

FACT SHEET: FAMILY LAW – RESPONDING TO PARENTING APPLICATION

Family Dispute Resolution Requirements

Before an application for parenting orders can be made to the court, parents are required to attend family dispute resolution (FDR) unless one of the following exceptions apply:

- parents are applying for consent orders.
- you are responding to a parenting application.
- the Court has reasonable grounds to believe that domestic violence or child abuse has occurred or will occur if there is a delay in applying for the order.
- a Person has contravened or shown serious disregard to an order made in the last 12 months.
- It is an urgent matter.
- Parties are unable to participate effectively in FDR.

If you are requested to attend FDR for the purposes of making parenting arrangements regarding your child/ren, you should attend unless you believe one of the above exceptions apply.

In attending FDR, parties are required to make genuine effort. If you fail to attend or fail to make a genuine effort, the FDR provider may issue a certificate to that effect. The Court may consider this in the parenting application and may order costs against the party who failed to attend FDR or failed to make a genuine effort in FDR.

If one party fails to attend, a 'Failure to Attend' certificate must not be issued unless FDR practitioner has contacted person twice (once in writing) and informed them that the certificate may be issued and taken into account by the court when considering costs.

Responding to a Parenting Application

If you wish to seek orders other than those sought by the other party, you must file a response. If the application was made in the Family Court, a 'Response to Application for Final Orders' (Form 1A) must be filed. If the application was made in the Federal Magistrates Court a 'Response Form' & 'Affidavit' must be filed. The response must set out:

- Facts respondent disagrees and agrees with; and
- Briefly & precisely the orders sought by the respondent;
- May also indicate if they consent to any order sought by applicant;
- Ask court to dismiss application; or
- Ask for orders in a different cause of action

The response must be filed and served at least 7 days before the date set for a case assessment conference or procedural hearing.

Responding to Interim Orders

If you want to respond to an interim order application, you must file and serve a 'Response to an Application in a Case' (Form 2A) and an Affidavit in support of the response. The affidavit must be filed at least 2 days before the hearing date.

FACT SHEET: RELOCATION

Attempt to Reach Agreement

If you want to relocate with the children and the other parent objects, it may be appropriate to attend family dispute resolution to try and resolve the issue.

Apply for Relocation Order

If you are unable to reach an agreement about relocating, you may apply to the court for a relocation order.

If the application is made in the Family Court an 'Application for Final Orders' (Form 1) and an affidavit need to be filed.

If the application is made to the Federal Magistrates Court an 'Application' Form, Information Sheet and affidavit need to be filed.

What will the court consider

In a proposed relocation the court will consider:

- The best interests of the child/ren as paramount
- The benefit of both parents have a meaningful involvement in the lives of the children;
- The right of the child to know and be cared for by both parents;
- The right of the child to regularly spend time and communicate with both parents

The court will also take into account a parents right to freedom of movement (that is, to choose where they would like to live).

In making a relocation application you should demonstrate:

- evidence that moving is in the best interests of the child/ren; and
- how the other parent will be able to maintain a meaningful relationship with the child/ren

Can you be prevented from relocating?

If the other parent objects to your plans to relocate, they may apply to the court for an injunction to prevent you from moving.

Sample of a Proposal Relocate

Order 1: 'that the child/ren live with the Mother/Father and that the may reside together in

Order 2: 'That the Mother/Father spends time and communicates with the child/ren as follows:

- a)
- b)
- c)

Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.