



The Procedural Hearing

Information for participants
FAMILY COURT OF WESTERN AUSTRALIA

This brochure will tell you.

- Why you need to have a procedural hearing.
- How to prepare for the hearing.
- What will happen at the hearing.
- What happens after the hearing.

Why have a Procedural Hearing?

The purpose of the hearing is to identify the key issues in your case and determine the best way to proceed. The Judicial Officer (a Judge, Magistrate or Registrar) will make procedural orders to help you proceed to the next stage.

Matters which may be discussed at the Procedural Hearing include:

- making sure that parties have complied with their duty of disclosure and have provided all relevant documents to each other party;
- checking that the proposed orders and issues between the parties are appropriately defined;
- making orders to ensure that the parties are in a position to conduct meaningful negotiations;
- assigning the matter to the appropriate case management track; and
- making orders that will ensure the case is resolved in a timely, economical and just manner.

If the parties reach an agreement the Judicial Officer can make orders based on it.

When does the Procedural Hearing take place?

In cases where an application for final orders in a financial matter has been made, the Procedural Hearing will be the first Court event. It will be included in the Registrar's Duty List.

In cases where an application for interim orders has been made, these will need to be dealt with first. The Procedural Hearing will be held afterwards. It will be heard in Court as part of a General List.

In cases involving children's issues or parenting matters, the Procedural Hearing will be held after the first Case Assessment Conference.

How do I prepare for the Hearing?

Make sure you have complied with the duty of disclosure and have provided all relevant documents to the other party. For more information read the brochure "Duty of Disclosure".

If you have not already done so, you have until **two days** before the Procedural Hearing to exchange the following documents:

- your three most recent taxation returns and assessments;
- any superannuation documents for each of your superannuation interests, including:
 - the completed Superannuation Information Form;
 - for a self-managed superannuation fund, the trust deed and the last three financial statements;
- for a corporation (business), trust or partnership where you have a duty of disclosure:
 - financial statements for each entity (including balance sheets, profit and loss accounts, depreciation schedules and taxation returns) for the three last financial years;

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- for the party or a corporation (business), trust or partnership where the you have a duty of disclosure under:
 - any Business Activity Statements for the 12 months ending immediately before the first court date;
- for any corporation, its most recent annual return, listing directors and shareholders; and the corporation’s memorandum and articles of association;
- for any trust, the trust deed;
- for any partnership, the partnership agreement; and
- a market appraisal of any item of property where you have an interest.

What will happen at the Hearing?

At the Procedural Hearing you, or your lawyer will need to be able to answer these questions:

- What are the issues in your case?
- What issues have you already been able to resolve (if any)?
- What sort of negotiation and dispute resolution have you already undertaken?
- Are there any other parties to the case, other than you and your former partner? (Legal advice can help you answer this question).
- The estimated length of the trial if an agreement is not reached (legal advice will help you answer this question).

If you or the other party do not attend your Procedural Hearing:

The Court may:

- dismiss the application;
- order the application be decided in the absence of one of the parties;
- adjourn the application to allow the applicant to file affidavit evidence; and/or
- make any other order necessary, including orders for costs.

What happens after the Hearing?

The Procedural Hearing is an opportunity for you to try and negotiate a solution with the other party. If you reach an agreement the Judicial Officer can make a Consent Order for you.

If no agreement is reached, your case will be listed for a Conciliation Conference.

You should read brochure 4 “Conciliation Conferences” for more information about what to do next.

The Judicial Officer may also make Procedural Orders which include:

- an order that a party produce a specific document for inspection and copying by the other party before the conciliation conference;
- an order allowing a party to obtain an expert’s report; and
- an order that a party serve notice of the case on a person whose interests may be affected by the case.

Personal safety

If you have any concerns about your safety while attending court, please call 08 9224 8222 before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place. By law, people must inform a court if there is an existing or pending family violence order involving themselves or their children.

Seek legal advice

You should get legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. A lawyer can also help you reach an agreement with the other party without going to court.

You can get legal advice from a:

- Legal Aid Office;
- Community Legal Centre; or
- Private law firm.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

Need more information?

For more information about Family Dispute Resolution, or to find your nearest Family Relationship Centre:

- go to www.familyrelationships.gov.au; or
- call the Family Relationship Advice Line on 1800 050 321, the line is open from 8:00am to 8:00pm Monday to Friday, and 10:00am to 4:00pm on Saturdays.

For more information about the Family Court of Western Australia, including access to the legislation, forms or publications listed in this brochure:

- go to www.familycourt.wa.gov.au
- call 08 9224 8222 or 1800 199 228; or
- visit the Family Court of Western Australia registry.

Who else can help?

- **Legal Aid WA**
www.legalaid.wa.gov.au
1300 650 579
- **Community Legal Centres Association of Western Australia**
www.communitylaw.net
08 9221 9322
- **Law Society of Western Australia**
www.lawsocietywa.asn.au
08 9322 7877
- **Aboriginal Legal Service of Western Australia Family Law Unit**
www.als.org.au
08 9265 6666 or 1800 019 900
- **Law Council of Australia – Family Law Section**
www.familylawsection.org.au
02 6246 3788

This brochure provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Family Court cannot provide legal advice. The Family Court of WA respects your right to privacy and the security of your information.
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