



Child Related Proceedings

A new way of working with parents and others

FAMILY COURT OF WESTERN AUSTRALIA

This information sheet will tell you

- What you might expect when you have a case before the Family Court of Western Australia.

The new way in which the Court operates means that your matter will be treated in a more inquisitorial fashion. You may notice that the person hearing your case, who will be a Judge or a Magistrate ('judicial officer'), is especially focused on the children and on what is best for their future.

The judicial officer will take an active role in considering how parents can provide for the future needs of their child. This means the judicial officer will focus on the major issues in dispute and on what is in the child/ren's best interests.

There may be direct discussion between the judicial officer, you and the other parties or witnesses. The judicial officer may also invite you to consider ways in which the dispute may be resolved, or how you can better parent your child/ren, as the matter proceeds. A Family Consultant will be available to assist the Court in determining the best possible outcome for the child/ren.

How do I get before a judicial officer

When you or the other party 'file' an application in the Family Court, you are generally allocated a Case Assessment Conference (*refer to the information sheet called, 'The Case Assessment Conference: The First Court Event in Child Related Proceedings'*).

If your matter does not fully settle at the Case Assessment Conference the Magistrate will make orders determining the direction of your case. Whilst you will be provided with a date for your next court event, you may be required to attend other services in between. If it is determined that no further mediation assistance from the Court would be likely to assist you at this time, your second Court event will be before either a Judge or a Magistrate (judicial officer). From that point on, it will be the same person who determines every aspect of your case.

Whether your case is heard by a Judge or a Magistrate, the same principles of natural justice and procedural fairness shall be applied. Family law provides for the Court to regard the best interests of the child/ren as the paramount consideration.

What is the judicial officer's role

The same judicial officer will hear your case until it is resolved. Some issues may be resolved, with the assistance of the judicial officer, allowing for orders to be made by consent. Other issues can be resolved by decision of the judicial officer. You will have opportunities to speak directly to the judicial officer and this will be the case whether you are represented by a lawyer or not.

Very early, with your help, the judicial officer will determine what your case is about and how to deal with the key issues. The Family Consultant will assist in this process.

What can I expect when I appear before a judicial officer

The judicial officer is likely to:

- Ask the Family Consultant to give an overview of the outcome of the Case Assessment Conference and/or to give a summary of the issues in your family or case situation;
- Talk to you about the child/ren and the issues that are important to you;
- Ask your lawyer to speak, if you are legally represented;
- Talk to the other party about the child/ren and the issues that are important to them;
- Ask their lawyer to speak.

The judicial officer may also have you and the other party sworn in, so that everything said in court is sworn evidence.

You and the other party will be the main sources of evidence, with the judicial officer deciding, in consultation with you and/or your lawyer, who may be called as a witness and on which issues. The judicial officer may reject proposed witnesses if the evidence they can give is not, in his or her view, relevant or of significant importance. Also the judicial officer must approve any witness subpoenas and may direct the issue of a particular subpoena to ensure that proper evidence is before the Court about an important matter. This will be explained to you as the case proceeds.

The judicial officer will decide whether an order will be made for a Family Report, (*refer to the information sheet called, 'Preparing for a Family Report'*). This would be prepared by the Family Consultant allocated to your case and forms an important source of evidence. The report will be limited to the issues identified by the Judge/Magistrate, and will obtain the views of the children if the judicial officer decides this is necessary. The Family Consultant will discuss the outcome of the interviews with you before the report is published.

Once the report is published, the judicial officer will release it to your lawyers if you are represented, or directly to you. You will have time to consider it before the hearing continues. The Family Consultant may be cross examined (or questioned) on the report in the Court at a final hearing.

Depending on the circumstances of your case, the judicial officer may order that Legal Aid Western Australia appoint an Independent Children's Lawyer in your case, to present the child/ren's best interests, and/or a report from a Single Expert may be ordered. This will be dealt with in the same way as a Family Report.

What is a case coordinator

A Case Coordinator is a person within the Court who coordinates the administration of your case. You will be allocated a Case Coordinator at the end of your Case Assessment Hearing and will be provided with their contact details. Should the need arise you have the option of contacting the Case Coordinator between adjournments, for procedural advice.

Can I appeal if I am not happy with the result

Yes, you have the right to appeal any decision made by the Judge/Magistrate.

Further information

For more information, including access to the *Family Law Act 1975*, *Family Court Act 1997*, the Rules of the Courts and any of the forms or publications listed in this information sheet:

- ❑ go to www.familycourt.wa.gov.au
- ❑ call **08 9224 8222** or **1800 199 228**; or

□ visit the Family Court of Western Australia registry.

V2- 010706