

References for court



If you are going to plead guilty to an offence or may be found guilty of an offence you should prepare for this before going to court. This information will tell you about organising references for court, also called character references, before your next court appearance.

You may not need to do all the things listed below. If you are unsure get legal advice.

Character references

When will a character reference be useful?

A character reference helps to show that people in your daily life think highly of you. It can help show that you are a person of good character or show that what you have done is out of character.

- Character references are generally used at the sentencing stage – that is, after you have pleaded guilty or have been found guilty of an offence.
- At sentencing, a character reference can help the magistrate decide what sort of penalty to give you.
- Character references can also be useful where you are trying to get a specific result. An example could be when you want to ask for a Spent Conviction Order (see below).

If you have pleaded not guilty and are having a trial, a character reference will not help to convince the magistrate that you are innocent or that your evidence should be believed. You should get legal advice before you decide to call character witnesses at a trial. Sometimes this can be unwise. If you decide to call this evidence, the character witness must come to court and give their evidence in person.

Who should write my character reference?

Good character referees might include:

- long-time family friends

- former teachers
- past or present employers
- people of special standing in the community
- your family doctor or local priest
- neighbours
- officials of sporting or social clubs you have belonged to.

In some circumstances a letter from a family member can also be very helpful. That person must know about the trouble you have been in. They should be able to discuss the difficulties you and possibly others in the family are facing. A family member may also be able to point to something that gives hope about your future, and about your potential to stay out of trouble.

What format should the character reference be written in?

Where possible the reference should be typed and on A4 paper. A neat handwritten reference is acceptable if you do not have access to a computer or typewriter.

Unless there are exceptional circumstances, the reference should not be longer than one page.

The reference should be dated, signed and addressed to “The Presiding Magistrate” or “The Presiding Judge” if the charge is being dealt with in the District or Supreme Court.

What should my character reference say?

Where possible the character reference should:

- be written recently
- be written specifically for your court appearance and should be dated. A reference written for another purpose (such as a job application) is not as useful
- state that the writer is aware of the charge(s) before the court
- state why the writer thinks you are a person of good character or why they believe that your behaviour in committing the offence was out of character for you.

It is a serious criminal offence for a referee to mislead the court or for you to encourage them to mislead the court.

The character reference should not:

- try to discuss legal matters
- state that you did not commit the offence
- give an opinion about whether you intended to commit the offence
- suggest what specific penalty you should receive.

What if I want a Spent Conviction Order?

Spent conviction orders can be hard to obtain. They will usually only be granted for certain types of offences, where you have no record. There must be good reasons for not recording a criminal conviction. You should get legal advice to find out whether you have a chance of getting a spent conviction order.

A character reference in support of a spent conviction order should follow all of the points set out above and should also address:

- whether the writer considers that you are unlikely to commit such an offence again
- the specific reasons why a conviction should not be recorded against you.

Do I need a reference from my doctor?

If you are now under medical care or were under medical care at the time of the offence, a letter from your doctor may help the court when considering the appropriate penalty (sentence) for you.

Where possible the letter should:

- be dated and state that the doctor is aware of the charges before the court
- state how long the doctor has known you and/or been treating you
- specify what your medical condition is
- set out your prescribed medication, if any
- address any other matters that your doctor thinks are relevant.

Do I need a reference from my counsellor?

If you are already on a formal court program with the Court Diversion Service or you are on a Community Based Order or an Intensive Supervision Order, a report will usually be presented to the court (either orally or in writing) before you are sentenced.

If you are having any other type of counselling (eg for drug or alcohol abuse, physical abuse, gambling etc) or are on any other sort of program (eg the Methadone program, the Naltrexone program, residential rehabilitation etc) it will be useful for the magistrate to be aware of this.

Where possible, you should bring a letter to court from your counsellor which:

- is dated and states that your counsellor is aware of the charges before the court
- states why you are receiving counselling and how long you have been attending
- states how you are responding to counselling and whether, in their view, you should continue with counselling
- lists any future appointments which you may have with the counsellor.

Do I need a reference from my employer?

It can be useful to bring a letter from your employer saying you are employed. If your employer can also write a character reference this can all be done in one letter.

A letter from your employer that does not refer to the court matters is less useful. However, it is still worth getting as it will show that you actually have a job. Make sure that the letter is dated.

What references do I need if I have a disability?

Mental Illness

If you have a mental illness you should get legal advice about your charges **before** you plead guilty. You may have a medical defence as a result of your mental illness.

It is **very important** that the court knows about your mental illness before you are sentenced. If you are currently seeing a psychiatrist or a psychologist try and bring a letter to court confirming this. If you cannot get a letter make sure that you tell the magistrate before you are sentenced that you are seeing a psychiatrist or a psychologist.

If you can't get a letter from your psychiatrist or psychologist some other person (such as a family member, a close family friend or a counsellor) may be able to write to the court. They should tell the court about the nature and history of your mental illness.

Intellectual Disability

If you have an intellectual disability you should get legal advice **before** you plead guilty. You may have a medical defence as a result of your disability.

It is **very important** that the court knows about your intellectual disability before you are sentenced. If possible you should bring a letter to court about your disability. Your doctor, counsellor, a family member or any other responsible person may write the letter. They should know about your disability and background.

Where can I get more information?

Court registry contact details

- Perth Magistrates Court
Central Law Courts
501 Hay Street
PERTH WA 6000
Tel: 9425 2222
Fax: 9425 2777
www.magistratescourt.wa.gov.au
- Perth District Court
500 Hay Street
PERTH WA 6000
Tel: 9425 2345
Fax: 9425 2268
www.districtcourt.wa.gov.au
- Perth Supreme Court
Stirling Gardens
Barrack Street
PERTH WA 6000
Tel: 9421 5333
Fax: 9221 4436
www.supremecourt.wa.gov.au
- Perth Children's Court
160 Pier Street
PERTH WA 6000
Tel: 9218 0100
Fax: 9221 1705
www.childrenscourt.wa.gov.au

Legal Aid WA

Go to Legal Aid WA's website at www.legalaid.wa.gov.au under Information about the Law for information about:

- Appearing in court on a criminal charge
- Duty Lawyer Service
- References for court

Other Legal Aid WA information sheets

- Spent Conviction Order at Time of Sentence

Legal Aid WA Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)
Infoline open Monday to Friday 9.00 am to 4.00 pm
(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450
National Relay Service (for hearing and speech impaired) 133 677

www.legalaid.wa.gov.au

Perth Office

32 St Georges Terrace, Perth, WA 6000
1300 650 579
(08) 9261 6222

Southwest Regional Office

7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230
(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330
(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430
(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530
(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722
(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725
(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743
(08) 9166 5800

Indian Ocean Office

Administration Building, 20 Jalan Pantai
Christmas Island, Indian Ocean, WA 6798
(08) 9164 7529

This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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