



FAMILY LAW FACTSHEET 4: INITIATING APPLICATIONS (PARENTING ORDERS) OR RESPONDING TO AN APPLICATION

THIS FACTSHEET TELLS YOU ABOUT INITIATING APPLICATIONS (TAKING THE OTHER PARTY TO COURT) AND RESPONDING TO ANOTHER PARENT'S APPLICATION (RESPONSE).

FAMILY DISPUTE RESOLUTION (FDR)

If you and the other parent/person can't agree you should try to resolve your issues through FDR. You must make a genuine attempt to resolve your dispute through mediation or negotiation with the other party before making an application to the Court. A copy of a certificate from an accredited FDR service must accompany the application. You may be exempt from FDR if there is history or risk of family violence or child abuse. PCLS can assist you to find an FDR service.

INITIATING APPLICATION IN FAMILY COURT OF WESTERN AUSTRALIA / MAGISTRATES COURT OF WESTERN AUSTRALIA

INITIATING APPLICATION - FORM 1

A lawyer from PCLS can provide legal assistance with the application. First you must complete **Form 1** where you provide to the court basic information about you (**the applicant**), the other party i.e. parent of the child (**the respondent**), the children and details of the orders you are requesting the Court to make. In addition, you may request Interim Orders to put temporary arrangements in place while your application is being dealt with.

CASE INFORMATION AFFIDAVIT

A Case Information Affidavit gives the court details of your dispute. It will be a written statement that sets out the facts and evidence of your case. The affidavit will include details about the parents and children, details about current care arrangements, details of any existing restraining orders, details of any concerns about risks to the children, and the main facts supporting the orders requested in **Form 1**.

TYPES OF ORDERS TO REQUEST FROM THE COURT

- ✓ Where the child will live
- ✓ Who will have parental responsibility
- ✓ Time spent with the child

URGENT HEARING

The Court will deal with the issues as soon as possible which could be on the same day as the application if the child is at risk or is being relocated.

To request an urgent hearing, you will need to:

- ✓ Seek legal advice
- ✓ Write to the Duty Registrar explaining why you need an urgent hearing
- ✓ Contact the Court Registry

Disclaimer: This factsheet provides general information and is not to be taken as legal advice. Published 2019



FILING THE APPLICATION

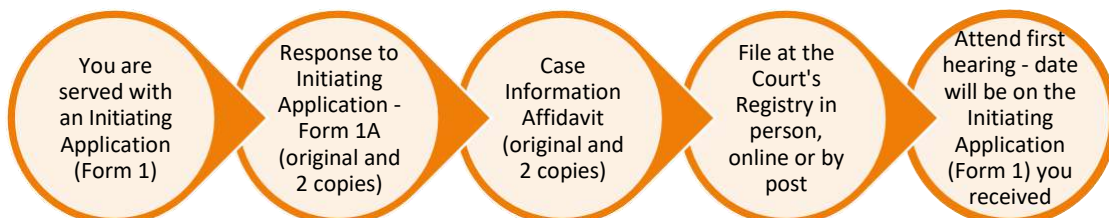
After you have attempted FDR, completed Form 1, sworn your Case Information Affidavit and have a copy of your marriage certificate or children's birth certificates you can file the documents online through the Commonwealth Courts Portal or at the Court Registry in person or by post. There may be an application fee for applying for Parenting Orders. The Family Court of Western Australia website provides information about fees and criteria to qualify for a reduction or exemption from paying the fee.



If you are also requesting Property or Financial Orders a **Financial Statement (Form 13)** (original and 2 copies) must be filed as well. (See Factsheet 7 Property and Finances)

RESPONDING TO AN APPLICATION

If you have been served with a Parenting Order Application that you do not agree with, you need to file a Response to Initiating Application (**Form 1A**) and a Case Information Affidavit. Part A of the form is for you to put orders that you are requesting. Parts B and C are for correcting the information provided by the Applicant (you do not have to do these parts if you have no corrections). You can request orders such as where the child will live, who the child will spend time with, who the child can communicate with and who can make major decisions about the child.



COMMONWEALTH COURTS PORTAL

You can file your applications and response online through the Commonwealth Courts Portal at <https://www.comcourts.gov.au>. You can visit the Family Court of Western Australia website for more information or speak to a lawyer at PCLS who can assist you with filing your application or response.

WHAT HAPPENS NEXT

At the first hearing the Judicial Officer will decide how to manage your case. The Judicial Officer may appoint an Independent Children's Lawyer if they feel that it would be in the child's best interests. The Judicial Officer may make interim orders or refer your case to a Case Assessment Conference which is conducted by a Family Consultant.



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