

## **VIOLENCE AND FAMILY LAW**

### **How does 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.

### **How does family law protect children from family violence?**

The family law act states that when a court is considering a child's best interests the court is to give greater weight to protecting children from the risk of violence, which is a primary principle (along with the right of children to have a meaningful relationship with both their parents).

This means that children must be protected from the direct harm of violence and the harm that results when they are exposed to family violence against other family members.

### **What is 'family violence'?**

The Family Law Act defines 'family violence' as violent, threatening or other behaviour by a person that coerces or controls a member of the person's family, or causes the family member to be fearful.

A non-exhaustive list of examples sets out behaviour that may constitute family violence. These examples include instances of physical assault or abuse, psychological abuse, and economic abuse.

The absence of an example does not mean that the behaviour would not be captured by the definition.

### **Where there is violence or abuse, does 'shared parental responsibility' apply?**

No, the court does not have to consider the parents sharing responsibility if there has been violence or child abuse or there is a risk of it.

### **Where there is violence or abuse, will children be required to spend 'equal time' or 'substantial time' with both parents?**

No, if there has been violence or child abuse or there is a risk of it, the court does not have to consider a child spending equal time or substantial and significant time with both parents, although it may do so.

### **Where there is violence or child abuse, will separating parents have to attend compulsory family dispute resolution?**

No, separating parents are not required to attend family dispute resolution before taking a parenting matter to a court.

Separating parents may choose to attend family dispute resolution that is tailored for cases involving violence, rather than going to court, but they are not required to do so — it would be an individual's decision, based on what they feel is best for them.

They should obtain information about the services and options (including alternatives to court action) that may be available to help them. This information can be provided by a family counsellor, a family dispute resolution practitioner, or by the Family Relationship Advice Line on 1800 050 321.

Separating parents don't have to get this information if there is a risk of abuse or violence.

### **How will the courts treat violence and abuse cases?**

The law now requires that courts consider cases that raise issues of family violence or child abuse promptly.

The court will have to quickly consider the need to make any orders, to make sure there is sufficient information available about the allegation of family violence or child abuse to resolve the issues, and ensure appropriate protections are in place.