

Pre-action Procedures

Family Law Rules 2021

Schedule 1

Under the Family Law Rules 2021 we are required to provide you with the following procedures:

1. A person who is considering filing an application to start a proceeding must, before filing the application and only if it is safe to do so:
 - (a) give a copy of these pre-action procedures to the other prospective parties to the proceeding; and
 - (b) make inquiries about the family dispute resolution services available; and
 - (c) invite the other parties to participate in family dispute resolution with an identified person or organisation or other person or organisation to be agreed.
2. To the extent that it is safe to do so, each prospective party must:
 - (a) cooperate for the purpose of agreeing on an appropriate family dispute resolution service; and
 - (b) make a genuine effort to resolve the dispute by participating in family dispute resolution (see section 60I of the Family Law Act 1975).
3. If the prospective parties reach agreement, they may arrange to formalise the agreement by filing an Application for Consent Orders.
4. Before filing an application, the proposed applicant must give to the other party (the **proposed respondent**) written notice (**notice of intention to start a proceeding**) of the proposed applicant's intention to start a proceeding if:
 - (a) there is no appropriate family dispute resolution service available to the parties; or
 - (b) a party fails or refuses to participate in family dispute resolution; or
 - (c) the parties are unable to reach agreement by family dispute resolution.
5. A notice of intention to start a proceeding must set out:
 - (a) the issues in dispute; and
 - (b) the orders to be sought if a proceeding is started; and
 - (c) a genuine offer to resolve the issues; and
 - (d) a time (the **nominated time**) that is at least 14 days after the date of the notice within which the proposed respondent is required to reply to the notice.
6. The proposed respondent must, within the nominated time, reply in writing to the notice under subclause (4), stating whether the offer is accepted and, if not, setting out:
 - (a) the issues in dispute; and

- (b) the orders to be sought if a proceeding is started; and
 - (c) a genuine counter-offer to resolve the issues; and
 - (d) the time that is at least 14 days after the date of the proposed respondent's reply within which the proposed applicant must reply.
7. It is expected that a party will not start a proceeding by filing an application in a court unless:
- (a) the proposed respondent does not respond to a notice of intention to start a proceeding; or
 - (b) agreement between the proposed parties is unable to be reached after a reasonable attempt to settle by correspondence under this clause.