

Dealing with family violence and child abuse

How do the changes to the family law system deal with family violence and child abuse?

Family violence and child abuse cannot be tolerated under any circumstances. While State and Territory laws may be relevant in many cases, the family law system also has an important role to play in preventing and dealing with cases of family violence and child abuse.

The Australian Government's reforms to the Family Law Act take account of family violence and child abuse issues and aim not to increase the risk of violence or abuse.

In planning and developing new services to assist families, the Government has ensured that mechanisms to screen for family violence and child abuse are developed and implemented. Services will be able to provide information and advice to victims of family violence or child abuse about their options and the support services available.

How does family law protect children from family violence?

The law states expressly that protecting children from the risk of violence is a primary principle (along with the right of children to know their parents) when a court is considering the children's best interests.

This means that children must be protected not only from the direct harm of violence but also from the harm that results when they are exposed to family violence perpetrated against other family members.

What is 'family violence'?

The Family Law Act defines 'family violence' to include actions or threats by a person against another family member or their property. It also includes witnessing such actions or threats (such as children witnessing violence).

In cases of threats of violence or witnessing family violence, a person must reasonably fear for, or be apprehensive about their

personal wellbeing or safety. The court will consider whether it is reasonable for a person in the shoes of the individual to fear or have an apprehension of violence.

This does not mean that actual violence would ever be seen as reasonable. No violence is acceptable.

Does 'shared parental responsibility' apply where there is violence or abuse?

This presumption does not apply if there has been violence or child abuse or there is a risk of it. In these circumstances, the court is not obliged to consider the parents sharing responsibility.

Will children be required to spend 'equal time' or 'substantial time' where there is violence or abuse?

If there has been violence or child abuse or there is a risk of it, the court is not obliged to consider a child spending equal time or substantial time with both parents.

Will cases involving violence or child abuse have to attend compulsory dispute resolution?

In cases where there has been violence or child abuse, or there is a risk of it, separating parents are not required to attend dispute resolution before taking a parenting matter to a court. They will be provided with information about the services and options (including alternatives to court action) that may be available to help them - as long as the provision of this information does not lead to a risk of abuse or violence if there were to be a delay in applying for a court order.

How will the courts now treat violence and abuse cases?

The law now requires courts to act without delay in such cases. An important new requirement is that they promptly consider cases that raise issues of family violence or child abuse.

The courts will have to quickly consider the need to make any orders to ensure there will be sufficient information to resolve the issues and to ensure that appropriate protections are in place.



What other changes apply that relate to violence and abuse?

Additional measures and provisions to deal with issues of family violence and abuse include:

New provision to address false statements: Where the court is satisfied that a party has knowingly made a false allegation or a false denial in the proceedings, the court must order that party to pay some or all of the costs of the other party. This enables the court to address concerns about false allegations and denials (including those about violence or abuse) made in family law cases.

New court power to provide information: The court can require State and Territory agencies to provide information and reports that they may have about allegations of family violence or abuse.

New case management approach: Where court proceedings involve children, a less adversarial approach will enable the court to better focus on their needs, and ensure that issues of violence and abuse are dealt with early in proceedings.

How will the new services for families deal with violence and abuse?

It is essential that services do not put families at greater risk of family violence or abuse. The new Family Relationship Centres and other services (including the new Family Relationship Advice Line) will screen for violence and child abuse. Centre and Advice Line staff will have specific training in screening. They will also help families access other services that can assist them with issues concerning violence and abuse.

What else is the Government doing to improve the way family violence and abuse issues are handled in the family law system?

In February 2006, the Australian Government released the Family Law Violence Strategy. The Strategy forms an additional part of the Australian Government's family law reforms. It aims to improve the way cases and allegations of family violence and child abuse are handled in the family law system.

The Strategy includes research on how courts deal with allegations of family violence.

It will also look into improving court processes for cases involving violence and will enable the Family Law Council to consider improving the ways these cases are dealt with. The Strategy addresses the Government's concern that allegations of violence and abuse must be investigated by the relevant state and territory agency as promptly as possible.

Where can I find more information about the family law system?

Look for the following fact sheets on www.australia.gov.au/familyrelationships

1. *Our children come first*
2. *Changes to the Family Law Act*
3. *Additional services for families*
4. *Family Relationship Advice Line and Family Relationships Online*
5. *Family Relationship Centres*
6. *The benefits for children*
7. *The role of professionals*
8. *Parenting plans*
9. *Compulsory dispute resolution*
10. *Dealing with family violence and child abuse*
11. *The role of grandparents*

Call 1800 050 321 or visit www.australia.gov.au/familyrelationships

