



Basic guide to family law court hearings

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If your matter is before the [Federal Circuit and Family Court of Australia](#), there are a number of hearings that you will be required to attend. This blog outlines the main types of court hearings; from the first return hearing to the directions hearings, interim defended hearings and final hearings. The Court has published a [comprehensive guide to all of the different family law hearing types](#) (including those not covered here).

Types of events and hearings in the Federal Circuit and Family Court of Australia

There are multiple types of family law court events:

- First return hearing/court event;
- Directions hearing;
- Interim hearing;
- Dispute resolution event (such as a conciliation conference, dispute resolution conference, private mediation, judicial settlement conference);
- Court children's service interviews and reports;
- Compliance and readiness hearing;
- Trial management hearing; and
- Final hearing.

The specific circumstances of your matter will determine which of these events/hearings you will attend; you will not necessarily attend all of them.

Depending on how your family law matter progresses through the court system, it may be that you must attend multiple of the same type of hearing.

First return hearing

The first return hearing is the first court date parties will attend after filing their application. The hearing is an opportunity to clearly identify which issues need to be determined and the steps to follow to progress the matter. Each party should attend (with their lawyer, if represented).

First return hearings are usually conducted by a Judicial Registrar. Some examples of the kinds of orders that the Judicial Registrar can make at a first return hearing include:

- Make procedural orders - instructions on the next steps required to move the case forward such as gathering evidence or attending on a family report writer;
- Approve proposed interim orders if agreement is reached about interim matters – this is discussed more below;
- Make final orders if there is agreement;
- Define the issues that are in dispute;
- In children's matters, appoint an [independent lawyer to represent the children's best interests](#) or make an order for the preparation of a family report.

The court expects parties to have had genuine discussions about what steps need to be taken (and attempt to agree on these steps), before the first court event.

At the end of the first hearing, there will be orders and/or directions made by the Court and a date set for a further Court event - usually a [conciliation conference](#) or a [private mediation](#) in [property matters](#) or an interim hearing for [parenting matters](#).

Interim defended hearing

An interim defended hearing is where interim (or temporary) issues are decided prior to a final hearing. This addresses any issues that need to be dealt with in the meantime before the matter is ready for trial.

Interim defended hearings are usually heard before a Judge or a Senior Judicial Registrar.

Examples of issues that could be heard at an interim defended hearing include:

- Whether a party should be restrained from withdrawing funds from a bank account;

- Whether a party must vacate a property;
- Whether the parties are to sell a property;
- Whether a child should spend time or communicate with a parent (and if yes, on what basis);
- Whether a party needs to complete drug testing; and/or
- Whether the proceedings before the Court should be dismissed.

There are many types of interim issues that can be ventilated at an interim defended hearing, although the Court encourages parties to try to keep any disputes before the Court to a minimum where possible.

Where practical, interim defended hearings are usually listed after the parties have had the opportunity to obtain and file relevant material/reports.

In circumstances where parties cannot agree as to the interim issues, parties or their lawyer will make submissions at the hearing for the relevant judicial officer to make a decision. This is why interim defended hearings will usually be listed (scheduled) after the parties have had the benefit of receiving any expert reports (such as family reports or valuations), [subpoena material](#) and/or DFFH reports so that there is enough information before the Court to make a decision.

Directions hearing

Directions hearings are a procedural hearing that can be conducted by a Judge, Senior Judicial Registrar or a Judicial Registrar. The Court will usually only make 'procedural' orders at this type of hearing, to give the parties direction about what steps need to be taken before the matter can proceed to a final hearing.

Examples of procedural orders include:

- Requiring parties to file further material;
- Requiring parties to obtain valuations;
- Requiring parties to [disclose documents](#);
- Requiring parties to attend a family report writer for the preparation of a family report; and/or
- Requiring the parties to attend a mediation.

In many cases, the Court will 'list the matter' (call it back for a further directions hearing) to determine that it is properly prepared for the final hearing (or trial).

Essentially, the Court wants to know that the parties have properly prepared for the final hearing and that no issues or matters need to be dealt with or attended to which might interfere with the proper conduct of the final hearing.

If the matter is not prepared, the Court may delay the final hearing and may order that the party who is not ready, [pay any costs of delay](#).

Final hearing

If the matter is ready to proceed to a final hearing, the Court will allocate a final hearing date and set aside the amount of time required to hear all the evidence of both parties. This may be a day or can be longer depending on the complexity of the matter, the issues that are to be argued, the number of witnesses, the evidence that is to be presented and similar issues.

Final hearings are conducted by a Judge. The final hearing provides the opportunity for each of the parties' lawyers:

- to present the evidence in support of the orders they want the Court to make (including cross-examining witnesses and testing/refuting the other parties' evidence); and
- to tell the Court why it is proper that those orders should be made.

It is intended that, once this has happened, the Court will be able to make a decision which finalises all matters in dispute. After the final hearing, the Judge will make a decision and deliver reasons for judgment. This may be on the same day, or if the Judge needs more time to consider the case, they will reserve their decision and deliver it at a later date.

Final property orders will set out how the property must be distributed, effectively severing the financial relationship between the parties.

Final parenting orders will set out the final parenting arrangements for the children. They can only be altered in limited circumstances.

How a family lawyer can help

Court proceedings are complex and we strongly recommend that you seek legal advice before issuing an application or responding to an application.

At Smith Family Law we focus on negotiating settlements and resolving issues quickly with the aim to keep both costs and stress to a minimum. More often than not, matters in the Court system will settle before proceeding to a final hearing. However, in the event that your matter needs to proceed through the court system, we are able to provide expert representation and guidance at Court.

Contact Smith Family Law for a free consultation to discuss your family law matter.

Contacting Smith Family Law

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