

OUT OF COURT

CARE OF CHILDREN

FAMILY JUSTICE JOURNEY 1

Jayne and Rawiri separated six months ago. Jayne is looking after their son, Jason, but now that Jason is starting school, neither can agree on Jason's care arrangements.

Jayne talks to a friend about the situation and the friend tells Jayne about the family justice website.

www.justice.govt.nz/family-justice

Lawyer

FDR or PTS or other Service Provider

Community Group

0800 2 AGREE

Download parenting plan
Jayne visits the family justice website and finds a wealth of information to help her & Rawiri. She downloads a parenting plan template.

Complete parenting plan
Jayne and Rawiri agree to work through the template together, and seek help from their local Citizens' Advice Bureau (CAB).

Informally agree to abide by parenting plan
After several weeks, they complete the plan with support from the CAB and their families. Both Jayne and Rawiri agree to abide by the plan.

INFORMAL/PRIVATE ARRANGEMENT

✓ Care of child arrangements agreed

Informal/private arrangement

Agree, but not sure about long-term commitment
After several weeks, they complete the plan. But Rawiri isn't confident Jayne will abide by the plan, so he visits the local Community Law Centre (CLC) for information on what else he can do.

Option to get a court order
While there, he learns that he and Jayne can apply to have the plan formalised as a court order (made enforceable by the Family Court).

Family Legal Advice Service
He also learns about a service offering initial legal advice about care of children issues. The CLC tells him helps him check his eligibility for funding (he learns he is eligible) but Rawiri thinks that he can manage by himself at this stage, if Jayne agrees.

Complete court forms
He downloads the court forms from the family justice website and he and Jayne complete them. They both head down to the Family Court to file them.

File court forms
A court official receives the application and checks it, along with the affidavit and the completed parenting plan. They pay the standard fee and await the outcome.

ARRANGEMENT FORMALISED BY COURT ORDER

SIMPLE TRACK
The file is processed and scheduled for review by a judge, who then issues a court order. Jayne and Rawiri each receive a copy in the mail.

✓ Care of child arrangements agreed

Arrangement formalised by court order

Go to the family justice website for the following information:

- Out-of-court processes, where to find Parenting Through Separation (PTS) programmes, Family Dispute Resolution (FDR) mediators and family lawyers providing Family Legal Advice
- In-court processes, forms, and information on what will happen to your application if you go to family court
- Prerequisites you have to complete before going to court
- Detailed explanations of the orders you can seek if you do go to court
- Information for people representing themselves

Don't reach agreement
However, Jayne believes Rawiri is more focused on his own needs rather than on Jason. She goes to the family justice website to see what else she can do.

Find a PTS programme
She reads about a free Parenting Through Separation programme. Jayne persuades Rawiri to do it with her. The people running the PTS programme recommend they attend on different nights.

Attend PTS programme
They each attend two 2-hour sessions and learn how to support Jason as they work through their own issues. At the end of the programme, they are each given a certificate of attendance.

Reach agreement
After attending, they sit down together to complete the parenting plan. This time, they have more success and produce something they can both live with and that they feel is right for Jason.

✓ Care of child arrangements agreed

Informal/private arrangement, may be formalised by court order

PARENTING THROUGH SEPARATION PROGRAMME

✓ Care of child arrangements agreed

Informal/private arrangement, may be formalised by court order

Reach full agreement
At the end of mediation, Jayne and Rawiri have agreed all matters concerning Jason's care. Lee issues them with an FDR form which confirms they have completed FDR and lists the agreements they have reached.

FDR mediation
Lee explains how FDR mediation works. They schedule the next appointment and mediation commences.

FDR assessment
Lee confirms to each of them that they are both eligible for funding and approves it, explaining what it covers. Lee also assesses they are both suitable to undertake mediation, and that there are no apparent risk factors in the relationship that affect either party or Jason.

First appointment
Rawiri phones the FDR mediator, Lee, to organise an appointment for himself and Jayne. Lee asks to meet separately with each of them. They turn up to their individual appointments.

Cost of FDR
Jayne is interested but worried about the cost. She and Rawiri both recall the CAB and CLC telling them about a funding option. They go back online to the family justice website and learn they may be eligible for funding. They use the online calculator to each enter their incomes and see they may both be eligible for funding for FDR and other services.

Learn more about about FDR
Rawiri gets information about an FDR mediator nearby and phones up to talk through what it's about. He decides it might help him and Jayne, so he talks to Jayne about going along.

Don't reach agreement
Despite the help that PTS provided, neither Jayne nor Rawiri can agree on the arrangements for Jason's care.

Learn about FDR
When attending PTS, Rawiri picked up a brochure on the Family Dispute Resolution (FDR) service that the CLC had told him about. He goes to the family justice website to find a local FDR mediator.

FAMILY DISPUTE RESOLUTION SERVICE

IN COURT

Seek Family Legal Advice

Jayne and Rawiri learned from the CAB and CLC and their FDR mediator that their funding pays for legal advice through the Family Legal Advice Service. Rawiri tells Jayne he is going to see a lawyer and get advice. Jayne says she intends to follow suit.

Get FDR form

Lee issues them with an FDR form to say they have completed FDR, and lists the agreements they have reached & those that remain outstanding.

Reach partial agreement

At the end of mediation, Jayne and Rawiri have agreed on some matters concerning Jason's care. But Rawiri believes Jayne is becoming increasingly stubborn about certain issues, prompted by her new partner Max. Rawiri takes a firm stand on the care issues that matter most to him, and they reach only partial agreement.

Seek Family Legal Advice

Marta, Rawiri's Family Legal Advice Service lawyer, tells him about his rights and the options open to him, and provides him with information on the process of proceeding to court. She advises Rawiri to try once more to reach agreement with Jayne on the outstanding issues. Rawiri calls Jayne, but gets nowhere.

Complete court forms

Marta has set aside time to help Rawiri complete the forms he'll need to go to court. Rawiri completes the court forms and affidavit provided by Marta, and heads on down to the Family Court to file the documents.

File court forms

At the Family Court, Rawiri files the court forms. Fortunately for Rawiri, he sees a sign about fees and waivers. Talking to the court official, he learns he is eligible for a fee waiver so he doesn't have to pay the standard fee (\$220) to file his application.

Get legal advice

Jayne delays getting legal advice but, when the papers are served on her, she approaches Gerard, a Family Legal Advice Service lawyer.

Serve notice

Court registry staff receive, accept and process the application, then pass it to a process server or bailiff to serve the documents on Jayne.

File notice of response

Jayne follows the advice Gerard gives her and files a notice of response and affidavit disagreeing with the one Rawiri filed. She does this within 21 days, which is the deadline.

ATTENDING AN ISSUES CONFERENCE

STANDARD TRACK

Court staff process the application and refer it to a judge for review who, in this case, directs an issues conference. No lawyers are allowed to be present at an issues conference.

Confirm court appearance

Jayne and Rawiri are notified by mail of the date, place and time to appear for the issues conference. Jayne checks out the family justice website for information about court protocols.

Attend issues conference

On the day of the issues conference, Jayne and Rawiri turn up at court. They are ushered into the courtroom by the court official. There are no lawyers present.

Respond to questioning

Family Court Judge Northwick summarises what she has read in the affidavits and confirms the outstanding issues. She questions both Jayne and Rawiri and asks them to outline their position. She prompts them to clarify their responses.

✓ Care of child arrangements agreed

Arrangement formalised by court order

Receive a consented order
Judge Young summarises the outcome and ensures both Jayne and Rawiri agree. He issues a court order. At the end of the conference, the court official provides Jayne and Rawiri with a note outlining what has been ordered.

Attend settlement conference
At the settlement conference, Jayne and Rawiri meet Judge Young. He again summarises the outstanding issues, reading from the court file, and asks questions. He provides them both with a means to air their differences and, with his prompting and support, both Jayne and Rawiri reconsider the best outcomes for Jason.

Learn about next steps
Based on the issues in dispute between Jayne and Rawiri, Judge Northwick decides the next step should be a settlement conference. She doesn't believe Jayne and Rawiri need lawyers to reach agreement, so there will be no lawyers present there either.

ATTENDING A SETTLEMENT CONFERENCE

An issues conference gives the judge a chance to meet with parties to confirm information, ask questions and clarify issues so they can make decisions on the next steps to resolve care of children matters. Lawyers can't be present in the courtroom during an issues conference.

A settlement conference enables the parties to resolve issues regarding day-to-day care of children. At a settlement conference, the judge can only make a parenting order with the consent of both parties. People can have lawyers in the courtroom only if the judge directs it. If parties are allowed to have lawyers in the courtroom, they may be eligible for legal aid.