FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

Marriage, families and separation

This brochure provides information for people considering, or affected by separation or divorce.

It includes information about:

- the social and legal effects of separation
- the services provided to families by the Federal Circuit and Family Court of Australia (The Court) and by government, community and other agencies, and
- some of the steps involved in court proceedings.

Separation

Separation can be an upsetting experience for everyone involved. It is understandable that you may feel stressed at this time. It is important for you and your children that you have the appropriate support to help you through this difficult time.

When you separate, you and your former partner may need to make important decisions about the future care of your children and how to divide your property, money and belongings. Working through these issues is often difficult and emotionally challenging.

Separation can also be a stressful time for your children. They may experience a range of emotions that are difficult for them to deal with and talk about with you. They may also behave in ways that are unusual for them. There are services in the community that can help:

- you and your partner work through any problems in your relationship
- you and your children adjust to separation or divorce
- you and your former partner reach an agreement, and
- you and your family adjust to and comply with court orders.

To find a community service near you:

- Go to www.familyrelationships.gov.au
- or call 1800 050 321

Legal advice

If you are considering separation or have separated, you should seek legal advice. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. A lawyer can also explain and help you reach an agreement with your former partner without going to court. You can get legal advice from a:

- legal aid office
- community legal centre, or
- private law firm.

Court staff can help you with questions about court forms and court processes, but cannot give you legal advice.

Personal safety

If you have any concerns about your safety while attending court, please call 1300 352 000 before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place. By law, people must inform the Court if there is an existing or pending family violence order involving themselves or their children. More detail may be found in the fact sheet Do you have fears for your safety when attending court?

Family violence

If you are in danger you should call 000 immediately (Australian emergency number).

NATIONAL		
National Domestic Violence Hotline	1800 799 7233	www.thehotline.org
1800 RESPECT	1800 737 732	www.1800respect.org.au
Mensline	1300 789 978	www.mensline.org.au
Men's Referral Service	1300 766 491	www.ntvmrs.org.au
Lifeline	13 11 14	www.lifeline.org.au
Family Violence Law Help		www.familyviolencelaw.gov.au

See the Court's website for more information on family violence support and contact and referral information.

Non-court based family services

People considering separation or divorce, and those affected by it, are encouraged to use services in the community to help resolve issues.

Community-based services that can help you and your family include:

FAMILY COUNSELLING – a process in which a family counsellor helps people deal with personal and interpersonal issues relating to families, relationships, marriage, separation and divorce.

FAMILY DISPUTE RESOLUTION – a process in which a family dispute resolution (FDR) practitioner, independent of all the parties, helps people resolve some or all of their disputes with each other during and after separation and divorce. To obtain a list of FDR services, go to www.familyrelationships.gov.au

ARBITRATION – a process in which parties to a dispute present arguments and evidence to an arbitrator, who makes a determination to resolve the dispute. You can get a list of arbitrators from the Australian Institute of Family Law Arbitrators and Mediators (AIFLAM). Go to www.aiflam.org.au or call 1300 511 916.

If there is a history of family violence, it may not be appropriate to attend the services listed above. Speak to court staff about your options and the support services that are available.

Confidentiality in non-court based family services

Generally, what is said during family counselling and family dispute resolution is confidential and cannot be used in court later. There are exceptions; for instance:

- where there is a legal requirement to report a suspicion or risk of child abuse and violence or threats of violence, and
- the Court may order that a family counsellor or family dispute resolution practitioner give evidence of an admission or disclosure of abuse made during a session.

NOTE: Meetings, discussions or exchanges with arbitrators are not confidential, and may be used in court.

Reaching an agreement

What are the advantages?

Reaching an agreement with your former partner can offer many advantages, such as:

- you make your own decisions
- you greatly reduce the financial and emotional costs of legal proceedings
- your continuing relationship as parents, if you have children, is likely to work better
- you are able to move forward and make a new life for yourself, and
- you may improve communication with your former partner and be better able to resolve disputes in the future.

Parenting plans

A parenting plan is a written agreement that sets out parenting arrangements for children.

Because it is worked out and agreed jointly, you and your former partner do not need to go to court. Unless the Court orders otherwise, you and your former partner can agree to change a parenting order (made on or after 1 July 2006) by entering into a parenting plan. A parenting plan is not legally enforceable. It is different from a parenting order, which is made by the Court. For more information about parenting plans and how they work, speak to staff at a community-based service and/or seek legal advice.

Consent orders

A consent order is a written agreement that is approved by the Court. A consent order can cover parenting arrangements for children as well as financial arrangements such as property and spouse or de facto maintenance.

Consent orders have the same legal force as if they had been made by a judicial officer after a court hearing.

You and your former partner can apply for consent orders to be made without going to court. For more information visit www.fcfcoa.gov.au

Going to court

If you cannot reach an agreement, you may consider applying to the Court for orders. Going to court is often a stressful time for many people. It can also be expensive and time consuming. However, sometimes it may be the only way to deal with a dispute.

Even when a court application is filed, it is possible to reach an agreement, at any stage, without the need for a court hearing. In fact, a judicial officer is needed to make a final decision in only a very small percentage of cases started in court.

Compulsory Family Dispute Resolution

Before you apply to the Court for a parenting order, including those seeking changes to an existing parenting order, you need to attend FDR and obtain a certificate from a registered FDR provider.

There are some exceptions to this requirement, such as cases involving family violence, child abuse, or urgency. For more information about these exceptions, see the fact sheet Compulsory Family Dispute Resolution – court procedures and requirements.
For more information about FDR and how to locate a registered FDR provider, go to www.familyrelationships.gov.au or call the Family Relationship Advice Line on 1800 050 321.

NOTE: If you are required to provide a certificate and you fail to do so, the Court cannot accept your application.

Pre-action procedures

Parties intending to apply for parenting and/or financial orders in the Court must follow pre-action procedures, which include attending dispute resolution, before filing an application. You can seek an exemption from the Court from complying with the pre-action procedures in certain circumstances.

The aim of the pre-action procedures is to explore areas of resolution and where a dispute cannot be resolved, to narrow the issues which require a court decision.

You will need to file a Genuine Steps Certificate with your application to the Court which confirms you have complied with the pre-action procedures, or if you have not complied, what exemption you are seeking to rely on. For more information about applying for parenting or financial orders in the Court, see the brochures Before you file – pre-action procedure for financial cases, and Before you file – pre-action procedure for parenting cases.

NOTE: the Court may not accept your application if you do not file a Genuine Steps Certificate with your application. Steps involved in court proceedings

1. Pre-action procedures
2. Court application filed
3. First court appointment or hearing
4. Court Children's Service (see below)
5. Dispute resolution
6. Preparation for final trial or hearing*
7. Final trial or hearing

* may include additional court appointments or hearings.
Agreement may be reached at any stage, with consent orders made and the case finalised.

Different steps may apply in some cases. You can get more information about particular court appointments and hearings from

- www.fcfcoa.gov.au
- live chat on the website
- by calling 1300 352 000
- or at your nearest court registry.

Live Chat

Commonwealth Courts Portal

Commonwealth Courts Portal

Applications for divorce (and separation accompanying documents) must be electronically filed through the Commonwealth Courts Portal at www.comcourts.gov.au.

For more information and step-by-step guides see Divorce at www.fcfcoa.gov.au/howdoi

Court Children's Service

The Court Children's Service is run by psychologists and social workers who specialise in child and family issues after separation and divorce. They can assist you and the Court in many ways, such as:

- helping you and the other party to resolve your dispute
- conducting assessments and providing reports about your family, and
- providing advice about external support services.

For more information, see the fact sheet Court Children's Service.

Children at court

Generally, courts are not an appropriate place for children. You should make other arrangements for their care when you come to court.

Sometimes, children will need to attend court as part of an assessment being conducted by the Court Children's Service or to speak with a lawyer. If this is your situation, you should check with court staff if any child care arrangements need to be made for the day.

Help in other languages

If you need to contact the Court, call the Translating and Interpreting Service on 13 14 50. This is a free service.

If you need an interpreter to assist you at court, please contact the Court at least one week before your court appointment or hearing to discuss whether one can be arranged for you.

NOTE: interpreters cannot be arranged by the Court for divorce hearings. Please arrange for a family member, friend or support person to assist you at your divorce hearing.

Compliance with court orders

When an order is made, each person bound by the order must follow it. Once finalised, orders are available online through the Commonwealth Courts Portal. For more information about accessing orders (including divorce orders), see Access orders at www.fcfcoa.gov.au/howdoi

If the order is not complied with, you may file a court application. The Court can make an order to enforce an existing order. The Court may also make an order that discharges, varies or suspends the order or renews some or all of an earlier order, or adjourn the case to allow a person to apply for a further order that alters the existing order.
If the Court finds a person has breached (contravened) a parenting order, it may impose a range of penalties. For more information about this, see the fact sheet Compliance with parenting orders.

Family violence support

In an EMERGENCY dial 000

1800 Respect

- https://1800respect.org.au
- 1800 737 732

A list of state and territory based family violence services is available at www.fcfcoa.gov.au/fv/help

Family Violence Law Help

The Family Violence Law Help website provides information about domestic and family violence and the law in Australia.

https://familyviolencelaw.gov.au/get-help

Other help available

Family Relationships Advice Line The Family Relationship Advice Line is a national telephone service that helps families affected by relationship or separation issues, including information on parenting arrangements after separation. It can also refer callers to local services that provide assistance.

- 1800 050 321
- https://www.fral.org.au

Family Relationship Centres

Family Relationship Centres:

- provide information to help strengthen family relationships
- help families access other services, and
- provide confidential assistance for separating families; for instance, family dispute resolution.

For more information about Family Relationship Centres or to find a centre near you go to

- www.familyrelationships.gov.au or
- call 1800 050 321.

Family Advocacy and Support Service

Each Australian state and territory has a Family Advocacy and Support Service (FASS).

FASS provides free legal advice and support at court for people affected by domestic and family violence.

If you are worried about your safety at court or about going to court, please talk to your local FASS before your court date.

- https://familyviolencelaw.gov.au/fass

Services Australia

Child Support Services Australia administers the Australian Government's Child Support Scheme and helps parents take responsibility for the financial support of their children after separation.

There is a Parent's guide to Child Support available on the website: www.servicesaustralia.gov.au

Centrelink

Centrelink can help with:

- financial assistance
- child care costs, and
- finding a job. If you already receive a payment from Centrelink, you should contact them to advise of any changes to your circumstances to ensure you receive your correct entitlement.

Centrelink has information about payments for families on the website:

- www.servicesaustralia.gov.au or
- call 136 150

Attorney-General's Department

The Attorney-General's Department provides information for families and couples including resources to help you manage a family dispute.

Australia's family law system helps people resolve the legal aspects of family relationship issues, including family relationship breakdown. It encourages people to agree on arrangements without going to court. Go to the Families area of the website www.ag.gov.au

Court registries

For more information about the Court:

- go to www.fcfcoa.gov.au
- live chat on the website
- call 1300 352 000, or
- visit a court registry near you.

Live Chat

AUSTRALIAN CAPITAL TERRITORY	
Canberra	Cnr University Ave and Childers Streets Canberra ACT 2600
NEW SOUTH WALES	
Albury	Level 1, 463 Kiewa Street Albury NSW 2640
Dubbo	Cnr Macquarie and Wingewarra Streets Dubbo NSW 2830
Lismore	Level 2, 29–31 Molesworth Street Lismore NSW 2300
Newcastle	61 Bolton Street Newcastle NSW 2300
Parramatta	1–3 George Street Parramatta NSW 2150
Sydney	97–99 Goulburn Street Sydney NSW 2000
Wollongong	Level 1, 43 Burelli Street Wollongong NSW 2500
NORTHERN TERRITORY	
Darwin	Supreme Court Building, State Square Darwin NT 0800
QUEENSLAND	
Brisbane	119 North Quay Brisbane Qld 4000
Cairns	Level 3 and 4, 104 Grafton Streets Cairns Qld 4870
Rockhampton	48 East Street Rockhampton Qld 4700
Townsville	Level 2, Commonwealth Centre, 143 Walker Street Townsville Qld 4810
SOUTH AUSTRALIA	
Adelaide	3 Angas Street Adelaide SA 5000
TASMANIA	
Hobart	39–41 Davey Street Hobart Tas 7000
Launceston	Level 3, ANZ Building, Cnr Brisbane and George Streets Launceston Tas 7250
VICTORIA	
Dandenong	53–55 Robinson Street Dandenong Vic 3175
Melbourne	305 William Street Melbourne Vic 3000
WESTERN AUSTRALIA	
Perth	For family law enquiries in Western Australia, contact the Family Court of Western Australia: • www.familycourt.wa.gov.au • 150 Terrace Rd Perth WA 6000 • 08 9224 8222

Who else can help?

Legal Aid

For a list of legal aid offices in your state or territory visit:

- www.nationallegalaid.org/for-individuals

Community Legal Centres

For a list of community legal centres in your state or territory visit the National Association of Community Legal Centres website:

- https://clcs.org.au/findlegalhelp

Aboriginal and Torres Strait Islander Legal Services

AUSTRALIAN CAPITAL TERRITORY / NEW SOUTH WALES

Aboriginal Legal Service
- https://www.alsnswact.org.au
- 02 8303 6699 (NSW) or 02 6249 8488 (ACT)

NORTHERN TERRITORY

Central Australian Aboriginal Legal Aid Service – Alice Springs
- 08 8950 9300 or 1800 636 079

North Australian Aboriginal Justice Agency – Darwin
- www.naaja.org.au
- 1800 898 251

QUEENSLAND

Aboriginal and Torres Strait Islander Legal Service – Brisbane
- https://www.atsils.org.au
- 07 3025 3888 or 1800 012 255

Aboriginal and Torres Strait Islander Community Legal Services – Townsville
- 07 4722 5111

SOUTH AUSTRALIA

Aboriginal Legal Rights Movement
- www.alrm.org.au
- 1800 643 222

TASMANIA

Tasmanian Aboriginal Community Legal Service (TACLS)
- www.tacls.org.au
- Hobart 03 6281 3456

VICTORIA

Victorian Aboriginal Legal Service
- www.vals.org.au
- 03 9418 5999 or 1800 064 865

WESTERN AUSTRALIA

Aboriginal Legal Services of Western Australia
- www.als.org.au
- 08 9265 6666 or 1800 019 900

Aboriginal Family Legal Service
- www.afls.org.au
- 1800 469 246

The Australian Institute of Family Law Arbitrators and Mediators (AIFLAM)

- www.aiflam.org.au
- 1300 511 916

AUSTRALIAN CAPITAL TERRITORY	NEW SOUTH WALES
• www.actlawsociety.asn.au • 02 6274 0300	• www.lawsociety.com.au • 02 9926 0333
NORTHERN TERRITORY	**QUEENSLAND**
• www.lawsocietynt.asn.au • 08 8981 5104	• www.qls.com.au • 1300 367 757
SOUTH AUSTRALIA	**TASMANIA**
• www.lawsocietysa.asn.au • 08 8229 0200	• www.lst.org.au • 03 6234 4133
VICTORIA (Institute)	**WESTERN AUSTRALIA**
• www.liv.asn.au • 03 9607 931	• www.lawsocietywa.asn.au • 08 9324 8600

This brochure provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Court cannot provide legal advice.

The Court respects your right to privacy and the security of your information.
You can read more about the Court's commitments and legal obligations in the fact sheet, The Court and your privacy. The fact sheet includes details about information
protection under the privacy laws and where privacy laws do not apply.

DISTRIBUTED IN ACCORDANCE WITH PART IIIA OF THE FAMILY LAW ACT 1975.