

# The Family Court



Information about the Family Court  
and the services it provides

## MATTERS DEALT WITH BY THE FAMILY COURT

This section summarises the types of disputes and issues the Family Court deals with. They're listed here alphabetically.

You can get more information about these from the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)) and from other Family Court pamphlets.

### ABDUCTION OF CHILDREN FROM OR TO NEW ZEALAND

- applications for an order preventing children being taken out of New Zealand (Care of Children Act 2004)
- applications for an order under the Hague Convention for a child who has been abducted to New Zealand to be returned to the other country (Care of Children Act)

### ABUSE OR NEGLECT OF CHILDREN

- applications (usually from Child, Youth and Family) for a declaration that a child who has been abused or neglected needs care or protection (Children, Young Persons, and Their Families Act 1989)

### ADOPTION

- applications to adopt children (Adoption Act 1955)
- applications to access adoption records (Adoption Act)
- some applications under the Adult Information Adoption Act 1985

### CHILD SUPPORT

- appeals against child support assessments made by Inland Revenue (Child Support Act 1991)

## DAY-TO-DAY CARE OF AND CONTACT WITH CHILDREN

- applications for parenting orders to resolve disputes about day-to-day care and contact, formerly called “custody” and “access” (Care of Children Act 2004)
- requests to arrange counselling to resolve disputes about day-to-day care or contact (Care of Children Act)

## DOMESTIC VIOLENCE

- applications for protection orders (Domestic Violence Act 1995)
- objections from “respondents” (people with protection orders made against them) about being required to attend Stopping Violence programmes (Domestic Violence Act)

## FAMILY PROTECTION CLAIMS AGAINST ESTATES

- applications to be provided for out of the property (“estate”) of a relative who has died (Family Protection Act 1955)

## GUARDIANSHIP

- disputes about who should be a child’s guardians, and disputes between guardians about a child’s upbringing (Care of Children Act)
- requests to arrange counselling to resolve disputes about guardianship issues (Care of Children Act)

## INTELLECTUAL DISABILITIES AND THE CRIMINAL-JUSTICE SYSTEM

- reviews of orders made by the criminal Courts for the care and rehabilitation of people with intellectual disabilities who have been charged with or convicted of criminal offences (Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003)

## MAINTENANCE

- applications by one spouse or partner, or ex-spouse or ex-partner, to be paid maintenance (financial support) by the other (Family Proceedings Act 1980)

## MARRIAGES, CIVIL UNIONS AND DE FACTO RELATIONSHIPS

- giving consent for 16- and 17-year-olds to marry (Marriage Act 1955), or to enter into a civil union (Civil Union Act 2004), or to enter into a de facto relationship (Care of Children Act 2004)
- applications for separation and dissolution (divorce) orders for couples who are married or in a civil union (Family Proceedings Act 1980)

## MENTAL HEALTH

- applications for the compulsory assessment, treatment and care of people with mental illnesses (Mental Health (Compulsory Assessment and Treatment) Act 1992)

## MENTAL INCAPACITY

- applications for orders dealing with the property or personal affairs of people who are mentally incapacitated by age, illness and so on (Protection of Personal and Property Rights Act 1988)

## PATERNITY

- disputes about who is the father of a child (Family Proceedings Act 1980 and Status of Children Act 1969)

## RELATIONSHIP PROPERTY

- applications to resolve property disputes between married, civil union or de facto couples who are separating or have separated (Property (Relationships) Act 1976)

## HOW THE FAMILY COURT WORKS

### SOLVING PROBLEMS THROUGH COUNSELLING AND MEDIATION

The Family Court aims to help people sort out their own problems as much as possible.

For issues to do with separation and the care of children, Court appearances should be a last resort. Counselling and mediation are used to try to resolve the problems so they don't need to be decided in Court.

A Court hearing will be held only if the people involved have not been able to settle their differences in other ways.

### CHILD'S BEST INTERESTS AND WELFARE ARE PARAMOUNT

If a dispute about the care or guardianship of children does go to a Court hearing, the **welfare and best interests** of the child will always be the first and most important factor in the Judge's decision.

## CONTACTING THE FAMILY COURT

### WHO SHOULD I SEE ABOUT GETTING HELP FROM THE FAMILY COURT?

**Family Court Coordinators** are available at many Family Courts to give you information about the Court and the specialist services it provides, like counselling. The Coordinators can also tell you about services available in your community.

Either visit or telephone your local Court to make an appointment to see the Family Court Coordinator.

If it's a smaller Court that doesn't have a Family Court Coordinator, the **Court manager** will be able to help you.

## WHERE ARE THE FAMILY COURTS?

To find out the address of your local Family Court, look up the local District Court address under “Justice Ministry of” in the blue Government pages at the front of the phonebook (each Family Court is part of the local District Court).

You can also find Family Court addresses on the Family Court website at [www.justice.govt.nz/family](http://www.justice.govt.nz/family).

## SERVICES AVAILABLE THROUGH THE FAMILY COURT

Contact your local **Family Court Coordinator** for more information on how to access the services explained below.

### INFORMATION

Family Court staff can provide you with information about the different areas of the Court’s work, like parenting orders, or protection orders for people experiencing domestic violence. Pamphlets are also available on many of these matters.

Family Court staff **cannot** give you legal advice about your particular situation. For example, they will not tell you what you should say when you fill out an application for a Court order.

Information about the Family Court and copies of the pamphlets are also available from the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)).

### COUNSELLING

The Family Court strongly recommends counselling as a way to help sort out family disputes. It arranges **free** and **confidential** counselling for –

- married, civil union and de facto couples having relationship problems
- separated parents and guardians having difficulty agreeing on arrangements for the care of their children, or when one of them has disobeyed a parenting order that the Court has made

- guardians unable to agree on an important issue in the child's life (like where they should go to school).

If you apply for a **separation order** or **parenting order**, the Court will usually refer you and the other person to counselling. But you can ask for counselling **at any time**, even if the Family Court is not already involved in the matter. If the Court is already involved, you can ask for counselling at any stage of the Court process.

The Family Court pays for up to **six sessions** of counselling. These may be sessions with the two of you together, or individually, or a mixture of both.

The counsellors are qualified professionals who are trained to help people come to their own decisions and agreements. The sessions are held at the counsellors' own offices, not at the Family Court.

## MEDIATION

If counselling doesn't solve the problem, the Court will refer you to a **mediation conference**. This is where both sides discuss their differences with a Family Court Judge, and try to reach agreement. The Judge runs the conference, and makes sure each person gets a chance to have their say.

If you cannot reach agreement through mediation, the Judge can order the case to go to a formal Family Court hearing.

## FORMAL COURT HEARINGS

If counselling and mediation have not resolved your dispute, the next stage is a formal Court hearing before a Judge. This is seen as a **last resort**, when all other attempts to sort out the problem have failed.

In a formal Court hearing, the Judge makes the decisions. When children are involved, their welfare and best interests are the first and most important factor the Judge must consider.

Once the Judge has made an order, the people involved must follow it. They cannot make their own arrangements for the issues dealt with by the order. If the situation changes, the Court can later decide to change or cancel the order.

How long you will have to wait for a hearing depends on how urgent and how complicated your case is.

## DOMESTIC VIOLENCE PROGRAMMES

### **Support programmes for applicants and their children**

Free support programmes are available for people who have obtained a protection order under the Domestic Violence Act (these people are called “applicants”). Any children living or staying with an applicant can also go to free support programmes specially designed for them.

If you are an applicant, these programmes will –

- tell you about how a protection order works and what your rights are under the order
- give you information about domestic violence and its effects
- help you find and build support for yourself among your friends, family / whānau and community
- help you plan to keep yourself and your children safe
- help you find ways to make positive changes in your life.

The programmes for **children** will help your children –

- learn about keeping themselves safe
- understand how violence affects them
- solve problems and manage their feelings and emotions
- build confidence.

There may be a choice of programmes, including group and individual ones. Some programmes can provide childcare and transport.

All programmes have been approved by the Family Court and are run by people who know about family violence and its effects. They are sensitive to people's different experiences based on age, gender, ethnicity, culture, disability or sexual orientation.

### **Programmes for respondents**

People who have a protection order made against them (called **respondents**) are usually required to attend a programme about living without violence. These are quite different from the support programmes for people protected by a protection order.

The programme gives respondents a chance to learn about –

- domestic violence and how it affects victims
- how the Domestic Violence Act works
- skills for living without violence and for dealing with any future arguments or conflict in better ways.



## LAWYER FOR THE CHILD

When the Family Court is asked to decide a dispute about a child, the Court almost always appoints an **independent lawyer** to represent the child. This lawyer is called the “lawyer for the child”.

The lawyer’s role includes –

- explaining the Court process to the child
- making sure the child’s views and all issues relevant to his or her welfare and best interests are explained to the Court
- explaining the Judge’s decision to the child.

Each Family Court has a list of experienced family lawyers who can be appointed as the lawyer for the child. All of them are specially trained in representing children and are familiar with children’s issues.

The lawyer for the child is paid by the Court. But the Judge can require the parents or any other person who is a party to the case to contribute to the lawyer’s costs.

## SPECIALIST REPORTS

If a Family Court Judge needs more information to help him or her decide a dispute involving children, the Judge can ask an expert to prepare a written report.

This can be a medical, psychiatric or psychological report, or a cultural report on any aspect of a child’s cultural background.

A Judge can ask for a specialist report in cases under the **Care of Children Act 2004** when, for example, parents cannot agree on care arrangements for their children. A Judge can also ask for a report in **care and protection cases** involving Child, Youth and Family under the Children, Young Persons, and Their Families Act 1989.

## INTERPRETERS

The Family Court can arrange for an interpreter in certain situations. If you need an interpreter you should tell your lawyer or a Family Court staff member.

## NEED MORE INFORMATION OR ADVICE?

### INFORMATION FROM THE FAMILY COURT

For more information, contact the nearest Family Court office, or look on the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)).

### GETTING LEGAL ADVICE FROM A LAWYER

For legal advice about your particular situation, contact a family lawyer ([www.familylaw.org.nz](http://www.familylaw.org.nz)) or a community law centre. Family Court staff cannot give you legal advice.

### “PARENTING THROUGH SEPARATION” PROGRAMMES

The Ministry of Justice offers a free information programme to help parents understand the effects of separation on their children and help them arrange for the care of their children after they've separated.

To find out more about how this programme can help you and your children, phone 0800 211 211 or visit [www.justice.govt.nz/family](http://www.justice.govt.nz/family).

### LEGAL AID

If you need a lawyer but can't afford one, you may be able to get **legal aid**. Legal aid is where the Government pays some or all of your lawyer's bills (you may have to pay some or all of it back).

You can get information on legal aid by –

- contacting the local Legal Services Agency office (see the blue Government pages at the front of the phonebook)
- visiting the Legal Services Agency website at [www.lsa.govt.nz](http://www.lsa.govt.nz)
- seeing a lawyer and discussing legal aid with them.

Legal aid is available for all Family Court cases, except dissolution of marriages and civil unions (divorce).



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