



Children's Court of Western Australia

Practice Direction 4 of 2022

Application for a witness summons

1. Application of Practice Direction

- 1.1 This Practice Direction applies to an application for a witness summons in all Children's Courts in Western Australia.
- 1.2 Practice Direction 2 of 2014 is revoked on 16 October 2022.
- 1.3 This Practice Direction has effect from 17 October 2022.

2. Application for a witness summons

- 2.1 An application for a witness summons is to be made in the approved form – Form 46 for civil matters, and Form 9 for criminal matters.
- 2.2 The application must be accompanied by a draft witness summons in the approved form:
 - (a) in the case of an application to give oral evidence – Form 47 in civil matters, and Form 10 in criminal matters; and
 - (b) in the case of an application to produce a record or thing – Form 48 in civil matters, and Form 11 in criminal matters.
- 2.3 An application will be dealt with by a magistrate or registrar in chambers.
- 2.4 When dealing with the application, the magistrate or registrar may:
 - (a) approve the application, in whole or in part;

- (b) reject the application, in whole or in part; or
- (c) refer the application to a hearing for further consideration.

2.5 In dealing with the application, the magistrate or registrar may seek further information from the applicant.

3. Self-represented litigant

For civil matters, an application by a self-represented litigant should be accompanied by a covering letter explaining the relevance of the evidence sought, though this requirement may be dispensed with by the Court.

4. Return of summons hearing

4.1 Where the application is for a summons (oral evidence or production) returnable at a trial:

- (a) the application should be lodged at least 21 days prior to the commencement of trial; and
- (b) if the applicant proposes a shorter period, the application is to be accompanied by a covering letter explaining the reasons why.

4.2 Where the application is for a summons (production) returnable prior to trial:

- (a) the Court will allocate a return date which, in the usual course, will be the first available return of summons hearing being not less than 21 days from the date of lodgment; and
- (b) if the applicant proposes a shorter period, the application is to be accompanied by a covering letter explaining the reasons why.

4.3 The applicant is to provide a copy of the summons and the return of summons hearing notice to the other parties to the proceedings as soon as practicable after serving the summons on the witness.

- 4.4 A return of summons hearing may be presided over by a registrar or magistrate.
- 4.5 At a return of summons hearing, the Court may:
- (a) deal with any objections in relation to the summons;
 - (b) make directions in relation to the inspection and copying of any records or things produced under a summons; and
 - (c) where a return of summons hearing is presided over by a registrar, adjourn the matter to a hearing before a magistrate.
- 4.6 A decision by a registrar may be appealed to a magistrate within 21 days of the date of the decision.
- 4.7 A regional Children's Court may modify the lodging times and court listing requirements in paragraph 4 to allow for local circumstances.



Judge Hylton Quail

President

Children's Court of Western Australia

5 October 2022