

# **THE ROLE OF THE INDEPENDENT CHILDREN'S LAWYER**

In cases where a family law court has ordered the appointment of an Independent Children's Lawyer to represent the best interests of the child in a parenting dispute before the court, the Commission provides experienced and accredited Independent Children's Lawyers to perform this important role.

## **What does the Independent Children's Lawyer do?**

The role of the Independent Children's Lawyer is to represent the interests of the child and to assist the Court to make a decision in the best interests of the child. The Independent Children's Lawyer, like the Court, is not concerned with issues of fault or blame, but only with what is best for the child in the future.

The Independent Children's Lawyer is independent. They will be involved in all court proceedings relevant to the child's interests. They will consider the available evidence, obtain other evidence such as family reports if necessary, and present this evidence to the Court. The Independent Children's Lawyer may give the Court their independent opinion as to what will be best for the child. The child will not go to court. Once court proceedings have been finalised, the role of the Independent Children's Lawyer is at an end.

## **What about the child's views?**

Depending on the child's age, maturity and other circumstances, the Independent Children's Lawyer may consider it appropriate to talk with the child. The Independent Children's Lawyer must present evidence to the court of any views expressed by the child, however they do not have to act in accordance with those views and in appropriate circumstances may take a different view from the child.

## **Who pays for the Independent Children's Lawyer?**

The Legal Services Commission pays for the costs of the Independent Children's Lawyer. Under current Commonwealth Family Law Funding Guidelines, the Independent Children's Lawyer is required to seek a proportion of their costs from all parties unless the party is on legal aid or the Commission decides to waive or vary such payment. An Application for Waiver of Contribution can be downloaded from this website.

## **A party's relationship with the Independent Children's Lawyer**

The Independent Children's Lawyer does not side with any party but may choose to support the case of one or other party, if he or she believes this is best for the child. The Independent Children's Lawyer will communicate with the parties through their lawyers. If a party does not have a lawyer they can communicate with the Independent Children's Lawyer but to avoid any confusion this communication should be in writing.

If a party perceives a problem with the Independent Children's Lawyer's actions, they should seek advice from their lawyer who can take the matter up with the Independent Children's Lawyer or the Court. The Legal Services Commission is not generally empowered to remove an Independent Children's Lawyer and appoint another lawyer in their place.

## **Does the Independent Children's Lawyer decide what happens to the child?**

The Independent Children's Lawyer does not decide where the child will reside or any other parenting issue. Only a judicial officer can do this. The Judge is not bound to accept the Independent Children's Lawyer's recommendations.