



What is an Independent Children's Lawyer?

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An Independent Children's Lawyer ("ICL") is a lawyer appointed by the Court to represent the best interest of a child in parenting matters during family law proceedings. Unlike ordinary lawyer-client relationships, an Independent Children's Lawyer will not necessarily act on the instructions of a child. There is no obligation for an ICL to do as a child directs them.

When is an Independent Children's Lawyer appointed?

An Independent Children's Lawyer is appointed by order of the Court.

An ICL is not appointed in every parenting matter. Whilst the parties can request an ICL be appointed, it is for the Court to determine whether or not that is required.

Independent Children's Lawyers are often appointed in cases that involve:

allegations of [family violence, child abuse or neglect](#);

a high level of conflict and dispute between the parents;

a parent or child with serious medical or mental health issues;

allegations about the [views of the children](#) who are mature enough to express their views;

a proposal to separate siblings or for a [parent to relocate](#) a long way from the other parent; and/or

other combinations of difficult and complex issues.

What is an Independent Children's Lawyer's role?

The role of the Independent Children's lawyer is to represent the best interests of the child in family law matters.

However, the ICL also has an information-gathering role.

Such information gathered is intended to assist the Court in making a determination as to what is in the best interest of the child.

The Independent Children's Lawyer will gather information by, for example:

1. [issuing a Subpoena](#);

meeting with the child (depending on their age and whether this is deemed appropriate); and

contacting the child's school, daycare provider or other important people.

Based on all the information available to the ICL, including the parties' evidence, they will then form a view as to what [parenting orders are in the best interest of the child](#) and present this opinion to the Court. This is independent of what the parents or parties competing interests and proposals may be.

The judicial officer determining the parenting dispute is not bound to make the orders sought by the ICL, however, the ICL's view generally carries weight.

Who pays for the Independent Children's Lawyer?

The Independent Children's Lawyer is funded by Legal Aid. However, Legal Aid may request the parties to the proceedings make a contribution towards the costs of the ICL.

Whether or not a party is required to make a contribution towards the ICL's costs is a decision made by Legal Aid, not the ICL.

Legal Aid generally makes its decision based on the parties' respective financial position. Legal Aid assesses the parties' financial position by reviewing financial statements filed with the Court. When Orders are made appointing an ICL, those Orders will be made for both parties to file a financial statement that sets out the parties' income, expenses, assets, liabilities, financial resources and superannuation entitlements.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.