

Who Do The Children Want To Live With?

Quite often one of the crucial questions for the Court is the need to know what the children's wishes are regarding where they should live. As parents often differ in their view of what the children's wishes are, the Court tries to get an independent understanding of the child's wishes, by getting a Family Report.

A Family Report is a written report that can be privately commissioned by the parties or ordered by the Court. It helps the Court make decisions about arrangements for the children and it may help the parents reach an agreement.

A Court ordered Family Report is prepared by a Family Consultant. Family Consultants are appointed by the Court and are qualified social workers or psychologists with expertise in working with children and families.

A Court ordered Family Report will contain the Family Consultant's professional assessment of the family. It will also include recommendations for arrangements that will best meet the future care, welfare, and developmental needs of the children.

Interviews and observation sessions

For a Court ordered Family Report, the Family Consultant will conduct a series of interviews that may be done in one day or over a few days. The consultant will usually interview each parent and the children. They may also interview other significant people such as a new partner or grandparents.

Interviews may be conducted individually or together. Separate interviews will be conducted where one party is fearful of another party, or where a family violence order restrains the parties from coming into contact. If one of the parties has concerns about their safety they should tell the Family Consultant before attending the appointment.

The children will be interviewed separately from the parents (except in unusual circumstances). The Family Consultant may also observe the way each of the parties and other significant people interact with the children in separate observation sessions.

What information will the Family Consultant require for the Family Report?

The Court order may specify the issues that need to be addressed in the Report. Generally the Family Consultant will gather information about, but not limited to:

- The issues in dispute
- Past and current parenting arrangements
- The parenting capacity of each parent
- The children's relationship with significant people, and
- The children's wishes and views.

The Family Consultant may ask for parents permission to contact teachers, doctors or other professionals to give more information about the children. The Court may direct the Family Consultant to also read subpoenaed documents at the Court.

Is what you tell the Family Consultant confidential?

No. What is said to the Family Consultant is not confidential. All information gathered by the Family Consultant is admissible in Court. The Family Consultant will include relevant information in the Report and may also be required to give oral evidence in Court.

When is the Family Report available?

The Report is released prior to the Court hearing date and is only intended for the parents and their lawyers. This means parents must not show the Report to other people, especially the children.

It is possible (and not uncommon) for matters to settle based on what is contained in the Report.

What if you don't agree with the Family Report?

The Report is only one source of evidence that the Court considers in making its decision. The Court is not bound by the recommendations in the Report. As with any evidence, the appropriate forum for challenging the Report is at the hearing by cross-

examination. This is where you, or your lawyer, may ask the Family Consultant questions about the contents of the Family Report and their assessment of your family.