

## **DIRECTIONS CONFERENCE GUIDELINES**

A directions conference with a Judge will generally be scheduled once the pleadings have been filed.

The purpose of the directions conference is to deal with procedural issues, including timetabling, so that the substantive hearing can proceed as soon as practicable.

The Judge will expect you to be familiar with the case and to be in a position to address each of the matters listed below, as appropriate. That means that it is important that you prepare adequately for the conference and obtain any necessary instructions from your client in advance of it.

### **Matters likely to be covered at the conference:**

- a. What are the key issues in the case?
- b. Would attendance at further mediation be helpful (if not precluded by statute)?<sup>1</sup> If not, why not? Is a judicial settlement conference sought? If so, why?
- c. Are there any outstanding matters that need to be dealt with (including in relation to disclosure) or is the case ready to be set down for a hearing?
- d. If there are any outstanding matters, what are they and what timetabling orders might be required to deal with them?
- e. If a non-de novo challenge, what directions might appropriately be made in relation to the nature and extent of the hearing?<sup>2</sup>
- f. Who are the potential witnesses? Will any witness need to be summonsed? Will expert evidence be required? If so what directions might be appropriate in relation to the way in which their evidence will be given? Will there be an application for any witnesses to give evidence by audio-visual link?
- g. The likely hearing time required, both for the evidence and submissions.
- h. Would hearing management be helpful?<sup>3</sup>
- i. The order in which the parties will present their cases, having regard to the nature of the proceedings.<sup>4</sup>
- j. Preferred venue. Note that setting down cases outside the main Court centres

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<sup>1</sup> Refer s 188 Employment Relations Act 2000; note that s 188A prohibits mediation for applications under ss 142B, 142E, 142J & 142M.

<sup>2</sup> Refer s 182(3)(b); refer also Employment Court Regulations 2000, reg 21(5).

<sup>3</sup> Refer regs 56–60, Employment Court Regulations 2000.

<sup>4</sup> Refer reg 22, Employment Court Regulations 2000.

(Auckland and Wellington) is dependent on courtroom availability in other Courts.

- k. Possible dates for hearing. What dates are you, your client and the proposed witnesses likely to be unavailable over the next six months?
- l. Timeframes for filing and exchanging witness briefs. If a witness is to be summonsed and is not expected to provide a witness brief, the timeframe to file and serve on the other party a summary of the evidence that the party calling the summonsed witness expects the witness to give (a “will say” statement).
- m. The timeframe for filing, and the primary responsibility for preparing a bundle of documents.
- n. What is the appropriate costs categorisation for the case?<sup>5</sup>

**Notes:**

- Parties are encouraged to discuss matters in advance of the directions conference in an effort to identify and resolve any outstanding interlocutory issues. A Judge may decide that a conference is unnecessary if a joint memorandum dealing with the above matters is filed in advance. If so, the Registrar will advise you of the position and of any directions that the Judge has made.
- If the parties are unable to reach agreement on these matters, separate memoranda should be filed and served.
- These documents should preferably be filed 2 working days before the scheduled conference.
- The minute issued after the directions conference is the official record of the directions made. This reflects the purpose of directions conferences, which is procedural. The Judge will make his or her own notes of a directions conference and, at the Judge’s discretion, may choose to augment those notes by audio recording some or all of the conference. The Judge’s notes (including any audio recording) are generally not provided to parties.

You may find the following information (which can be found on the Employment Court webpage) useful when preparing for the conference:

[Employment Relations Act 2000](#)

[Employment Court Regulations 2000](#)

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<sup>5</sup> Practice Direction: Costs – Guideline Scale "[Employment Court of New Zealand Practice Directions](#)" at No 16.

[Interlocutory applications](#)

[Disclosure](#)

[Briefs of evidence and the common bundle](#)

[Mediation and judicial settlement conferences](#)

[Employment Court Practice Directions:](#)

Costs – Guideline Scale (Practice direction No 16).