

# A PLAIN ENGLISH GUIDE TO



## >>FAMILY LAW DISPUTES - GOING TO COURT

### >>Children's Matters

In July 2006 significant changes were made to the Family Law Act 1975 which altered the way courts made decisions about care arrangements for children and other matters relevant to parenting. In 2007, further significant changes were made to the procedure adopted for hearings about children by the Courts administering the Family Law Act.

Except in some circumstances, such as where there is family violence or risk to a child's safety, it is necessary to attend mediation with a Family Dispute Resolution (FDR) Practitioner before an Application about children can be filed. The FDR practitioner will issue a special certificate after parties attend mediation. This certificate must be attached to any Application about children that is filed at Court. Special provisions apply if one party refuses to attend mediation.

Free Family Dispute Mediation is available at Family Relationship Centres, which are operated by the Federal Government. Other private services and practitioners also offer mediation by a Family Dispute Resolution Practitioner, who can issue the certificate needed to commence proceedings.

After filing an Application at the Family Court, the first Court event will be a date before a Registrar to check that each party has filed the necessary documents, and that they have completed the necessary questionnaire required by the Court. The next date in Court is before the Judge or Magistrate who will determine the case. This marks the beginning of the Less Adversarial Trial (LAT) hearing. If you intend for a lawyer to act on your behalf, legal advice should be obtained well in advance of the first date of the LAT.

The Judge listens to both parties (or their lawyers) on that day about what arrangements they each want for their children. A Family Consultant, who is family counsellor employed by the Court, will sit in on the hearing. The Family Consultant will then speak with each of the parties separately and try to help them reach an agreement either on an interim or final basis. These interviews with the Family Consultant are not confidential, and everything said to the Family Consultant may be reported back to the Court.

If it is not possible to reach an agreement, the Judge may then order that a Family Report be prepared by the Family Consultant. These reports are of great assistance to the Court. They provide the Court with independent evidence about the parties and their relationships with the children, and because of this, the recommendations made in a Family Report are given considerable weight by the Court in reaching a decision about parenting arrangements for children. The parties and children and any significant other people are all interviewed as part of the preparation of the report.

After the report is finished the matter will then come before the Judge again. The judicial officer will use the findings of the report and his or her experience in adjudicating family law disputes to decide which aspects of the case need to be explored to help him or her make a decision about the matter. This is done by way of oral questioning and affidavits being prepared.

The Judge will also decide whether subpoenas need to be issued or whether other witnesses should give evidence to help him or her make a decision on what is in the best interests of the children.



A LAT hearing may come before the Court on many occasions before a final decision is reached, or it may be resolved after one or two appearances by the parties. The procedure in the Federal Magistrates Court is different from the Family Court. In the Federal Magistrates Court, the parties and legal representatives indicate to the Court the issues they believe are most important in deciding what is best for the children concerned. Hearings in both Courts focus on the best interest's of the Children.

It can sometimes take more than 12 months from the time an Application is filed in Court to the date that a final decision is made by the Court. An experienced family lawyer can help you through this process, and where, possible, help to resolve the dispute by means other than Court proceedings.

### >>Interpreter Services

Coleman & Greig can provide interpreter services in a range of foreign languages including:

- Arabic
- Assyrian
- Croation
- Samoan

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