

NT LOCAL COURT FAMILY LAW PILOT



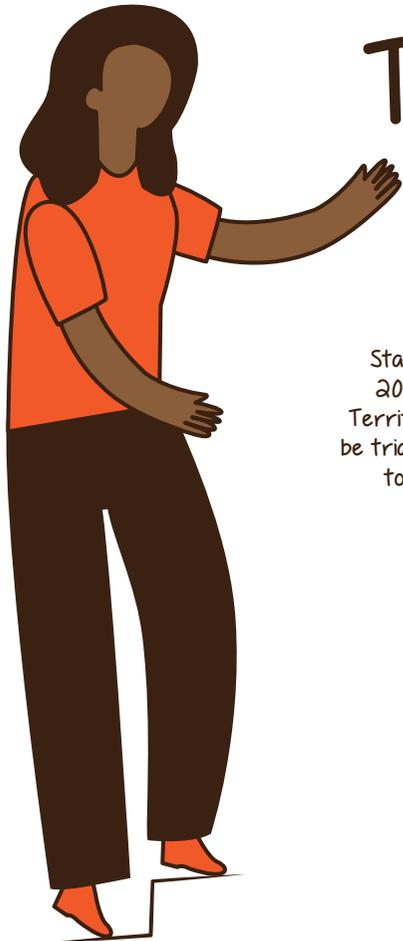
Australian Government

Attorney-General's Department



Northern Territory
Local Court

WHAT IS THE FAMILY LAW PILOT?



Starting on 4 March 2019 the Northern Territory Local Court will be trialling a new approach to **child protection proceedings**.



During the Family Law Pilot (the pilot), the Local Court will have the option to make family law **parenting orders** rather than child protection orders if all of the family members and the CEO of Territory Families are in agreement.

The making of **parenting orders** means that Territory Families may be able to stop being involved, and let the family have more control over where children live and who they are allowed to see.



This can all be done in the one court without the need for additional proceedings in Family Court.



The pilot aims to **give better access to justice for families** and allow the Local Court to have more options when it comes to making orders about children.



IS MY CASE SUITABLE FOR THE PILOT?



The Local Court can only accept a matter to take part in the pilot if the following five criteria are met:

1

THERE HAS TO BE EITHER



Existing child protection proceedings

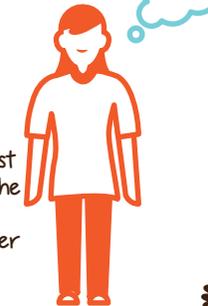


An existing child protection order



Territory Families are worried about the child

2



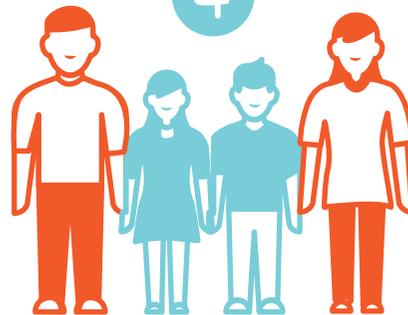
It is in the best interests of the child for a family law order to be made

3



The families to the matter are either within the Darwin region or are within the Katherine region and willing to go through the the Darwin Children's Court Registry

4

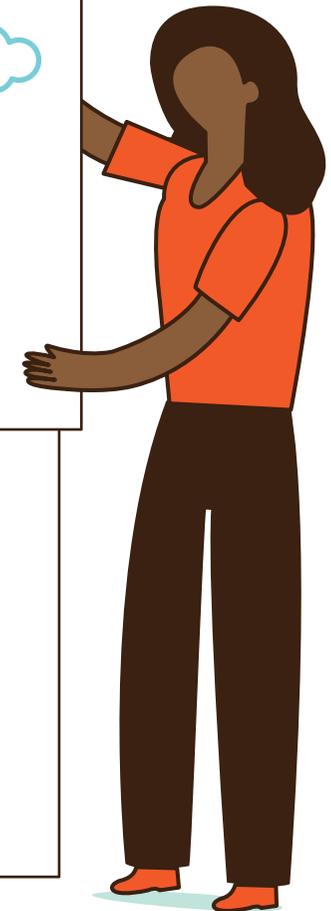


Everyone involved gives permission to the Local Court to make family law orders

5



The Local Court agrees that the case is suitable for the pilot



Please note that the Local Court can decide to remove a matter from the pilot at any time.

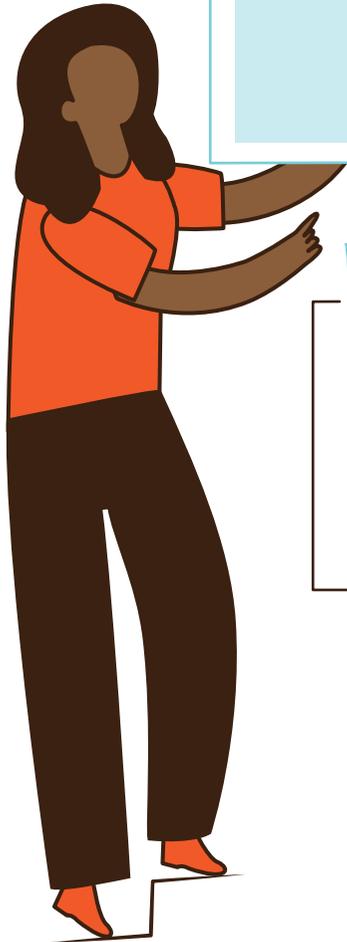
HOW CAN THE FAMILY LAW PILOT HELP YOU?

The Family Law Pilot is a MORE COMPLETE APPROACH for child protection matters.



In some matters, if a family law parenting order can be made in favour of a PARENT OR A CARER, Territory Families may be able to end their involvement with the family.

BELOW ARE SOME EXAMPLES OF WHEN THIS MAY HAPPEN:



EXAMPLE 1

TERRITORY FAMILIES are only worried about the child living with the mother

TERRITORY FAMILIES

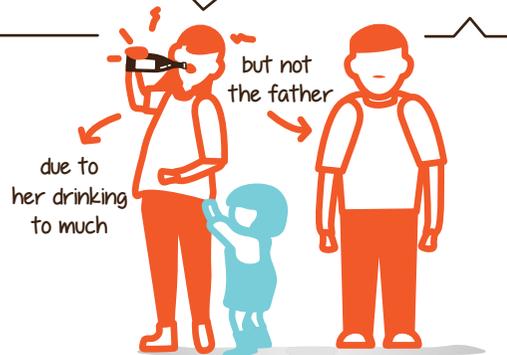
want a protection order in place to stop the mother taking the child away from the father.



Under the FAMILY LAW PILOT, if Territory Families, the mother and the father agree,



The Court can make a family law PARENTING ORDER confirming that the child will live with the father



due to her drinking to much

but not the father

The parents are separated.



Once the order is made, there may no longer be a need for Territory Families to be involved

and only spend time with the mother when she is not drinking.



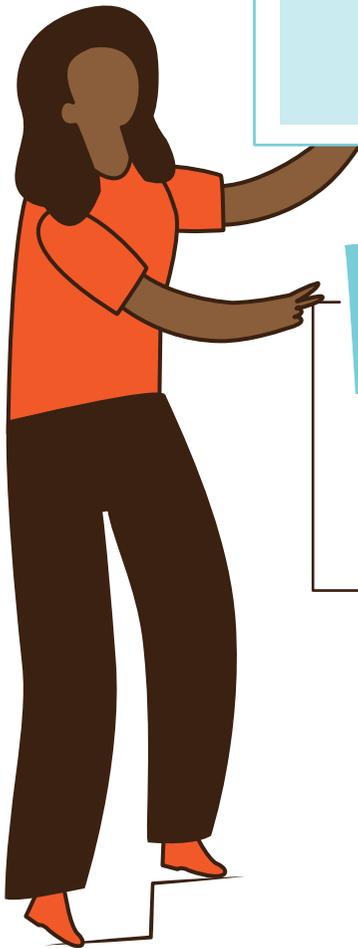
HOW CAN THE FAMILY LAW PILOT HELP YOU?

The Family Law Pilot is a MORE COMPLETE APPROACH for children protection matters.



In some matters, if a family law parenting order can be made in favour of a PARENT OR A CARER, Territory Families may be able to end their involvement with the family.

BELOW ARE SOME EXAMPLES OF WHEN THIS MAY OCCUR:



EXAMPLE 2

TERRITORY FAMILIES are worried about the children living with either of their parents.

The family agree it is best for the children to keep living with the grandmother



Under the FAMILY LAW PILOT, if Territory Families, the parents and the grandmother agree,



The Court can make a family law PARENTING ORDER providing the grandmother with legal responsibility for the children.



The children have been placed with their grandmother by Territory Families after a protection order is made.



Once this order is made, Territory Families no longer need to be involved with the family and there is no reason to continue to have a protection order.



HOW CAN THE FAMILY LAW PILOT HELP YOU?

The Family Law Pilot aims to provide a **MORE COMPLETE APPROACH** for child protection matters.



In some matters, if a family law parenting order can be made in favour of a **PARENT OR A CARER**, Territory Families may be able to end their involvement with the family.

BELOW ARE SOME EXAMPLES OF WHEN THIS MAY OCCUR:



EXAMPLE 3

TERRITORY FAMILIES have received several reports about parents fighting in front of the children.



The parents have separated but they can't agree on who the children should live with.



The parents keep snatching the children from each other and fighting in front of the kids.

The parties agree to have the Court make family law parenting orders confirming this agreement. Given that the children will no longer be exposed to fighting between the parents, Territory Families won't need to apply for a protection order.



There has been violence during these fights and the police have been involved.



TERRITORY FAMILIES are considering applying for a protection order to take the children away from both parents if they don't stop fighting in front of the kids.



The parties all agree to enter into the Family Law Pilot.



The Court arranges for the parents and Territory Families to attend mediation.

At the mediation the parents agree to the times that the children will live with each of them and how they will exchange the children without exposing them to anymore fighting.



NEED FOR CONSENT

Families can only enter the pilot if **everyone agrees**. They need to say yes to entering the pilot, and to the Local Court using family law rules.



A **Consent to enter into the Family Law Pilot form** will need to be completed.



This form will need to be signed by everyone involved to the proceedings and filed with the Court.



The Court **can not accept** the referral of a matter into the Family Law Pilot if **any party opposes** the Local Court exercising family law jurisdiction.



You can get this form and an information pack about the Family Law Pilot by calling the court on

8999 1665

NEED FOR CONSENT

By signing the Consent to enter into the Family Law Pilot form, a party is agreeing to:



Even if a party agrees to a matter entering into the Family Law Pilot, a Judicial Registrar or a Family Law Pilot Judge can take the matter out of the Family Law Pilot at any time without your agreement.

FAMILY LAW PARENTING ORDERS VS CHILD PROTECTION ORDERS



Family law parenting orders are **made under the Family Law Act**. This is a Commonwealth Act that is normally used only by the **Family Court of Australia or the Federal Circuit Court of Australia**. A Family law parenting order can be applied for by a parent, grandparent, or any other person concerned with the care, welfare or development of the child.

FAMILY LAW PARENTING ORDERS VS CHILD PROTECTION ORDERS

Parenting orders can provide for matters such as:



1
The person or persons that a child is going to live with.



2
The time a child is to spend with another person or other persons;



5
How and when a child will communicate with other people



4
if 2 or more people are to share parental responsibility for a child, the types of matters that they need to talk to each other about (such as where a child goes to school or approval of medical procedures); or



3
The allocation of who makes the major decisions (parental responsibility);



FAMILY LAW PARENTING ORDERS VS CHILD PROTECTION ORDERS



Child Protection Orders are made under the **Care and Protection of Children Act**. This is a **Northern Territory law** that is only used by the Northern Territory Local Court and the Northern Territory Supreme Court during appeals. Only the CEO of Territory Families can apply for a Child Protection Order.

FAMILY LAW PARENTING ORDERS VS CHILD PROTECTION ORDERS



The protection order can help decide:

1

Who will look after the child,



2

Who is not allowed to see the child, or



3

if Territory Families should supervise the families care of a child.



MEDIATION AND FAMILY DISPUTE RESOLUTION



Mediation is a process in which an independent third party assists people who can't solve their disagreement on their own.



The Mediator can assist the parties by helping them talk calmly about the problem and stay focussed on the issue.



Mediation means everyone can say what they want to say in a safe and private space.

MEDIATION AND FAMILY DISPUTE RESOLUTION

Family Dispute Resolution ("FDR") is a special type of mediation that is specifically designed to assist separated couples to try to reach an agreement about their family law dispute.



FDR is now compulsory for almost all separated couples before they are allowed to enter the proceedings in the Family Law Courts.

If families make a genuine attempt to try to resolve their issues at FDR but simply can't agree, they will be given a section 60I certificate.



This certificate proves they have tried FDR and means they can now go to court if they need to.



FDR is conducted by Family Dispute Resolution Practitioners. These are mediation practitioners who have obtained an additional accreditation to be able to conduct FDR.



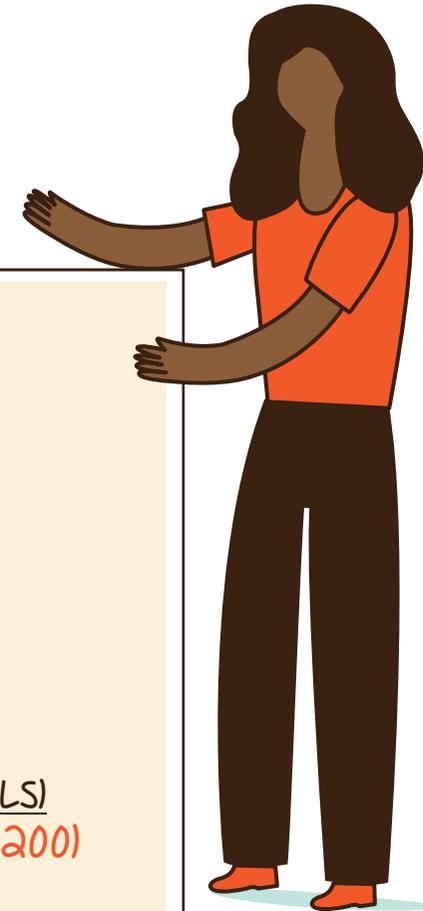
All Family Law Pilot mediations will be conducted by mediators who hold qualifications as Family Dispute Resolution Practitioners.

I N D E P E N D E N T L E G A L A D V I C E

Before choosing if you want to enter into the Family Law Pilot, you should speak to your own legal advisor first.

COURT STAFF CANNOT provide legal advice. Below are some places where you may go for legal help for family law related matters:

- NT Legal Aid Commission
(Phone 1800 019 343)
- North Australia Aboriginal Justice Agency (NAAJA)
(Phone 1800 898 251)
- Top End Women's Legal Service
(Phone 1800 234 441)
- Law Society NT - first interview scheme
(Phone 8981 5104)
- North Australian Aboriginal Family Legal Service (NAAFLS)
(Phone Darwin 8923 8200 - Katherine 8972 3200)



FURTHER INFORMATION

You can find more information about mediation and family law proceedings in the following brochures:



- Family Court brochure
Marriage Families and Separation
- Family Court brochure
*Compulsory Family Dispute Resolution-
court procedures and requirements*
- Australian Government brochure
Family Dispute Resolution