

24 March 2015

Mr Shane Melville  
Principal Registrar  
District Court of Western Australia  
500 Hay Street  
PERTH WA 6000

Dear Principal Registrar

### **BUNDLES OF TRIAL MATERIALS**

Thank you for your letter dated 27 February 2015.

It is noted that although the District Court has no rules about bundles of trial materials, there is a Circular to Practitioners 'CIV 2007/6' which suggests that the court policy is for the Registrar at the listing conference "*in most cases*" to order such bundles.

It is the experience of The Law Society of Western Australia's members that such orders are not usually made and that when they are, they may not be in accordance with the trial judge's preference.

The Society considers that the arguments for such orders are strongest when there are orders for witness statements and/or the trial is expected to exceed four days. It also may be thought that books of medical reports in personal injuries matters are a special case.

The benefits of trial bundles that the Society perceives are:

1. If the orders are made appropriately, debates on admissibility of documents will usually occur prior to the trial.
2. Access to an identical set of documents by the judge, counsel and witnesses can allow the trial to run more smoothly.
3. Preparing witness statements is simplified if there can be references to documents by way of a page number in a single volume of documents.

Detriments which the Society perceives are:

1. Preparation of such bundles, particularly if they must be agreed between all the parties, can be very time-consuming and costly and should be ordered only once it is clear that the trial can proceed.
2. If parties prepare individual bundles, there is likely to be duplication of documents.

3. Unless there is rigorous checking, judges can at the conclusion of a hearing be in possession of, and rely on, documents which have not, in fact, ever been tendered in evidence.

The Society is not opposed to the practice of ordering trial bundles but believes that there should be no automatic requirement (except possibly in the case of medical reports in personal injuries actions); orders should be made on a 'case by case' basis.

In cases which are expected to last for more than four days, the Society would propose that the trial judge be allocated at least one month in advance of the trial date and any orders about trial bundles be made by that judge according to that judge's preferences.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Keogh', written in a cursive style.

**Matthew Keogh**  
**President**