

Magistrates Courts

Practice Direction No. 16 of 2010

Referral to Alternative Dispute Resolution or Directions Conferences

1. This Practice Direction:
 - (a) is intended to signal the Court's intention to ensure that civil litigation is conducted in a manner consistent with the philosophy of the Uniform Civil Procedure Rules 1999 as set out in Rule 5, namely "to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense";
 - (b) repeals Magistrates Court Practice Directions 1/2000 and 1/2002;
 - (c) does not apply to civil litigation brought under the *Workers' Compensation and Rehabilitation Act 2003*, the *Personal Injuries Proceedings Act 2002*, the *Motor Accidents Insurance Act 1994* and the *Civil Liability Act 2003*.
 2. Legal representatives of parties and unrepresented parties prior to requesting a trial date, are encouraged to engage in one or more of the following:
 - (a) negotiations in a genuine attempt to resolve disputes (settlement negotiations); or
 - (b) alternative dispute resolution (ADR) using (where available) the services of the Dispute Resolution Centre or other services that may be available in a location convenient to the parties and which involves no or minimum costs to the parties; or
 - (c) any other ADR processes that the parties may consider appropriate.
 3. In completing a Form 48 (Request for Trial Date), legal representatives and unrepresented parties must:
 - (a) indicate whether they have engaged in ADR or settlement negotiations, stating which;
 - (b) if they have not engaged in ADR or settlement negotiations, set out the reasons; and
 - (c) give a realistic estimate of the length of the trial.
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4. Where the estimated length of trial is two days or more, the matter will be referred to a Magistrate who may refer the parties to ADR, whether or not there have been previous attempts at resolution (UCPR Rule 319).
5. Where the estimated length of trial is less than two days, a registrar may refer the matter to a Magistrate for consideration for a referral for an ADR process.
6. Under Rule 319, parties may object to a referral to an ADR process.
7. Whether or not the parties have engaged in an ADR process, either voluntarily or pursuant to a referral under Rule 319, where the matter has not resolved, parties will ordinarily be directed to attend a Directions Conference to be conducted under Rule 523 before a trial date will be allocated.
8. This Practice Direction does not preclude a Registrar, at any time, referring a matter to a Magistrate with a view to a Directions Conference being conducted prior to a request for trial date being filed.



Judge Brendan Butler AM SC
Chief Magistrate
1 November 2010