

# Single Expert Witnesses in parenting matters

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In complex parenting cases, often where there are significant issues in dispute or risk factors which need to be addressed, the Family Court may require the professional opinion of an expert to give their evidence in the form of a report. That person is called a Single Expert Witness. They are also used in family law property disputes.

## What is the role of a Single Expert Witness in parenting matters?

Depending on the circumstances of the case, the expert appointed may be a social worker, psychologist, or psychiatrist. It is the expert's role to interview the parents and children of the case, and potentially third parties such as partners or grandparents, and write a report in response to specific questions.

The purpose of the Single Expert Witness's report is to provide the Court with independent evidence to assist in its decision-making. The expert's report can be used at various stages of the family law proceedings, and the expert may also give evidence at trial.

## Who gets to choose which Single Expert Witness is appointed?

The Court will endeavour to appoint a Single Expert Witness in a case rather than having various experts provide evidence. The parties may confer and agree to have a particular Single Expert Witness appointed.

Often, an Independent Children's Lawyer will request the Court make orders for the appointment of a Single Expert Witness and the production of the expert's report. In the event the parties cannot reach agreement, they may apply to the Court for a decision to be made.

To assist the Court, it may be necessary to have the parties provide a list of experts who are willing and available to be appointed,

along with the anticipated timeframe and costs of producing a report.

## Who pays for the Single Expert Witness's report?

Unless the parties reach an alternate agreement or the Court makes an order to the contrary, the parties are required to pay equal shares of the costs of the Single Expert Witness's report.

## What will the Single Expert Witness's report address?

The Independent Children's Lawyer and/or the parties are to prepare a series of questions that the Single Expert Witness will be required to answer.

These questions, referred to as the 'Terms of Reference', are to be child-focussed and designed to address, for example:

- the development and maturity of the child;
- the impact of the dispute between the parties on the child;
- the risk of neglect and/or physical, psychological or other harm or abuse to the child;
- the capacity of the parties to provide for the needs of the child; and
- the impact of a significant change in the child's care arrangements on the child.

The Court will consider the Terms of Reference proposed and make parenting orders accordingly.

## What information will the Single Expert Witness have access to?

Orders made by the Court for the appointment of a Single Expert Witness in parenting disputes will usually include ancillary orders such as permission for the Single Expert Witness to:

- obtain information from a variety of relevant sources, including medical practitioners, counsellors, schools, and daycare centres; and
- inspect subpoenaed documents and/or documents received from the Police or other relevant government departments.

The Single Expert Witness will often be provided with Court documents filed in the case and reports provided by any Family Consultants who have interviewed the parties and/or child. The Single Expert Witness will also conduct separate interviews with the parties.

Depending on the age of the child, the Single Expert Witness may speak with them too.

## Can I contact the Single Expert Witness?

The Single Expert Witness will contact the parties to schedule interviews after orders for their appointment have been made by the Court.

The parties are typically not permitted to contact the Single Expert Witness. This is important so as not to jeopardise the independence of the Single Expert Witness's evidence.

Although, the parties are permitted to ask the Single Expert Witness questions to clarify statements made in their report. The Single Expert Witness will then provide answers to those clarifying questions. Such questions and answers are to be made in writing and provided to the other parties in the case.

## What if I don't agree with the Single Expert Witness's report?

In the event you disagree with any aspect of the report, and should the matter proceed to trial, you will have the opportunity to cross-examine the Single Expert Witness regarding their report and make submissions to the Court.

## Get help from a family lawyer

If you are in dispute with your former partner about the care of children of the relationship, an experienced family lawyer can assist you with:

- mediation options;
- parenting plans; and/or
- parenting orders.

Even if you reach agreement with your former partner, it is often prudent to formalise that agreement. We can assist you no matter what stage of the process you are in.

*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*