



Family Court hearings – the Final Hearing

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As the name suggests, the Final Hearing in any typical family law proceeding is the last hearing for applications listed in the Federal Circuit and Family Court of Australia (“the Court”). Most matters do not reach a Final Hearing because they settle at an earlier point along the Court pathway. In this blog, we look at the purpose of a Final Hearing, when hearings occur, the timing of decisions and appeal options if you disagree with the decision of your Final Hearing.

Usually, if your matter proceeds to a conciliation conference or a private mediation and does not resolve, it will be listed for a Compliance and Readiness Hearing (to ensure each party has complied with their [duty of disclosure](#) and any earlier orders made) and then a Final Hearing.

Separating couples should also be aware that it is possible to reach a final settlement by agreement at any point in your family law proceedings (including between court events by making and/or considering proposals for settlement), and each Court event is a dedicated opportunity to make an attempt to settle.

What is the purpose of a Final Hearing in family law proceedings?

The Final Hearing is where your family law matter is heard on a final basis by Judge. Each party’s evidence is tested and, if appropriate, challenged (usually by the party or witness being cross-examined) so that the Judge can make a final decision about your matter and the case can be concluded. The Final Hearing may also be referred to as “the trial”.

Can my family law matter go straight to a Final Hearing?

Some parties just want to have their “day in court” and would prefer to have someone decide their case rather than attempt to reach a settlement agreement. However, it is not possible to have your matter decided on a final basis without having attended earlier Court events and made attempts to settle the matter by agreement.

You may find our earlier articles about the various Family Court hearings useful to familiarise yourself with:

•[Family Court hearings – the First Return Hearing](#)

•[Family Court hearings – Interim Hearing](#)

•[How does mediation work?](#)

The reality is that Court resources are very stretched, and there is not capacity for every case that ends up in court to be heard on a final basis.

Parties also sometimes disregard or forget to consider the emotional cost of Final Hearings. The very nature of a family separation already gives rise to stress, which litigation can add to. Being involved in Court proceedings (not to mention giving evidence and being cross-examined) can be incredibly stressful, taxing, and sometimes painful. Also, reaching a settlement that you get to decide and maintain control over is more empowering and involves less uncertainty than having your case decided for you by a Judge.

For these reasons, the Court promotes (and expects) the use of Alternative Dispute Resolution, such as mediation. Many parties who start Court proceedings are grateful when the proceedings end by reaching agreement. The [Federal Circuit Court and Family Court of Australia Central Practice Direction: Family Law Case Management](#) “*aims to minimise the impact of litigation on families and children by encouraging the early and focussed resolution of family law disputes*”. The Central Practice Direction promotes settlements being reached by agreement and does not support matters immediately being allocated for Final Hearing.

When will my Final Hearing occur?

The Central Practice Direction suggests that subject to the parties complying with relevant orders and directions, a Final Hearing will be listed within 12 months from the date of filing the Initiating Application (which is the document filed by you or the other party that starts the court proceedings).

Whether your case can be heard within 12 months of filing depends on both parties' compliance with the Court orders and directions and the Court diary. For example, the Court is probably less likely to allocate Court resources (by way of a Final Hearing date) to parties who have failed to comply with Court orders about exchanging financial disclosure or valuing real estate.

Whether and when your case is heard for Final Hearing will also depend on the Court diary. Many cases will be listed for a number of days, and on each day, there are likely to be other matters listed for Final Hearing before the same Judge.

The matter deemed most urgent on that day will take priority for hearing. The matters not given priority for hearing or not reached will often be encouraged to have settlement discussions on that day and may be directed by the Judge to engage in Dispute Resolution again. There is also a possibility that your matter will be reallocated to another Judge with availability on that day, or

otherwise, it will be referred for relisting before the next available Judge after that day.

If your Final Hearing does proceed but takes longer than expected, the matter may end up being “part heard”. Matters that are part heard will be allocated further Final Hearing dates so the Court can hear the remaining evidence at a later date.

When will I know the outcome?

Usually, the Judge will not make a decision immediately upon the conclusion of all evidence being heard. In most cases, the Judge will reserve judgement. This means that they withhold their decision about the matter, to enable them to carefully consider each party’s evidence, submissions, and the relevant legal issues which arise in your case.

You may not know the outcome of your case for several months after it is heard. The Central Practice Direction states that the Court will endeavour to deliver judgement within 3 months of completion of the Final Hearing.

Can the Judge’s decision be challenged?

A Judge’s decision is appealable in certain circumstances. Whether you can (or should) appeal a Judge’s decision requires complex consideration of the particular circumstances of your case. The timelines to appeal are strict, so if you are contemplating appealing a Judge’s decision, you should seek legal advice promptly.

How can a family lawyer help?

When your family law matter ends up in Court, it can be a stressful, complicated and costly process. If you are considering issuing Court proceedings or if proceedings are already on foot, it is likely that you will benefit from legal advice and assistance at this stage of your matter. Please contact our office to arrange a consultation with a member of our team.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.