

Family Law Glossary | Empower Family Law & Mediation

Canonical: <https://staging-empowerfamilylaw.yottadigital.net/family-law-glossary/>

Details:

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

A

Acknowledgment of Service

A document signed by a person who has been served with court documents, confirming they received them.

Affidavit

A written statement of facts that is sworn or affirmed to be true and is used as evidence in court proceedings

Alternative Dispute Resolution (ADR)

A process for resolving disputes without going to court. Examples include mediation, negotiation and arbitration.

Applicant

An applicant is the party who starts a family law case by filing an application with the court

Asset Pool

The total value of assets, liabilities and financial resources considered when determining a property settlement.

B

Barrister

A barrister is an independent lawyer with specialist skills in dispute resolution, litigation strategy and advice, and advocacy before the court. In Victoria, an Australian lawyer who wishes to practise as a barrister will generally become a member of the Victorian Bar.

Binding Financial Agreement (BFA)

A legally enforceable agreement that sets out how property, assets and financial matters will be divided if a relationship breaks down. Also known as a “pre-nuptial agreement” or “prenup.”

C

Child Impact Report

A report prepared by a court-appointed professional that assists the court in understanding a child's circumstances and best interests.

Child Support

Financial contributions paid by one parent to assist with the costs of raising a child. Child support is generally administered by Services Australia.

Consent Orders

Legally binding court orders made by agreement between parties. They can deal with parenting arrangements, property division, spousal maintenance or a combination of these issues.

Contravention

A contravention means a failure to comply with, or a breach of, a court order made under the Family Law Act 1975 (Cth).

Costs Agreement

A costs agreement is a legally binding contract between a lawyer and a client outlining how much legal services will cost and how they will be billed.

Costs Order

An order requiring one party to pay some or all of another party's legal costs. In family law proceedings, each party generally pays their own legal costs, but the court may make a costs order where it considers it just to do so.

Counsel

In Australian law, Counsel typically refers to a Barrister.

Court Event

A scheduled court appearance, hearing, directions hearing, mention or conference.

Court Orders

Directions or decisions made by a judicial officer that parties must follow. Orders may be interim (temporary) or final.

Cross-Examination

The process by which a party challenges and tests the evidence of another party or witness through questioning in court.

Custody

A term commonly used to describe arrangements for children after separation.

D

De Facto Relationship

A relationship between two people who live together as a couple but are not legally married. Under Australian family law, most de facto couples have similar rights and obligations to married couples.

Disbursement

A disbursement is a fee or other charge that a law practice may incur on your behalf. These may include, court filing fees, barrister's fees, other expert's fees or company/title search fees.

Divorce

The legal ending of a marriage. Australia has a no-fault divorce system, meaning the court does not consider who caused the relationship breakdown.

Duty of Disclosure

The legal obligation to provide complete and honest information about finances, assets, liabilities and relevant circumstances.

E

Equal Shared Parental Responsibility

A legal concept relating to major long-term decisions for children, such as education, health and religion. It does not necessarily mean equal time with each parent.

F

Family Dispute Resolution (FDR)

A structured mediation process that helps separated families resolve parenting and other disputes without going to court.

Family Law Act 1975

The primary legislation governing family law matters in Australia.

Family Report

A report prepared by a psychologist or social worker to help the court make decisions about parenting arrangements.

Family Violence

Behaviour that is threatening, coercive, controlling or abusive, including physical, emotional, psychological, financial or technological abuse.

Final Orders

Court orders that permanently determine issues such as property division or parenting arrangements, unless varied later by a court.

Financial Agreement

A financial agreement is a written agreement made between parties to a marriage or de facto relationship that deals with financial matters such as property division, financial resources, and spousal maintenance.

Financial Disclosure

The process of exchanging financial information and documents relevant to a family law matter.

Financial Statement

A document filed with the court setting out a person's income, expenses, assets, liabilities and financial resources. It is commonly required in property settlement and spousal maintenance cases.

G

Genuine Steps Certificate

A document filed with certain family law applications confirming the steps taken to attempt to resolve the dispute before commencing court proceedings.

H

Hearing

A Hearing is a Court event where a judge, judicial registrar or other judicial officer considers evidence, legal arguments or procedural issues and makes decisions or orders about a family law matter. Hearings may be procedural, interim or final.

I

Independent Children's Lawyer (ICL)

A lawyer appointed by the court to represent a child's best interests in certain parenting cases.

Initiating Application

The court document used to commence family law proceedings. It sets out the orders being sought by the applicant.

Interim Defended Hearing (IDH)

Is a court event where a decision can be made about particular issues in dispute in the case on an interim or interlocutory basis, by a Judge or a Senior Judicial Registrar.

Interim Orders

Temporary court orders made before a final hearing.

J

Judicial Registrar

A judicial officer who can hear and determine certain family law matters.

L

Litigation

The process of resolving a dispute through court proceedings.

M

Matrimonial Home

The home occupied by spouses during a marriage. It is generally considered part of the property pool.

Mediation

A dispute resolution process where an independent mediator assists parties to negotiate an agreement.

Mediator

A family law mediator in Australia is an impartial, trained professional who facilitates negotiation between separating couples.

Minute of Consent Orders

A draft document containing agreed orders that parties ask the court to make without requiring a contested hearing.

Minute of Proposed Orders

A document setting out the precise orders a party wants the court to make. It may accompany an Initiating Application, Response or Interim Application.

N

Notice of Address for Service

A document notifying the court and other parties of the address where legal documents should be sent.

Notice of Child Abuse, Family Violence or Risk

A court document filed when concerns exist about a child's safety or exposure to risk.

P

Parental Responsibility

Under the Family Law Act 1975 (Cth), parental responsibility means “all the duties, powers, responsibilities and authority which, by law, parents have in relation to children.”

Parenting Orders

Court orders that set out arrangements for children, including where they live, spend time and communicate with parents and others.

Parenting Plan

A written agreement between parents about parenting arrangements. Unlike court orders, parenting plans are generally not legally enforceable.

Property Settlement

The legal division of property, assets, liabilities and superannuation following separation.

R

Recovery Order

A court order requiring that a child be returned to a parent, a person with whom the child is to live, spend time or communicate under a parenting order, or a person who has parental responsibility for the child.

Relocation

The proposed move of a child and a parent to another town, city, state or country that may affect a child's living arrangements or their ability to spend time with the other parent. If parents cannot agree about a relocation, the court may determine whether the move is in the child's best interests

Reply

A document allowing a party to respond to new issues raised in a response.

Respondent

The person responding to a court application brought by another party.

Response to Initiating Application

A document filed by the respondent outlining which orders they agree with, oppose, or seek themselves.

S

Section 60I Certificate

A certificate issued by a Family Dispute Resolution practitioner after parties attempt family dispute resolution. In many parenting cases, it is required before applying to the court.

Separation

The breakdown of a relationship where one or both parties decide the relationship has ended.

Separation Under One Roof

Separation under one roof occurs when spouses have separated and ended their marital relationship but continue to live in the same home.

Service Documents

Documents that prove court papers have been provided to the other party in accordance with court rules.

Spousal Maintenance

Financial support paid by one spouse or former spouse to another when that person cannot adequately support themselves.

Subpoena

Is a legal document issued by the court at the request of a party to proceedings that compels a person or organisation to produce documents, give evidence, or do both.

Subpoena for Production

A subpoena requiring records or documents to be produced to the court, such as school records, medical records or financial records.

Subpoena to Give Evidence

A subpoena requiring a person to attend court and provide oral evidence.

Superannuation Splitting

The division of superannuation interests between separating spouses or de facto partners.

Supervised Time

Time that a child spends with a parent or other person in the presence of an approved third party who monitors the interaction and helps ensure the child's safety and wellbeing.

T

Transcript

A transcript is the written record of what was said during a court hearing or proceeding. It is prepared from the official audio recording of the hearing and forms an official record of the proceedings.

Trial

A final court hearing where a judge determines disputed issues after considering evidence.

U

Undertaking

A formal promise given to the court. Breaching an undertaking can have serious consequences.

V

Victorian Civil and Administrative Tribunal (VCAT)

A Victorian tribunal dealing with a range of civil matters. While VCAT does not generally hear family law disputes, it may be relevant in related legal matters.

W

Without Prejudice

A legal term indicating that communications made during settlement negotiations cannot generally be used as evidence in court.

At Empower Family Law and Mediation, we can help you to ensure that your Financial Agreement clearly sets out your agreement and meets all legal requirements.

From your very first conference with us you will know where you stand, what your options are and what to expect.

That is why your first 30-minute consultation with us is FREE.

Contact Us

At Empower Family Law we understand the pressure our clients are under and the distress they feel. We work diligently to navigate them through to better times.

We take pride in offering our clients expert advice tailored to their situation and empowering them to achieve the best possible result.

Want to know more about the Empower Team?

Meet the Team

Speak with us

Your first 30-minute consultation is free. Call (03) 7020 6542 or contact our team to discuss your circumstances and next steps.

How should I use the family law glossary?

Use the glossary to understand common words appearing in correspondence, Court forms, mediation discussions and legal advice. Start with the term in its immediate context because the same word can carry a general meaning and a more specific legal meaning. Related entries often need to be read together: for example, “parenting plan,” “parenting orders” and “consent orders” describe different documents and levels of enforceability. A definition is an orientation tool, not a complete statement of the law or advice about what to do. Legislation, Court rules and terminology can change, and a document may use a term in a case-specific way. If a word affects a deadline, an obligation, safety or the orders being proposed, ask the lawyer handling the matter to explain its practical effect before you sign or act.

What is the difference between an agreement, a parenting plan and a Court order?

An informal agreement records what people have discussed but may not be enforceable. A parenting plan is a written, signed and dated agreement about parenting arrangements. It can be relevant to later decisions but is not enforced in the same way as a parenting order. A parenting order is made by the Court, either after a decision or by consent, and creates legally enforceable obligations. Financial settlements also require the correct legal form. Consent orders and binding financial agreements operate differently and have different requirements. A document's title is not enough; its content, execution and legal basis matter. Before relying on an agreement, confirm what it covers, whether it is enforceable, how it can be changed and what happens if someone does not follow it.

Why do terms such as disclosure, affidavit and service matter?

These terms describe procedural duties that can materially affect a case. Disclosure is the continuing obligation to provide relevant information and documents, particularly in financial proceedings. An affidavit is written evidence affirmed or sworn to be true and filed for the Court's consideration. Service is the formal delivery of Court documents in the required manner so another party has proper notice. Failing to comply can delay proceedings, increase costs or affect how the Court views the evidence and conduct. The precise requirements depend on the document and type of proceeding. Do not assume an email or ordinary handover satisfies formal service, and do not sign an affidavit without checking every statement and attachment. Current Court forms, rules and tailored legal advice should guide the required steps.

Why is "custody" often replaced by different parenting terminology?

Australian family law generally focuses on parental responsibility, who a child lives with, the time a child spends with each person, communication and specific decision-making arrangements. The older word "custody" can obscure these separate questions and may suggest that parenting is an all-or-nothing contest. Using precise language helps identify the real issue. Parents may agree about where a child lives but disagree about schooling, health decisions, travel or communication. Orders should be drafted around the child's needs and the practical decisions that require clarity. No parent automatically receives equal time, and the child's best interests guide parenting decisions. The appropriate wording depends on current law, safety and the family's circumstances.