

FAMILY LAW COURTS
FACT SHEET

Legal words used in court

Address for service – the address given by a party where documents can be served on them by hand, post or some other form of electronic communication.

Adjourn – defer or postpone a court event to another day.

Affidavit – a written statement by a party or witness. It is the main way of presenting the facts of a case to the court. An affidavit must be signed before an authorised person (such as a lawyer or Justice of the Peace) by way of swearing on the Bible or attesting to the truth of the contents of the statement.

Appeal – a procedure which allows a party to challenge the decision made by a court.

Applicant – the person who applies to a court for orders.

Case – when a person makes an application to a court for orders, that becomes the case before the court.

Consent order – an agreement between the parties that is approved by the court and then becomes a court order.

Contravention – when a court finds a party has not complied with (followed) a court order, that party is in contravention of (or has breached) the order.

Court hearing – the date and time when a case is scheduled to come before the court.

Court order – the actions the parties or a party must do to carry out a decision made by a court. An order may be either interim or final.

Divorce order – an order made by a court that ends a marriage.

Enforcement order – an order made by a court to make a party or person comply with (follow) an order.

Ex parte hearing – a hearing where one party is not present and has not been given notice of the application before the court; usually reserved for urgent cases.

Family consultant – a psychologist and/or social worker who specialises in child and family issues that may occur after separation and divorce.

Family dispute resolution – a process whereby a family dispute resolution practitioner assists people to resolve some or all of their disputes with each other following separation and/or divorce.

Family Law Courts – comprise the Family Court of Australia and the Federal Magistrates Court of Australia.

Family Law Act 1975 – the law in Australia which covers family law matters.

Family law registry – a public area at a Family Law Court where people can obtain information about the court and its processes and where parties file documents in relation to their case.

Family report – a written assessment of a family by a family consultant. A report is prepared to assist a court to make a decision in a case about children.

Family violence – conduct (whether actual or threatened) by a person towards a family member, or property of a family member, that causes reasonable fear (or reasonable apprehension) for his/her personal wellbeing or safety.

Family violence order – an order made under Commonwealth, state or territory legislation to protect a person, including a child, from violence.

Filing – the procedure of lodging a document at a family law registry for placing on the court file.

Final order – an order made by a court to bring a case to a close.

Form – a particular document that must be completed and filed at court. Different forms are used for different family law matters.

Independent children's lawyer – a lawyer appointed by the court to represent a child's interests in a case.

Interim order – an order made by a court until another order or a final order is made.

Judgment – a decision by a court after all the evidence is heard.

Judicial officer – a person who has been appointed to hear and decide cases; for instance, a judge or federal magistrate.

Jurisdiction – the authority given to a court and its judicial officers to apply the law. For example, the courts have jurisdiction under the *Family Law Act 1975* in family law matters.

Parental responsibility – the responsibility of each parent to make decisions about the care, welfare and development of their children. These responsibilities may be varied by agreement or by a court order.

Parenting plan – a written agreement between the parties setting out parenting arrangements for children. It is not approved by or filed with a court.

Party or parties – a person or legal entity, such as a corporation, involved in a court case; for example, the applicant or respondent.

Precedent – a decision made by a judicial officer which may serve as an example for other cases or orders.

Procedural order – an order made by a court of a practical nature. For example, the court may order the parties to attend family dispute resolution.

Registrar – a court lawyer who has been delegated power to perform certain tasks; for example, grant divorces, sign consent orders and decide the next step in a case.

Respondent – a person named as a party to a case. A respondent may or may not respond to the orders sought by the applicant.

Rules – a set of directions that outlines court procedures and guidelines. The rules of the Family Court are the *Family Law Rules 2004* and the rules of the Federal Magistrates Court are the *Federal Magistrates Court Rules 2001*.

Service – the process of sending or giving court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with a court.

Subpoena – a document issued by a court, at the request of a party, requiring a person to produce documents and/or give evidence to the court.

Transcript – a record of the spoken evidence in a court case. All court hearings are recorded, except uncontested divorce hearings. The court does not order transcripts in all instances and does not provide transcripts to parties. If a party orders a transcript, they will be responsible for the costs.

This fact sheet 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 Family Law Courts cannot provide legal advice.