Court (Fees) Regulations 2005*.

If the **defendant has lodged and served a statement of defence**, the claimant must within 14 days after the claimant is served with the statement of defence, request the registrar to list the case for a compulsory pre-trial conference. When the registrar receives the request, the registrar must set a date, time and place for a compulsory pre-trial conference and notify all parties.

If the **defendant has lodged and served a statement of defence with counterclaim**, the claimant must within 14 days of service, lodge and serve a statement of defence to the counterclaim. Within 14 days of the claimant lodging a statement of defence to the counterclaim, the claimant must request the registrar to list the case for a compulsory pre-trial conference. When the registrar receives the request, the registrar must set a date, time and place for a compulsory pre-trial conference and notify all parties.

All forms are available on 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.