

Legal words used in court

FACT SHEET

Abuse – in relation to a child, is defined in subsection 4(1) of the Act. For convenience, the definition is set out below with the definition of ‘Family Violence’.

Address for service – the address given by a party where documents can be served on them by hand, post or some other form of electronic communication.

Adjourn – defer or postpone a court event to another day.

Affidavit – a written statement by a party or witness. It is the main way of presenting the facts of a case to the court. An affidavit must be signed before an authorised person (such as a lawyer or Justice of the Peace) by way of swearing on the Bible or attesting to the truth of the contents of the statement.

Appeal – a procedure which allows a party to challenge the decision made by a court.

Applicant – the person who applies to a court for orders.

Case – when a person makes an application to a court for orders, that becomes the case before the court.

Consent order – an agreement between the parties that is approved by the court and then becomes a court order.

Contravention – when a court finds a party has not complied with (followed) a court order, that party is in contravention of (or has breached) the order.

Court child expert – a psychologist and/or social worker who specialises in child and family issues that may occur after separation and divorce.

Court hearing – the date and time when a case is scheduled to come before the court.

Court order – the actions the parties or a party must do to carry out a decision made by a court. An order may be either interlocutory or final.

Divorce order – an order made by a court that ends a marriage.

Enforcement order – an order made by a court to make a party or person comply with (follow) an order.

Ex parte hearing – a hearing where one party is not present and has not been given notice of the application before the court; usually reserved for urgent cases.

Exposed to family violence – is defined in section 4AB(3) of the Act. For convenience, the definition is set out below with the definition of 'Family Violence'.

Family dispute resolution – a process whereby a family dispute resolution practitioner assists people to resolve some or all of their disputes with each other following separation and/or divorce.

Family Law Act 1975 ('the Act') – the law in Australia which covers family law matters.

Family law registry – a public area at the Federal Circuit and Family Court where people can obtain information about the court and its processes and where parties file documents in relation to their case.

Family report – a written assessment of a family by a court child expert/family consultant. A report is prepared to assist a court to make a decision in a case about children.

Family violence – means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the *family member*), or causes the family member to be fearful. A child is exposed to family violence if the child sees or hears family violence or is otherwise exposed to family violence. See the Family Law Act, section 4AB, which gives examples. Family violence may also amount to child abuse.

Abuse – in relation to a child means,

(a) an assault, including a sexual assault, of the child; or

(b) a person (the *first person*) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or

(c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or

(d) serious neglect of the child.

Deputy Registrar – a court lawyer who has been delegated power to perform certain tasks; for example, grant divorces, sign consent orders and decide the next step in a case.

Family violence order – an order (including an interim order) made under a prescribed law of a State or Territory to protect a person from family violence.

Filing – the procedure of lodging a document at a family law registry for placing on the court file.

Final order – an order made by a court to bring a case to a close.

Form – a particular document that must be completed and filed at court. Different forms are used for different family law matters.

Independent children's lawyer – a lawyer appointed by the court to represent a child's interests in a case.

Interim order – an order made by a court until another order or a final order is made.

Judgment – a decision by a court after all the evidence is heard.

Judicial officer – a person who has been appointed to hear and decide cases; for instance, a judge.

Judicial Registrar – a judicial officer who has been delegated power to perform more serious tasks than deputy registrars; for example, interim parenting, maintenance and property orders.

Jurisdiction – the authority given to a court and its judicial officers to apply the law. For example, the Court has jurisdiction under the *Family Law Act 1975* in family law matters.

Parental responsibility – the responsibility of each parent to make decisions about the care, welfare and development of their children. These responsibilities may be varied by agreement or by a court order.

Parenting plan – a written agreement between the parties setting out parenting arrangements for children. It is not approved by or filed with a court.

Party or parties – a person or legal entity, such as a corporation, involved in a court case; for example, the applicant or respondent.

Precedent – a decision made by a judicial officer, which may serve as an example for other cases or orders.

Procedural order – an order made by a court of a practical nature. For example, the court may order the parties to attend family dispute resolution.

Respondent – a person named as a party to a case. A respondent may or may not respond to the orders sought by the applicant.

Rules – a set of directions that outlines court procedures and guidelines. The rules of the Federal Circuit and Family Court relating to family law are the *Family Law Rules 2021*.

Service – the process of sending or giving court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with a court.

Subpoena – a document issued by a court, at the request of a party, requiring a person to produce documents and/or give evidence to the court.

Transcript – a record of the spoken evidence in a court case. All court hearings are recorded, except uncontested divorce hearings. The court does not order transcripts in all instances and does not provide transcripts to parties. If a party orders a transcript, they will be responsible for the costs.

This fact sheet provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Federal Circuit and Family Court of Australia cannot provide legal advice.

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