



DAWSON

FAMILY LAW

WHAT IS A PRE-ACTION PROCEDURE?

Pre-action procedures are steps that must be taken by a party before a Court Application is filed. The aim is to narrow the issues in dispute and ideally, resolve disputes without the need for expensive, stressful and lengthy Court litigation.



Genuine Steps

The Family Law Rules require parties to take 'genuine steps' to resolve the issues in dispute, prior to making a Court application. In particular, the parties must:

1. Read the pre-action procedures - a copy is available on our website at www.dawsonfamilylaw.com.au - within the resources tab;
2. Make inquiries about, invite the other party, and where safe to do so, participate in, family dispute resolution;
3. Write to the other party setting out a proposal to resolve the matter and identifying the issues in dispute; and
4. Comply with their duty of disclosure by exchanging relevant documents. In parenting proceedings, this may include child safety, police, schooling or health records. In property matters, this includes income information, bank statements, superannuation statements and all other relevant financial documents.

There are exceptions to these rules, including where there are allegations or a risk of family violence, or in circumstances of urgency.



Consequences for non-compliance

There can be consequences if one party does not comply with the pre-action procedures, including that the Court can order for that party to pay the other party's legal costs. The Court may also 'stay' the application, meaning it cannot proceed through the Court process until there is compliance.

Always get independent legal advice, specific to your circumstances.



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A fresh start