

# Page Provan

*family and fertility lawyers*

## DISPUTE RESOLUTION

Most family law disputes are resolved by agreement rather than by a Court. In most cases litigation in court is a last resort to the resolution of any dispute. At Page Provan we encourage our clients to try to resolve their disputes by agreement, but at the same time do our best to make sure we achieve the best result possible for them.

Court proceedings are not only expensive they are also stressful, time-consuming and sometimes unpredictable. In general, the best long term resolution is one that can be agreed upon without having to rely upon the Court. However, in some matters Court litigation is necessary.

### **Resolving a matter out of Court**

Family Law disputes can be resolved out of Court in the following ways:

#### 1. Through direct negotiations

Often disputes are resolved directly through communications between lawyers. Once parties have had legal advice and are aware of their rights, obligations and entitlements, it is common for there to be communications between lawyers which will lead to the dispute being resolved.

#### 2. Family Dispute Resolution

Before a party can make an application to Court in a parenting matter, in general they are required to participate in Family Dispute Resolution (FDR) with a Family Dispute Resolution Practitioner. These practitioners are trained professionals who are qualified to assist people to resolve their parenting disputes.

#### 3. Mediation

Mediation is a process that is commonly accepted by good family lawyers as a proper and appropriate means for resolving disputes. Mediation can be conducted regarding any type of dispute. In family law they are generally conducted for parenting and property matters.

In family law matters most mediators are usually senior Family Lawyers including retired Judges, Barristers and senior Solicitors. They are well aware of the law and more importantly the necessity to settle matters amicably. Mediation can be conducted before or after the commencement of proceedings in Court. These days the majority of property settlement disputes which come before the court are resolved with the assistance of mediation. All of our lawyers are trained and experienced in conducting all types of mediation including parenting and property matters.

Our partner Bruce Provan is a Nationally Accredited Mediator with a passion for mediation.

#### 4. Collaboration

In collaborative law each party works with a collaboratively trained lawyer to cooperatively resolve their legal, financial and emotional issues after separation without going to Court. The collaborative process offers a way to resolve separation disagreement with dignity and respect. Collaborative lawyers work together to shape an agreement making considered decisions for the benefit of the family as a whole. Collaborative practice focuses on resolving family law disputes with minimal conflict. Focusing on problem solving to reach a mutually acceptable settlement without Court proceedings, the collaborative process uses other professionals such as accountants, financial advisers, mediators and psychologists who provide professional advice.

Our partner Bruce Provan is a trained collaborative lawyer and a member of the Queensland Association of Collaborative Practitioners.

#### 5. Arbitration

As an alternative to court proceedings parties can agree to utilise the services of an arbitrator. An arbitrator is a qualified independent person who is experienced in family law. After hearing the matter the arbitrator will make an award which can be registered in the court and has the same effect as a court order. The award can be appealed but only in limited circumstances. Arbitration has the advantage that the parties can agree to vary the process to deal with the nature and complexity of the dispute. It is generally quicker and less expensive than court proceedings but does not suit some cases or some clients.