

Resolving Your Family Law Dispute Out of Court

Negotiation

Very few family law matters actually proceed to trial before the Family Court or the Federal Magistrates Court of Australia. In fact, less than 5% of matters will go to a contested trial. Although your matter will be conducted with the processes and obligations of the Court in mind, our goal is to settle your matter in an amicable, fair and efficient manner. We will first devise a strategy tailored to ensuring your best possible outcome, and will engage in negotiations with your former partner consistent with our strategy.

We see Court as a last resort, and will use our negotiation skills to guide you through the various out of Court processes to avoid the cost, stress and uncertainty that Court proceedings often bring. Sometimes, it will be necessary to make an application to the Court for smaller issues throughout your matter to assist in the negotiation process. We will often ensure that negotiations continue even where Court proceedings are commenced. Other times, when negotiations stall, an application to the Court may be necessary to assist in reigniting the negotiation process. Regardless of how your matter progresses, our family law team are specialists in both negotiation and litigation.

Mediation

Mediation is a popular method for resolving family law disputes when negotiations simply are not enough on their own. We are able to arrange for a mediation to be conducted between you and your former partner, with the assistance of an independent third party mediator, whose aim is to assist you to reach an agreement that both you and your partner are satisfied with. You do not need to be in the same room as your former partner for the mediation, and ordinarily we will attend with you on the day.

Collaborative law

Collaborative law is another process that is available to certain couples to resolve their dispute out of Court. We have a team of practitioners who are qualified in collaborative law. Collaborative process may be suitable where there remains a level of respect and trust between you and your former partner. The process involves participating in various meetings with your former partner and their legal advisers, and attempting to negotiate a settlement acceptable to all of the parties. We see each person as part of a settlement team, rather than competing parties. If you choose the collaborative process, litigation is not considered an option and is not able to be threatened. In fact, you will sign a contract at the commencement of the process to this effect. In the event your matter fails to settle and proceeds to Court, the legal representatives for each of the parties are required to withdraw from the matter.

Arbitration

In some instances, we may recommend that you engage in arbitration. Arbitration may be useful where negotiations have stalled or mediation is unsuccessful. The arbitrator will make a decision that is able to be registered in the Court and can be enforced. This enables a decision to be made for the resolution of your matter without the lengthy delays and costs associated with proceeding to Court. Further, we see arbitration as a means to relieve some of the pressure placed upon you, by having the certainty of a decision made early on in your dispute.

Counselling

Counselling is another out of Court process that may assist you to resolve your matter, and may be engaged in at any stage or for any period of time. If we consider your dispute to be one that may benefit from counselling, we will be able to guide you through the process. We can arrange for counselling through a private counsellor who specialises in assisting separated couples to reach agreement. We will often consider counselling where separated couples are trying to reach an agreement in relation to the care of their children.

We will discuss all of the above options with you in detail at various stages throughout your matter.

Please also refer to our factsheets titled [‘Mediation as an alternative dispute resolution tool’](#) and [‘Collaborative law’](#) which may offer further guidance for you at this time.