

## The Family Court

The Family Court deals with family matters including:

- Protection Orders
- education programmes for those who are protected by a Protection Order
- stopping violence type programmes for those who have a Protection Order against them
- care of children - guardianship, custody, access, adoption, paternity and child support
- protection of children who are abused
- separation and divorce
- relationship property
- mental health assessment
- child abduction (Hague Convention)

The Family Court tries to help people solve disputes about leaving or staying in a relationship, custody, access and property, without having a Court hearing.

Each Family Court has a Coordinator who should be able to give you information.

Counselling is available free or at a low cost. The Family Court Coordinator can refer you to a place for these services.

### **What happens when I go to the Family Court about Parenting orders or relationship property?**

At the Family Court, family issues are sorted out through counselling, mediation or a hearing. In cases where there is violence involved, there is usually separate counselling, then either a mediation conference or a hearing. The Court will decide which is the best way for decisions to be made.

At counselling, you can talk through all the issues with the counsellor who will help you work out what you want to do. This counselling is not about getting you back together with your partner, unless that is what you want. You don't have to attend counselling at the same time as a person who has been abusive to you.

You may be required to go to a mediation conference, where a Judge tries to help you and the other person to come to some agreement that you can both live with.

If you both can't come to an agreement at the mediation, the issues will be dealt with at a hearing, where the Judge will listen to both sides before making a decision. The Judge must find out what the children want, and take that into account, depending on their age and maturity. The Judge can also ask other people like Counsel for the Child, social workers, doctors and psychologists to prepare reports about what would be best for the children - they may talk to you, the other parent, the children and significant others.

### **Can I talk to someone about my relationship?**

You can get free counselling by asking the Family Court Coordinator. Other agencies also provide free or cheap relationship counselling. If there is violence involved, you can talk to us at Aviva.

### **How can I get a separation or divorce?**

When you first split up, you can just both agree to separate. You don't need to involve a lawyer. It's a good idea to write down the agreement to separate, and then both sign and date it.

If there has been violence involved and you have to work out what to do about the children and the relationship property; we recommend that you get a lawyer to help you.

To file for a divorce (called Dissolution of Marriage) you must be separated for two years. You need to provide a statement and some evidence that you have been living apart for two years (if you both say you have been separated for two years, this will be enough), and that you have both sorted out custody and access arrangements for your children.

### **How can I sort out the property when my relationship has ended?**

If you have been in a marriage or defacto relationship (same-sex or different-sex) for three years, you are entitled to have the property shared equally between you and your partner if you split up or if they die.

The Court can award lump sums to the partner that is going to have the least money after the break-up (perhaps because of the way the relationship was organised, they gave up their job to look after the children while the other partner advanced their career).

Your lawyer can help you come to an agreement about the property, or the Court can decide the division of the property.

It is possible to make a different agreement about how property will be shared. This is called 'contracting out' - it's a legal agreement that has to be made before the relationship breaks up. (Sometimes people call these 'prenups' or 'prenuptial agreements').

For the agreement to hold up in Court, you and your partner both have to have different independent legal advice before you sign the agreement. If you have been forced to sign a 'prenup' agreement or if the agreement is clearly not fair to one party - then it probably won't hold up in Court.

### **Greater openness in the Family Court**

The Family Court is closed to the public. It's not as formal as the District or High Court.

The Children's Act allows the public to know more about what goes on in Family Court. If a person wishes to bring a person with them to Family Court for support, they may do so.

The Children's Act allows news reporters to attend Family Court sessions. There are strict limits on what they can publish. They cannot publish names or any information that might identify anyone involved.

The Judge has the power to remove them from the courtroom at any time