

Snapshot 3: Dispute resolution for family law matters involving family violence

20 October 2017

The questionnaire was online for six months, and in that time we received 5,490 responses. The Committee thanks everyone for taking the time to share their individual experiences. This snapshot focuses on respondents' experiences with alternative methods of dispute resolution in matters involving family violence.

Resolving disputes

Respondents reported that they often used more than one mechanism to resolve matters (multiple options could be selected):

- » 50 per cent of respondents went to court;
- » 21 per cent settled out of court;
- » 36 per cent of respondents had not yet resolved the matters; and
- » 23 per cent used other mechanisms.

The questionnaire also revealed that, even after matters were finalised, 38 per cent of disputes have been the subject of further proceedings in court. A large number of respondents indicated that the proceedings that affected them, commenting:

- » *The proceedings cost me over \$150,000 and I experienced immense stress and emotional pain.*
- » *When you think it's over, it just keeps on going. If the other party does not accept the final decision, there is nothing stopping the other party from making more and more applications. It causes a lot of anxiety, particularly for the children.*
- » *The proceedings left me feeling helpless to protect my child.*
- » *Financially crippling, enabled further abuse which has caused severe psychological harm*

and has greatly affected my quality of life, my relationships and my ability to obtain work.

- » *The whole process was financially, emotionally and physically exhausting.*

Experiences with alternative dispute resolution

The questionnaire asked respondents if they had undertaken any formal family or alternative dispute resolution. Fifty-eight per cent of respondents reported having undertaken family or alternative dispute resolution, such as mediation.

The types of alternative dispute resolution and reasons why respondents entered into them varied:

- » *The court ordered family therapy.*
- » *We used mediation to see if things could be resolved before going to court.*
- » *I initiated counselling.*
- » *Mediation was mandated by the Family Court, the Mediation process itself is beyond broken.*

For those respondents who resolved their matters outside court, the factors that led them to the decision varied as well:

- » *I received firm advice from my solicitor to accept the settlement.*
- » *I settled because I ran out of money.*
- » *It was taking too long and too much money, I had to settle.*

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SUPPORT AND PROTECT THOSE AFFECTED BY FAMILY VIOLENCE**

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Of those families who have used alternative dispute resolution, 72 per cent were unsatisfied or very unsatisfied, with only eight per cent identifying that they were satisfied with these resolutions. Some respondents explained their experiences:

- » *The mediator however appeared to have little knowledge of either the family law act or the child support act despite the job requiring knowledge of both.*
- » *Put at risk of further violence.*
- » *The mediators pressured me into agreeing to things that sounded reasonable in a healthy separation however were not given the DV dynamic. The mediators were new.*
- » *Used as a 'stalling' tactic.*
- » *Achieved nothing.*
- » *I still wake up in the middle of the night sometimes thinking about the mediation and how traumatic it was. Afterwards I cried and couldn't work for 2 - 3 days. The whole session was used as a power play and the lingering effects created leverage to undertake emotional abuse for months afterwards.*
- » *I found the process very smooth and the staff highly skilled but still sensitive.*

The Committee thanks everyone who completed the questionnaire and took the time to share their personal experiences. We will publish a final snapshot online in the coming weeks. For inquiry information, please visit our website: www.aph.gov.au/fvlawreform

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