



SUPREME COURT OF WESTERN AUSTRALIA

NOTICE TO PRACTITIONERS - AMENDMENTS TO THE CONSOLIDATED PRACTICE DIRECTIONS

Costs disclosure for strategic conferences and mediations

The Court has amended the practice directions which relate to strategic conferences and mediations, following consultation with the profession.

The usual orders for strategic conferences have been amended to require that the costs memorandum which is filed with the Court is also served on the other party or parties to the proceeding (PD 4.1.2.2 par 10B). Access to the costs memorandum is restricted to the Court and parties to the proceeding (PD 4.1.2.2 par 10C). The amendments facilitate open disclosure between the parties of their communications with the Court, as is favourable in the context of litigation.

The usual orders for mediation conferences have been amended to require that the memorandum of costs which is provided by solicitors to their clients (PD 4.1.2.2 par 24) is also provided to the mediator (PD 4.1.2.2 par 24A; PD 4.2.1 par 11(da)). The mediator may subsequently make a direction that the parties provide a copy of the memorandum to the other parties (PD 4.2.1 par 15A). The memorandum is to be provided on a confidential basis, not to be placed on the court file, and at the conclusion of the mediation is to be kept confidential or returned to the solicitors for each party (PD 4.1.2.2 par 24A; PD 4.2.1 pars 11(da) and 15A).

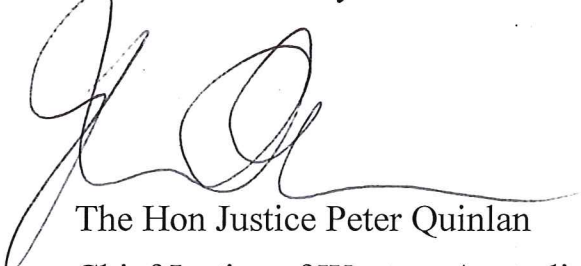
These amendments will allow the Court to openly comment on the value, importance and complexity of the subject matter and the financial position of each party. Transparency as to costs may assist the parties to put the cost of proceedings into perspective and encourage them to settle their dispute.

Remote appearances in hearings in civil matters

Practice Directions 1.2.6 and 4.1.2 have been amended to:

- confirm that telephone hearings are preferable to video conferences for directions hearings and CMC lists;
- incorporate a requirement that a direct telephone contact number for counsel is provided to the Court prior to audio conferences; and
- confirm that it is a matter of judicial discretion as to whether or not remote appearance by counsel is permitted in hearings involving substantive argument (either interlocutory or final hearings). Counsel seeking to appear remotely should make a request directly to the judicial officer concerned, rather than filing a consent order between the parties agreeing to remote appearance(s).

Dated 23 February 2021.



The Hon Justice Peter Quinlan
Chief Justice of Western Australia