



This brochure provides general information about, and suggests ways to prepare for, a Case Assessment Conference in the Family Court.

What is a Case Assessment Conference?

The Case Assessment Conference is the first major event that you will attend in the Family Court if you are seeking financial orders. It is conducted by a registrar (a Court lawyer).

The Case Assessment Conference provides an opportunity for you and the other party to reach an agreement, with the help of the registrar. Reaching an agreement with your former partner will save the need for further court events, including a trial.

If you cannot reach an agreement, the registrar will:

- assess the main issues and facts of the case
- recommend, where appropriate, other services that may help settle the dispute (for example, further family dispute resolution or progression to a hearing), and
- explain what will happen next.

If you or the other party have lawyers representing you, they will also take part in the conference.

What happens before the Case Assessment Conference?

I The applicant applies to the Court for orders

Either you or the other party starts a case in the Family Court, most commonly by filing:

- *Initiating Application* seeking financial orders or both financial and parenting orders
- *Financial Statement*
- if interim orders are sought at the same time as final orders, any affidavits (written sworn statements) in support of the application.

The Court sets a date for the Case Assessment Conference when the application is filed.

Note – applications can only be filed if the Court's pre-action procedures have been followed or if your case does not require pre-action procedures to be followed. In financial disputes see the brochure *Before you file – pre-action procedure for financial cases*. If there are parenting issues, see the brochure *Before you file – pre-action procedure for parenting cases*.

All documents filed with the Court by the applicant must be served on the other party (the respondent) as soon as possible after filing. For more information, see the Court's *Service Kit*.

2 The respondent replies

The respondent prepares, files at court and serves (on the applicant and any other parties) a written response to the served documents from the applicant by filing:

- *Response to Initiating Application*
- *Financial Statement*
- if interim orders have been sought, a supporting affidavit.

This must be done as soon as possible after the respondent has been served with the original documents, and not less than seven days before the Case Assessment Conference. For more information about service, see the Court's *Service Kit*.

3 Duty of disclosure, exchange of documents

The *Family Law Rules 2004* require parties to make full and frank disclosure about their circumstances before the Case Assessment Conference. What is required varies depending on whether only financial issues or financial and parenting issues are in dispute. The Court's brochure *Duty of disclosure* provides information about:

- full and frank disclosure - and what that might mean in financial and parenting cases
- written undertakings that must be given to the Court
- documents to be disclosed
- penalties for failure to disclose or for filing false undertakings.

Financial documents required

Rule 12.02 of the Family Law Rules provides that in a financial case, each party must exchange with all other parties copies of the following documents at least two days before the first court date:

- the party's three most recent taxation returns and assessments
- any superannuation documents for each superannuation interest of the party, including:
 - ~ the completed *Superannuation Information Kit*
 - ~ for a self-managed superannuation fund, the trust deed and the last three financial statements
- for a corporation (business), trust or partnership where the party has a duty of disclosure under Rule 13.04, financial statements for each (including balance sheets, profit and loss accounts, depreciation schedules and taxation returns) for each of the last three last financial years
- for the party or a corporation (business), trust or partnership where the party has a duty of disclosure under Rule 13.04, any Business Activity Statements for the 12 months ending immediately before the first court date
- for any corporation, its most recent annual return including a listing of directors and shareholders and the corporation's constitution
- for any trust, the trust deed
- for any partnership, the partnership agreement
- a market appraisal of any item of property in which a party has an interest.

Legal advice

You should seek legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. A lawyer can also help you reach an agreement with the other party without going to court.

You can seek legal advice from a:

- legal aid office
- community legal centre
- private law firm.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

What to expect at the Case Assessment Conference

The Case Assessment Conference will last approximately one hour and will involve three stages:

Stage 1 Assessment

The registrar conducting the Case Assessment Conference will:

- explain their role and the purpose of the conference
- answer any questions
- ask about issues of family violence and if either person is concerned about negotiating directly with the other person
- allow each person to outline the issues and discuss the current barriers to an agreement.

The exact way this stage is run depends on the issues in your particular case. For example, it may be conducted with both parties together, or separately. Where there are concerns about family violence, or where either participant does not want to be in the same room as the other person, then the Case Assessment Conference may be conducted in separate rooms.

Stage 2 Negotiation

The Case Assessment Conference looks at areas of disagreement. The discussions concentrate on the facts and background issues. These are the areas that you should think about when you are preparing for the conference. The registrar will assist you to understand and think about the consequences of any proposals made, guiding you and the other party to see if you can find a solution to your differences. The registrar cannot give legal advice. It is your responsibility to seek legal advice before the conference.

At the end of the Case Assessment Conference, the registrar will:

- summarise the progress made during the conference, and
- make it clear what the next steps are, and what needs to be done to prepare for these.

The registrar will not force you to make a final decision. Agreement is only reached with the consent of all the people involved. If you cannot reach an agreement, there are various options as to what happens next. For instance, the registrar may offer you the opportunity, in appropriate cases, of going to family dispute resolution outside the Court. In appropriate cases, a Conciliation Conference may be offered or, if it seems unlikely that this will help reach an agreement, it might be proposed that the case goes before a judge. This means your case will move towards a trial.

The settlement negotiations during the conference may be privileged. This means that what is said cannot be used in court later. There are some exceptions to this privilege. For example, court staff are required by law to report a suspicion or risk of child abuse and violence or threats of violence to the relevant child welfare authority.

Note – The Procedural Hearing at the conclusion of the Case Assessment Conference is not privileged and what is said in the Hearing can be used in court.

Stage 3 The Procedural Hearing

The Procedural Hearing, conducted by the registrar, is usually held straight after the Case Assessment Conference. At the Procedural Hearing, either or both of the following may happen:

- any agreement reached during the Case Assessment Conference may be made into legally binding orders of the Court
- orders will be made setting out the next step and what must be done to prepare for this.

What can I expect at the end of the day?

At the end of the first court event, you and the other party may leave with:

- a temporary or final agreement (often in the form of orders) reached through negotiation and dispute resolution on the day, and/or
- orders about the next steps in your case.

If we haven't reached an agreement, what happens next?

You must:

- File and serve a *Financial Questionnaire* within 21 days after the Case Assessment Conference
- Prepare with the other party and file a *Balance Sheet* as follows – in summary:
 - the applicant must prepare and send to the respondent an initial *Balance Sheet* within 28 days (it may be sent electronically)
 - the respondent must prepare and send an amended *Balance Sheet* within 21 days after receiving the initial draft
 - the applicant must then complete the *Balance Sheet* and file it with the Court within a further 14 days.

Some common questions about Case Assessment Conferences

Q Does every case go to a Case Assessment Conference?

A Cases involving only parenting issues (not financial issues) will go straight to a Procedural Hearing conducted by a registrar.

Q Do I have to attend the Case Assessment Conference in person?

A It may be possible to participate in the conference or hearing via electronic communication, including telephone or video link. To do this, you will need to seek the Court's permission in writing at least seven days before the conference.

Q If we cannot reach agreement at the Case Assessment Conference, how long until a judge will determine our case?

A The time a case takes to be heard before a judge varies depending upon such aspects as the number of issues in dispute and the complexity of the case, however it could be about 12 months before a judge hears your case.

Family Law Rules

You should consider the following Family Law Rules when preparing for the Case Assessment Conference:

- Rule 12.02 Property case – exchange of documents before first court date
- Rule 12.03 Case assessment conference
- Rule 12.05 Property case – exchange of documents before conciliation conference
- Rule 12.06 Financial questionnaire and balance sheet

Personal safety

If you have any concerns about your safety while attending court, please call **1300 352 000** before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place. By law, people must inform a court if there is an existing or pending family violence order involving themselves or their children. More detail is in the brochure *Do you have fears for your safety when attending Court?*

More information

For more information including legislation, forms or publications listed in this brochure:

- go to www.familylawcourts.gov.au
- call **1300 352 000**, or
- visit a family law registry near you.

The Family Law Courts respect your right to privacy and the security of your information. You can read more about the Courts' commitments and legal obligations in the fact sheet *The Family Law Courts and your privacy*. The fact sheet includes details about information protection under the privacy laws and where privacy laws do not apply.