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LawTalk Blog



What to expect on your first court date in the Family Court

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Once a person files an application for parenting or financial matters in the [Family Law Courts](#), a first hearing is set for the case. The first hearing set in a case is known as the “first return date”.

The time in which it takes to get that first hearing will depend on the urgency of the matter but is usually 1 – 2 months.

The prospect of the first court date can be very daunting, especially to those who have never otherwise been to court before. Many questions may be running through your mind, so we have answered some of the most commonly asked questions in this blog.

Where do I go?

The Federal Circuit Court and Family Court (collectively referred to as the Family Law Courts) in Adelaide are located in the [Roma Mitchell Building, 3 Angas Street, Adelaide](#).

You will need to know what floor and what court room you are in and you can look this up on the [court website](#) the day before. Alternatively, once you enter the foyer of the building, there is a board containing the names of all the matters in Court that day and what Court room they will be held in.

If you are still unsure, just ask your lawyer or one of the friendly court staff once you arrive.

What should I wear to court?

This is quite a common question. There are no set rules on attire and you are not there to be judged on your clothing choices. We recommend that you wear smart, neat clothing. Shirts and business attire are not compulsory but often worn. No hats or sunglasses are permitted in the court and you will be asked to remove the same.

Let common sense prevail. Remember that you are at court and not the park or beach. Avoid thongs, sandals, singlets, ripped clothing and any loud or offensive clothing.

What can you expect to happen at a Family Court hearing?

The first return date is the first time the parties and their legal representatives appear before the Judge in court. At this stage of the matter, limited evidence is before the court and so the court will not finalise the case on that day, unless the parties happen to agree on all the issues in dispute which is very uncommon.

This means that the Judge will not be making final decisions in respect to matters such as what each party's entitlement to property is or any final living arrangements for children.

The first return date will generally deal with urgent matters such as the location and recovery of missing children or an injunction stopping someone from selling property.

Orders made at a first return date are known as interim orders and are largely procedural. Interim orders provide a path for the matter to move forward such as for the parties to exchange relevant information, value important assets and for the next court date to be set.

There doesn't always have to be an argument in court on the first return date.

Agreement can be reached between the parties prior to or on the first return date about interim issues in which case the Judge can make the agreed orders.

It is common for lawyers to try and negotiate at the first court date in an attempt to resolve or at least minimise any issues in dispute.

When will my matter be heard?

Your matter will be given a date and time to be heard before a Judge. Although it is listed for a specific time, there is no guarantee that your matter will be heard at exactly that set time.

On the day, there will probably be a lot of other matters listed at the same time before the same Judge. This is known as a duty list. There can be up to 25 other matters in the duty list.

Given this, we recommend that on your first day at court you do not make any other plans, especially where there are significant issues in dispute and negotiations need to take place between the parties.

If there are issues in dispute that cannot be agreed, then each party's lawyer will need to make submissions to the Judge asking the Judge to make a decision in respect to such issues and this could mean you are at court all day.

Will I need to speak directly to the Judge?

No, unless you are self-represented. Ultimately that is what your lawyer is for and they will address the Judge on your behalf.

Will I need to speak to my ex-partner or their lawyer?

Again, no, as this is what your lawyer will do on your behalf.

Will I have to see my ex-partner?

Yes. More often than not, your ex-partner will be there. Given the size of the court rooms, it may often be that you end up sitting quite close to them.

It is important that if you have any concerns about being in close proximity to your ex-partner, that you let your solicitor know as soon as possible. They may be able to make alternative arrangements.

Will I be inside the court room?

Yes. However depending on the size of the court room and how many other matters are listed before the same Judge at the same time, you may be required to wait in the foyer until such time as seating becomes available.

It is important to note that generally speaking, (there are some exemptions) the court rooms are an open setting and therefore not only will you hear what happens in other matters, other people will also hear what happens in your matter.

This is all to do with the concept of the transparency of the court.

What if I have concerns about my safety?

If you have any safety concerns about your attendance at court, it is important that you let your lawyer know as soon as possible. The court provides secure rooms for parties who do not want to be in the court room with the other party during the hearing.

These rooms are limited and need to be booked early so make sure you have this discussion with your lawyer.

Can I bring a support person with me to court?

You are encouraged to bring a support person with you, not only for emotional and moral support but to keep you company if there are delays or your lawyer is engaged in negotiating with the other party.

It is important to choose this person carefully to ensure they act appropriately at court and don't try and influence your decision making.

Can children attend the court?

It is not appropriate for children to be in the court precinct (unless ordered or required to be) and they are not allowed to be present in court.

It is therefore important for parties to organise care arrangements for their children before the court date. There are limited child care facilities available at the Family Law Courts however bookings are required well in advance and therefore it is always best to try and seek care arrangements outside of the court.

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