



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 50 – Statement of Intended Evidence of a Witness

This fact sheet provides general information for parties on how to complete a statement of intended evidence of a witness.

What is a Statement of Intended Evidence of a Witness?

A Statement of Intended Evidence of a Witness sets out all the relevant evidence which will be presented by that witness at the trial hearing.

All the evidence to be presented at trial must be included in the statement. Evidence not included in the statement cannot, without leave of the court, be relied upon at trial.

When do I lodge a Statement of Intended Evidence of a Witness?

The Statement of Intended Evidence of a Witness may only be lodged upon an order being made by the Court.

The relevant statement must be lodged electronically using the Courts Electronic Case Management System (ECMS) [**eCourts Portal**](#).

What form do I use?

The statement must be completed on a **Form 32A – Statement of Intended Evidence of a Witness**. This form can be downloaded from the Magistrates Court website www.magistratescourt.wa.gov.au or a copy is available from any Magistrates Court registry.

The **Form 32A** is not to be used for expert witnesses, unless otherwise provided by the Court. Please see below for information relating to the presentation of expert evidence.

Who needs to complete the Statement of Intended Evidence of a Witness?

The Statement of Intended Evidence of a Witness must be lodged for each witness that you are intending to summon (see **Fact Sheet No. 17 – Summoning a witness**) for the matter to give evidence to support your case. This can include yourself (the party making or defending the claim) or any other persons which you are calling as a witness.

Deciding who is required to provide a witness statement is up to each party by considering what needs to be proven in the case by such witness.

If you do not lodge a **Form 32A** for a witness, you may not, without leave of the court, have that person present evidence as a witness at the trial.

What is an expert witness?

An expert witness is a person with experience, through practice and education, in a particular field.

The expert's witness statement should set out the expert's qualifications and experience and explain how they are able to comment on the issues before judiciary

Expert witness statements are generally not completed on a **Form 32A**. You may lodge any report or statement by an expert via the [eCourts Portal](#) as a 'Statement of an Expert Witness'.

You must seek leave of the court should you wish to rely on expert evidence at the trial by applying either at the Pre-Trial/Status Conference or by lodging via the [eCourts Portal](#) a **Form 23 – Application** along with a **Form 2 – General Form of Affidavit**.

What information should be in a Statement of Intended Evidence of a Witness?

The prescribed **Form 32A** must be used.

A Statement of Intended Evidence of a Witness must include the name, address and occupation of the witness. The body of the statement must contain that person's relevant evidence in support of your claim or defence. The statement must be factual based on that witness's recollection of events. The statement must also be signed by that witness.

If you are preparing a Statement of Intended Evidence of a Witness on behalf of the witness, you and the witness must ensure that the statement is a true and accurate account of that witness' evidence.

The 'lodged by' box at the bottom of the page must contain the address and contact details of the party lodging the document (eg. The claimant or Defendant), and not the witness who has completed the statement. (Unless this witness is the Claimant or Defendant).

Can I attach documents to my Statement of Intended Evidence of a Witness?

Unless otherwise ordered, any relevant documents to be tendered into evidence by that witness must be attached to their **Form 32A**.

Documents should only be attached if they are being referred to in the statement and if the witness intends to annex the attachments at trial as part of their evidence.

Do not write 'See attached documents' on the Form. You must write a witness statement and refer to attachments.

What happens if I do not file a Statement of Intended Evidence of a Witness?

If you do not lodge and serve the **Form 32A** from a witness you want to give evidence at the hearing, the other party may object and the presiding judicial officer at trial may not allow the witness to give evidence.

How do I lodge the Statement of Intended Evidence of a witness?

The **Form 32A** completed by the witness must be lodged by the Claimant or Defendant on the matter electronically via the [eCourts Portal](#) system, unless you have an exemption. There is no filing fee to lodge the form.

Upon your **Form 32A** being accepted for lodgement by the court, a sealed copy will be issued to you for service.

How do I serve a Statement of Intended Evidence of a Witness?

Each **Form 32A** must be served on the other party. It may be served by ordinary service, unless the court orders other means for service. This means you must send a sealed copy of it by ordinary pre-paid post to the other party's listed postal address for service (and preferably also to the party's listed email address).

Please refer to **Fact Sheet 8 – Serving a court document** for further information in relation to service.

What happens if I have not received the other party's Statement of Intended Evidence of a Witness?

Failing to lodge or serve a **Form 32A** after being ordered to do so means that the other party is in default of the court order.

The trial may proceed and the other party may not be able to have that witness present evidence at the trial.

You may wish to view your matter on the [eCourts Portal](#) to check whether the other party has lodged their **Form 32A** with the court. You will be able to access copies of that document via the [eCourts Portal](#), even if it has not yet been served on you.

What should I do if I am having trouble completing or I need to amend my Statement of Intended Evidence of a Witness?

If you have any doubts over completing your Statement of Intended Evidence of a Witness, then you should seek legal advice.

If you need to amend or lodge a further **Form 32A** after it has been lodged and served, you must seek approval from the court by lodging via the [eCourts Portal](#) a **Form 23 – Application** along with a **Form 2 – General Form of Affidavit**.

Giving evidence at a hearing

Witnesses who provide a statement need to be available to give evidence at a hearing. Witnesses at a hearing may be required to swear or affirm that the evidence they give is true and correct. Witnesses may be asked questions by judiciary and both parties.

A party may need to take steps to make sure that a witness will attend a hearing, such as requesting a witness summons to attend court and give oral evidence (**Form 46 & 47**).

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.