

## The Role of the Independent Children's Lawyer

In cases where the Federal Circuit and Family Court (the Court) has ordered the appointment of an Independent Children's Lawyer (ICL) to represent the best interests of the child in a parenting dispute before the Court, the Legal Services Commission provides experienced and accredited ICLs to perform this important role.

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

The role of the Independent Children's Lawyer (ICL) 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 ICL, 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 ICL 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 child impact or family reports if necessary, and present this evidence to the Court. The ICL may give the Court their independent opinion as to what will be best for the child. The child will not go to the 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?

The Independent Children's Lawyer (ICL) will generally meet with the child depending on the child's age, maturity, and other circumstances. The ICL 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 (ICL). Under current Commonwealth Family Law Funding Guidelines, the ICL is required to seek a proportion of their costs from all parties unless the party is on legal aid, or the Legal Services Commission decides to waive such payment. An Application for Waiver of Contribution can be downloaded from the Legal Services Commission's website at [lsc.sa.gov.au/forms](http://lsc.sa.gov.au/forms).

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

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

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

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

The Independent Children's Lawyer (ICL) does not decide where the child will live or spend time or any other parenting issue. Only the Court can do this. The Court is not bound to accept the ICL's recommendations.