



# Domestic Violence NSW

## SELF REPRESENTED LITIGANTS IN THE FAMILY LAW COURTS

FACTSHEET AND INFORMATION FOR YOU

August 2015

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# GOING TO FAMILY COURT

The Family Law Courts deal with issues such as divorce, separation, where and with whom children shall live and spend time, and the division of property following the end of a relationship. If you have a problem relating to these issues you may be able to resolve your matter through negotiation or mediation. Alternatively you can go to court either with a lawyer or you can represent yourself.

This factsheet provides general information that may help you identify:

- whether you have a family law issue that can be resolved in the Family Law Courts;
- what to expect in court;
- court processes;
- how to arrange access to court if you have a disability or if you are classified as a person under a legal incapacity; and
- where to get further help.

## CAN THE FAMILY LAW COURTS HELP ME?

The Family Law Courts generally provide you with 3 types of orders: Financial, Parenting and Divorce

### FINANCIAL

The court can make financial orders to divide the assets of you and your ex-partner following the end of your relationship. The court can also make orders that relate to the financial up-keep of you, your ex-partner or your child. The court looks at each party's financial position, what you contributed to the relationship (both financially and otherwise) and your future needs.

### PARENTING

The court can make orders about who your child will live with, who your child can spend time with or communicate with and who is able to make decisions about your child. These are called parenting orders. The court focuses on your child's best interests and this includes your child maintaining a meaningful relationship with both parents, unless there is a risk of harm to the child by doing so.

### DIVORCE

The court can grant a divorce if there has been an irretrievable breakdown of the marriage, which is demonstrated by 12 months of separation. If you have been married for less than two years you may have to attend counselling with a family counsellor before the court will grant a divorce. Australia has "no fault divorce". This means that the court does not consider who was at fault in the divorce or during the relationship.

## THE FAMILY LAW COURT SYSTEM

The Family Law Court system in NSW is split into two courts, the Family Court of Australia (**Family Court**) and the Federal Circuit Court of Australia (**FCC**).

Most cases will be heard by the FCC, except for more serious cases, which are heard by the Family Court.



# ABOUT THE FAMILY LAW COURTS

Matters heard in the FCC have a greater chance of being decided quickly.

The Family Court specifically hears cases relating to:

- 1 Complicated or lengthy parenting and financial matters;
- 2 International Child Abduction;
- 3 International Relocation;
- 4 Special medical procedures (such as gender reassignment and sterilisation);
- 5 Serious allegations of sexual or physical abuse of a child or serious controlling family violence, such as those cases in the Magellan Program. More information on the Magellan Program can be found on the next page;
- 6 Adoption; and
- 7 Marriage annulment.

If your matter fits into one of the categories listed above, you should file your claim in the Family Court rather than the FCC. Filing an application in the wrong court could result in the case being transferred that may cost extra time and money.

You may prefer to seek legal advice before choosing in which court to file your application.

## WHERE ARE THE FAMILY LAW COURTS?

**The Family Law Courts have a number of locations in NSW where cases can be filed or heard.**

**Filing Services:** This means you can file your claim at this location.

**Registrar Services:** This means that a registrar or family consultant may be able to deal with simple

matters relating to your case at this location.

**Hearing:** This means that a judge will hear your case and make a decision in relation to the orders you are seeking at this location.

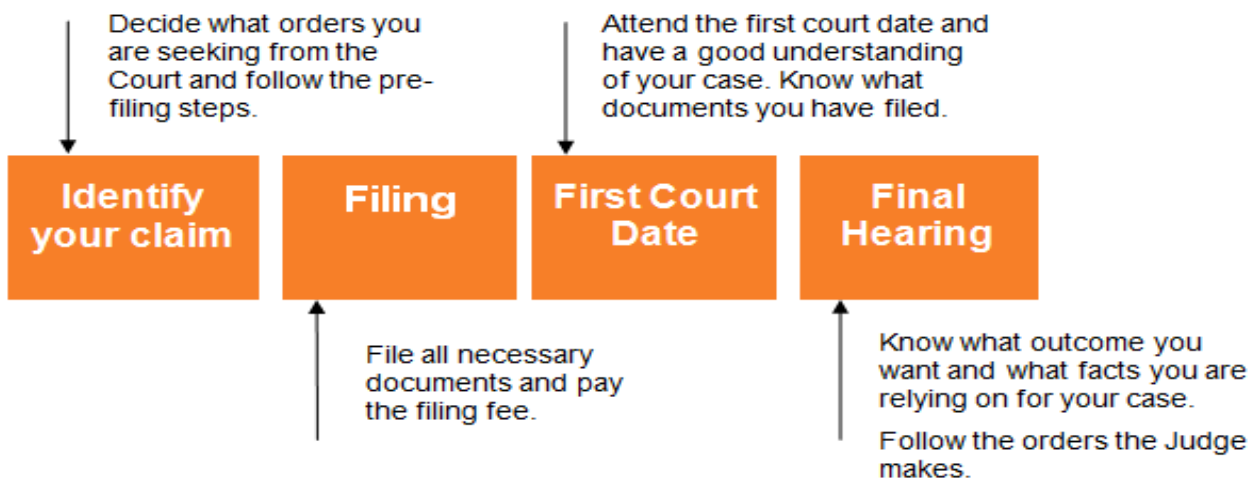
Location	Filing Services	Registrar Services	Hearings
Albury (FCC)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dubbo (FCC)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lismore (FCC)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Newcastle (Family Court and FCC)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Parramatta (Family Court and FCC)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sydney (Family Court and FCC)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Wollongong (FCC)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New England (FCC)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Wauchope (FCC)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Coffs Harbour (FCC)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

There are other locations where matters can be heard depending on the circumstances. For more information about where the court is located, call 1300 352 000.



# GOING TO COURT

## GOING TO COURT



### HOW LONG WILL IT TAKE MY CLAIM TO REACH A FINAL HEARING?

A court case can take 12-18 months on average, depending on the steps the court will take to prepare your matter for hearing and the complexity of the matter.

If there has been serious physical or sexual abuse to your children, you should inform the Family Law Registry when you file. They can place your case in a separate court list called the Magellan list. The matter may be heard faster in this list due to the seriousness of the case.

Seeking to have your case listed on the Magellan list is a very serious issue. You will have to file extra notices and provide details of your allegations before the court will place your case in the list.

### IDENTIFY YOUR CLAIM

Depending on the kind of case you are filing with the court, there are different rules to follow.

If your case is urgent, or there are family violence or fraud allegations, you may be able to avoid some of the steps listed on the next page and file straight away. The Family Law Registries referred to on the previous page can help you find out whether you can file a case without following the procedures below.

**The court will determine what is just and equitable for both parties in financial matters and what is in your children's best interests in parenting matters.**

It is important that you do not use the court system to harass another person or to seek revenge.

# GOING TO COURT

## FINANCIAL ORDERS

### Married couples

If you are married, you can apply for financial orders. You can also apply for financial orders if you have previously been married, but you must do so within 12 months of your divorce taking effect. If you apply for financial orders after 12 months from your divorce taking effect, you will first need to get the court's permission to apply.

### De facto couples

If you have been in a de facto relationship, you may be able to apply for financial orders. You must apply for financial orders within two years of the breakdown of your relationship. If you apply for financial orders after two years, you first need to get the court's permission to apply.

For further information, please see the Attorney-General's Department factsheet *New De Facto Property Regime: Property division when de facto relationships break down – new Commonwealth law for separated couples* available from [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au) or 1800 050 321.

### How do you apply for financial orders?

The procedure that you must follow to apply for a financial order will depend on the type of order you want to get and which court is best suited and able to hear your application.

Some applications, such as applications that relate to breaching previous court orders, may require different documents to those we set out below.

For more information about specific applications, please see the brochure *Going to Court – tips for your court hearing* available from [www.familycourt.gov.au](http://www.familycourt.gov.au) or call 1300 352 000.

## Applying for financial orders in the Family Court

### Final orders

Before applying for final orders, you must make a genuine attempt to resolve the dispute before you apply to the court. The court may ask you to prove that you have taken this step before applying to it.

If you can't resolve the dispute informally, you may then apply to the Family Court for final orders. To do this, you must pay the relevant filing fee and file:

- 1 An Initiating Application (Family Law);
- 2 A Financial Statement; and
- 3 If applicable, photocopies of relevant documents such as your marriage/divorce order and the children's birth certificates.

### Temporary orders

During the course of your application for final orders, you may want to get temporary or interim orders from the court. To do this, you must file:

- 1 An Application in a Case (an Initiating Application (Family Law) should already have been filed); and
- 2 An affidavit in support of your application for temporary orders.

### Consent orders

To apply for consent orders, where no Initiating Application (Family Law) has been filed, you must pay the relevant filing fee and file:

- 1 An Application for Consent Orders;
- 2 The terms of the orders that the parties have agreed to; and
- 3 Enough copies of the orders for all of the parties. These copies must be certified as true copies of the original order.





# GOING TO COURT

There may also be other requirements when you apply for consent orders, so you may want to seek legal advice before applying to the court.

## Applying for financial orders in the FCC

### *Final orders*

If you want to apply for final orders in the FCC, you must pay the relevant filing fee and file:

- 1 An Initiating Application (Family Law);
- 2 An affidavit in support of your application; and
- 3 A financial statement.

### *Temporary orders*

During the course of your application for final orders, you may want to get temporary or interim orders from the court. To do this, you must file:

- 1 An Application in a Case (an Initiating Application (Family Law) should already have been filed);
- 2 An affidavit in support of your application for temporary orders; and
- 3 A financial statement.

### *Consent orders*

If you come to an agreement with the other party about the dispute after filing an application, you can file a consent order in court, which will then be considered by the judge.

## PARENTING ORDERS

Any person concerned with the care, welfare and development of a child can applying for parenting orders. This may include the child's parents, grandparents or other relatives.

You can apply for parenting orders at any time.

Before applying for parenting orders from the court, generally, you will be required to try to resolve your dispute informally. This means that you will have to attend a special type of mediation known as Family Dispute Resolution and obtain a certificate from a Registered Family Dispute Resolution Practitioner before applying to court.

Not all cases will require a certificate. For example, you may not need a certificate if you are seeking:

- 1 Temporary orders or orders that deal only with a procedural issue;
- 2 Consent orders; or
- 3 Child support.

In some cases, you may also be able to ask the court not to enforce the requirement for you to obtain a certificate. For example, you may be able to ask the court to do this where the matter is urgent.

For more information about compulsory family dispute resolution or to find a family dispute resolution service provider in your local area, call the Family Relationships Advice Line on 1800 050 321 or visit [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au).

The procedure for applying for parenting orders in the Family Court is the same as the procedure for applying for financial orders in the Family Court, except that you don't have to file a financial statement and you have to file a certificate from a Family Dispute Resolution Practitioner (unless the court has said you don't have to file one).

In the same way, the procedure for applying for parenting orders in the FCC is the same as the procedure for applying for financial orders in the FCC except that you don't have to file a financial statement and you have to file a certificate from a Family Dispute Resolution Practitioner (unless the court has said you don't have to file one).



# GOING TO COURT

## DIVORCE

### Can I apply for a divorce?

You can apply for a divorce in Australia if either you or your spouse:

- 1 consider Australia your home and intend on living in Australia indefinitely;
- 2 are an Australian citizen; or
- 3 ordinarily live in Australia and you have lived in Australia for 12 months immediately before you apply for divorce.

You will need to prove to the court that you and your spouse have lived separately and apart for at least 12 months and that there is no reasonable chance of you resuming married life. It is possible to live in the same house but still be separated.

If you have been married for less than two years and want to apply for a divorce, you must either attend counselling to discuss the possibility of getting back together with your spouse or first get the court's permission.

### How do I apply for a divorce?

To apply for a divorce, you must complete an Application for Divorce and file it with the FCC and pay the application fee. You can download an application from [www.familycourt.gov.au](http://www.familycourt.gov.au), under the "Forms" section of the website.

If you apply for a divorce together with your spouse, it is a joint application and you and your spouse are joint applicants.

If you apply for a divorce by yourself, you are the applicant and your spouse is the respondent.

You may prepare your own divorce application or ask a lawyer to do it for you. The Application for Divorce Kit has instructions for completing the application and filing it.

## WHAT IF SOMEONE ELSE HAS STARTED THE CASE FIRST?

If you have been served with an application filed by someone else and you are named on the application as a respondent, you may still apply for orders. You do so by writing the orders that you want in a document called a response.

Once you have filed a response, you are in the same position as the applicant. You are not necessarily at a disadvantage just because the other party started the case first.

## FILING

Most documents can be filed online. The forms and eFiling procedures can be found at [www.comCourts.gov.au](http://www.comCourts.gov.au).

Some applications require you to pay a filing fee. Filing fees may vary depending on the matter. For example, a divorce costs \$1200 to file. Sometimes, you may be able to avoid having to pay the filing fee or you may be able to pay a reduced filing fee.

Information about court fees can be found in the fees section at [www.familycourt.gov.au](http://www.familycourt.gov.au).

## FIRST COURT DATE

When you file your documents, the Court will allocate you your first Court date. You must attend the first Court date. You must also be familiar with all documents you have filed and be prepared to tell the judge what the main issues in dispute are.

If you do not attend the Court hearing, orders may be made in your absence, including an order for your arrest. If you cannot attend in person, you can request to appear by telephone or videolink. You will need to make this request well before the court hearing and explain why you cannot attend in person.



# GOING TO COURT

At your first court date, the court may do a number of things, including:

- 1 **Giving Directions:** The court may tell you to do certain tasks, like preparing a document by a certain date.
- 2 **Consent Orders:** If you reach an agreement with the other party on the day, you can apply for a Consent Order. The court may give interim (temporary) or final consent.
- 3 **Temporary Decisions:** The court can make temporary decisions about the case that will be in place until the matter is finally determined. The court calls these interim orders.
- 4 **Finalise the application:** The court may deal with any urgent matters at the first court date.
- 5 **Fix a final hearing date.**

## WHAT TO EXPECT AT COURT

- 1 The judge controls how the case is to be conducted, what the important issues are and decides what evidence you can bring.
- 2 You are allowed to speak directly to the judge and you do not need a lawyer to speak on your behalf. You should still seek free legal advice (for example, at a Community Legal Centre such as the NSW Women's Legal Service) and try to organise a lawyer to represent you. At some registries, there may be a duty lawyer service that may be able to help you.
- 3 A family consultant can bring evidence to assist the judge. For example, evidence from interviews conducted with you and your former partner.
- 4 If the case involves parenting orders, an Independent Children's Lawyer (ICL) may be appointed by the court. They can interview your

children in your absence and provide the judge their opinion on parenting orders and/or provide your child's views to the judge.

- 5 You must provide your evidence in a written document called an affidavit. In court, you can be asked to provide more detail on what you write in your affidavit. Your affidavit must cover all matters you want the court to consider in relation to your claim.
- 6 You may be asked to provide documents to support the claims you make in your affidavit. For example, if you say that your child is enrolled in a certain school, bring a school report or letter of enrolment that confirms this. If there has been family violence and you have filed a police report, this is another document you can bring to support your case. Court staff can confirm what documents you might need to bring. **Make sure you have at least 3 copies of all your documents.**
- 7 Make sure the statements you make are honest and accurate. False or misleading statements in court are illegal, and can have severe penalties. They will also affect your credibility before the court.

## WHAT TO DO, SAY OR WEAR

**There are some basic guidelines you should follow in court.**

- 1 Arrive at least 30 minutes early to give yourself plenty of time to find the right courtroom. If you have trouble finding something at the court, ask court staff.
- 2 You can bring a family member or friend over the age of 18 to support you but this person cannot make comments while your case is heard.





# GOING TO COURT

- 3 Before you enter the courtroom you must turn off all electronic equipment including your mobile phone, and take off your hat and sunglasses if you have them.
- 4 You cannot bring any food or drink into the courtroom. There will usually be water available if needed.
- 5 Be prepared for your case. Make sure you have all your important documents organised and clearly marked so that you know which documents have been filed with the court. You should also bring a notepad and a pen.
- 6 The court is a formal place, so if possible, you should dress appropriately.
- 7 The court is not an appropriate place to bring children. Unless your child needs to attend court to speak to a family consultant, Registrar or judge, please make alternative arrangements for your child's care.
- 8 When entering and exiting the courtroom, you must bow in the direction of the judicial officer. They usually sit in an elevated chair facing the entire courtroom. Give your name to court staff, tell them that you are representing yourself in your case and ask them where you should sit.
- 9 Sometimes, courts have a number of cases heard on the same day. You may have to wait for your case to be called. You should remain quiet while waiting for your case. When your case is called, stand and wait for a member of the court to direct you to the front.
- 10 Each time court begins or adjourns, you must stand up. Court staff will announce this for you.
- 11 The person hearing your case will either be a judge or a Registrar. Court staff can tell you who is hearing your case. You should address a judge as "Your Honour" and a Registrar as "registrar".

## STRATEGIES AND PRACTICAL TIPS FOR COURT

There are a number of strategies that a self-represented litigant can follow to avoid being constantly called back to court, including:

- Make sure you attend any court dates and take notes of what you are told to do;
- Follow any court orders made;
- Do not ignore correspondence and/or court documents received;
- Pay any fees required or costs ordered by the court;
- Use the available dispute resolution services which are available as a first point of call; and
- Meet any court-imposed deadlines.

In some cases, the Family Law Registry may be able to assist you with queries. If you continue to have difficulties, seek legal advice.

## ARE MY CHILDREN INVOLVED IN PARENTAL CASES?

Often an ICL can be appointed by the court to speak to your child about what the child would like to happen in relation to a parenting dispute, including who they live with and how much time they might spend with a parent. The ICL can then provide the child's views to the court and make submissions to the court about what the ICL feels is in the best interests of the child, including suggesting orders about who a child lives with and how much time a child spends with a parent. The ICL may also provide a view on whether your child has been pressured to speak in a certain way. If you decide to lodge a parenting application, you should focus on telling the court what you think is most appropriate for yourself and your children.



# GOING TO COURT

## SAFETY IN COURT

If you feel unsafe about visiting court, the Client Service Officer can make arrangements to allow you to participate in the court proceedings safely. There are often safe rooms where you can wait for your case and the court may organise separate entry / exit points or have the appointment via video link. You must call 1300 352 000 before your court date in order to have these arrangements made.

If there is a family violence order (or if anyone, including you, has applied for one) involving yourself or your children, you must tell the court about this. It is illegal not to tell the court about these orders.

## PUBLIC ACCESS TO COURT

Courts in Australia are usually open for the public to watch, however the Family Law Courts have rules that prevent names, pictures or reports of the court proceedings being published by third parties. Your case file is also restricted from inspection by people who do not have an interest in the case (for example, the general public). The court can also order that the hearing of your case is closed to the public, which means that nobody except parties to the case may be present during the hearing.

If a case goes to trial the decision made by the judge may be published, however all names and facts that identify a party, such as your job and the suburb you live in, will be changed. This protects your privacy.

## ASSISTANCE FROM THE JUDGE

In *some* cases, a judge *might* offer you assistance as a self-represented litigant. There is no guarantee that a judge will assist you. We set out below some of the

ways that a judge might assist you in court. If you feel like you need assistance while at court, please let the judge know.

- As far as possible, a judge should make sure that the procedure the parties have to follow in a dispute is fair and that everyone gets a fair trial;
- A judge might give you some information about the procedure that the hearing will follow and any other procedures relevant to your dispute, for example, what order witnesses will be heard from;
- A judge might help you question witnesses, by, for example, asking the witness for their name, address and occupation;
- If another party asks the court to change the normal procedure in a hearing, if appropriate, a judge might explain to you what this change means and whether you should think about opposing the change;
- A judge might provide you with general advice about whether parts of the other party's evidence should not be taken into account by the court;
- A judge might ask you questions about your submissions to clarify them; and/or
- If appropriate, a judge might explain to you what the law says about your dispute, identify arguments that haven't been made in court but which should have been made, suggest procedural steps and clarify the orders you would like to obtain.



# GOING TO COURT

## FINAL HEARING

The final hearing can extend over a number of days depending on the facts of the case. The hearing is conducted in the following manner:

- 1 **Applicant Evidence:** If you applied for the Parenting, Financial or Divorce Order, you are the applicant. This is the stage where you outline your case. At the hearing you:
  - Call witnesses to support your case (except children).
  - The respondent may then ask you or any witness you have called questions about the evidence that has been filed in that party's affidavit or ask questions that are relevant to the dispute. This is called cross-examination.
  - At the end of the hearing, you may make submissions to the court about what orders the court should make. Make sure you only discuss the matters that are set out in your affidavit or that are raised in cross-examination.
- 2 **Respondent Evidence:** If another party applied for a Parenting, Financial or Divorce Order involving you, you are the respondent. After the applicant has called its evidence, you are able to outline your case. The procedure before the court is the same as that for the applicant, which has been set out above.
- 3 **Other evidence**
  - **ICL:** If there is an independent children's lawyer, they may present evidence to the court and cross-examine you or your witnesses.
  - **Expert Report:** If there is a family consultant or other expert involved in the

pre-trial procedures or during the case, they may have prepared a report on the case. You will have the opportunity to read the report and question the expert on what they wrote.

- 4 **Closing address:** Both parties may make any **final** comments supporting their case.
- 5 **Judgment:** The judge may make orders and give reasons for the decision. Often, the judge may reserve their decision to another day, so they can consider the case more carefully. The court will tell you the date the judgment is going to be delivered so you can attend and get a copy of the decision. The decision will include the orders made and the reasons for the orders.
- 6 **After the judgment:** If you are unhappy with your outcome and you want to appeal the decision, **you** should seek specialist legal advice. There is a strict time limit for filing an appeal. You must comply with the original orders until the appeal is completed.

# ACCESS AND ASSISTANCE

## WHERE TO GET FURTHER HELP

Going through the courts can be a difficult and traumatising experience for victims of domestic violence as well as children who have experienced or witnessed domestic violence.

There is support available for victims and survivors of domestic violence. Below are some organisations you can get in touch with that may be able to help.

### SUPPORT AND COUNSELLING

If you have experienced domestic violence, there are qualified and experienced counsellors available who can provide information and refer you to support services that can help.

**1800 Respect:** available 24-7, Call 1800 737 732. For more information visit <https://www.1800respect.org.au/>.

**Domestic Violence Line:** available 24-7, call 1800 656 463, or visit [http://www.community.nsw.gov.au/docs\\_menu/parents\\_carers\\_and\\_families/domestic\\_and\\_family\\_violence/dv\\_line.html](http://www.community.nsw.gov.au/docs_menu/parents_carers_and_families/domestic_and_family_violence/dv_line.html) for more information.

**Victims' Services:** free counselling and financial assistance may be available to victims of domestic violence from Victims Services, a department of the NSW Government. In the most extreme cases, a recognition payment of up to \$10,000 may be awarded to the victim.

You will need to make an application for counselling, financial assistance or a recognition payment. You can call the Victims Access Line on 1800 633 063 (8am to 6pm, Monday to Friday) for confidential support, referrals and assistance in making an application. For

more information visit

<http://www.victimsservices.justice.nsw.gov.au/>.

**Women's Domestic Violence Court Advocacy Program:** the Women's Domestic Violence Court Advocacy Program (**WDVCAP**) assists women and children experiencing domestic violence to obtain legal protection through applications for Apprehended Domestic Violence Orders (**ADVOs**).

WDVCAP can also help with other needs including accessing support services (for example financial assistance and advice, housing, counselling and family law issues). For more information visit <http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/womens-domestic-violence-court-advocacy-program>.

### LEGAL SUPPORT

You can seek 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 the court process, but they cannot give you legal advice.

**Domestic Violence Legal Advice Line:** Free confidential legal information, advice and referrals are available for women, with a focus on domestic violence and ADVOs. Available at certain times on Mondays, Tuesdays, Thursdays and Fridays on (02) 8745 6999 and 1800 810 784. This is run by the Women's Legal Service NSW. For more information visit <http://www.wlsnsw.org.au>.

**Legal Aid** may provide free legal sessions on family law. The sessions focus on basic legal matters, rather than complex legal issues or matters. Legal Aid may



# ACCESS AND ASSISTANCE

also advise whether you might be eligible for further assistance or a grant for a lawyer to represent you in your case. If you apply for a grant after receiving legal advice, Legal Aid may cover most of the costs during the case and may cover some of the costs at the end of the case. To find out more, call LawAccess: 1300 888 529 (9am to 5pm, Monday to Friday excluding public holidays).

**LawAssist** - The LawAssist website is designed to help people who are dealing with legal problems in New South Wales, without a lawyer. LawAssist provides helpful information on specific areas of law and the legal process. The resources available at LawAssist include step by step guides; instructions for filling in forms and sample forms; checklists; frequently asked questions; case studies; information about fees and legal costs; and options for dealing with your legal problem without going to court. To find more information, visit the website: <http://www.lawassist.lawaccess.nsw.gov.au/> or call LawAccess: 1300 888 529 (9am to 5pm, Monday to Friday excluding public holidays).

**Community Legal Centres:** Community Legal Centres (CLCs) may be able to provide you with free advice on basic matters and refer you to a lawyer. There are 40 community legal centres in NSW, some of which provide specialised help for persons experiencing family violence. For more information, visit [www.clcnsw.org.au](http://www.clcnsw.org.au) or <http://www.wlsnsw.org.au>.

**Parentline:** Parentline provides free phone advice and counselling for parents of children under 18 in NSW. They may refer you to a Family and Community Centre near you or other support services that can assist you. Call 1300 1300 52 on Monday - Friday between 9:00 am and 9:00pm and on Saturday - Sunday between 4:00pm and 9:00pm.

**Law Society Solicitor Referral Service:** The Law Society of NSW can provide assistance by referring you to a lawyer who may be able to assist you. They

can also locate lawyers who are female or are fluent in languages other than English. While the referral service is free, the lawyers may charge for their services. For more information, call (02) 9926 0300 or visit [www.lawsociety.com.au](http://www.lawsociety.com.au) and click "Finding a Solicitor".

## FINANCIAL SUPPORT

Court can be quite expensive. LegalAid can reduce the cost of going to court and provide some free assistance. In addition, if you have been granted LegalAid, are receiving youth allowance, are the primary holder of a Commonwealth health concession card or are under 18, you can apply for an exemption from court fees, which means you will not have to pay. These exemptions run for the entire period of your court case.

If paying a fee would cause you financial hardship, you can apply to have the fee reduced or exempted. These exemptions must be sought every time you have to pay any court fees. For forms and more information, call 1300 352 000 or visit <http://www.familylawCourts.gov.au/wps/wcm/connect/FLC/Home/Fees/Guidelines+for+fee+reduction+and+refund+forms/>

## LEGAL INCAPACITY AND THE COURT

If you are under 18 years of age, or have a physical or mental disability such that you are unable to communicate or make decisions about things that affect your daily life, you may be legally defined as a person under a "legal incapacity". There is a specific legal test for capacity.

If a person is found to be under a legal incapacity, he/she must appoint a tutor, otherwise he/she cannot commence or take part in proceedings.





# ACCESS AND ASSISTANCE

A tutor is a person with legal capacity, who you can appoint to commence or take part in proceedings on your behalf. A person may become a tutor without being formally appointed by the court. However, a tutor can only be changed by court order.

## How to request assistance:

If you have a disability and are going to court, and need some help you can contact your local court or Diversity Services. You can download and fill in a Request for Court assistance form. This can let the court staff know what assistance you require and what support you intend to bring to a particular hearing. For more information, visit: <http://www.lawassist.lawaccess.nsw.gov.au>

## ASSISTANCE DURING COURT

Assistance Required	Where to find more information or request assistance
<b>Visual impairment</b>	Some courts and tribunals may be able to provide information in large print, audio or braille format.
<b>Hearing impairment</b>	The Deaf Society of NSW has information about going to court, translated in Auslan. For more information, go to their website: <a href="http://deafsocietynsw.org.au/">http://deafsocietynsw.org.au/</a> Courts can also arrange for an infra-red hearing loop to be available on the day of a court hearing. If you require one, contact the court officer before you attend court to order it.
<b>Physical disability</b>	If you require disability access to any of the court buildings, please contact the court or office you will be attending beforehand.
<b>Cognitive disability</b>	If you have a cognitive disability and are going to court, please find more information at the Diversity Services website: <a href="http://www.diversityservices.justice.nsw.gov.au">http://www.diversityservices.justice.nsw.gov.au</a>
<b>Translation services</b>	If you require translation services, please visit the Diversity Services website: <a href="http://www.diversityservices.justice.nsw.gov.au">http://www.diversityservices.justice.nsw.gov.au</a>
<b>Legal incapacity</b>	For more information on legal capacity and assistance, please visit the Diversity Services website: <a href="http://www.diversityservices.justice.nsw.gov.au">http://www.diversityservices.justice.nsw.gov.au</a>