



Australian Government  
Attorney-General's Department

# Parenting Management Hearings (PMH) Pilot

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# Overview

- The PMH pilot is one of a number of measures announced in the 2017/18 Budget, aimed at transforming the family law system to better support families
- 2 pilot locations—Parramatta and another to be announced
- The pilot will be comprehensively and independently evaluated

# Rationale for establishing PMH

- Delays of up to three years in current system
- Adverse impacts of protracted conflict on wellbeing of children and families
- High proportion of self-represented litigants
- Significant expense involved in pursuing resolution through the courts
- Develop evidence base about whether an inquisitorial and multi-disciplinary approach is suitable for resolving parenting disputes

# Key features and principles

- Less adversarial than court process
- Multidisciplinary panel
- Designed for self-represented litigants
- Hearing will be fair, just, economical, informal and prompt, whilst ensuring safety
- Best interests of the child remains the paramount consideration
- Risk screening in every case

# Funding

- Investment of \$12.7 million over four years, including funding for:
  - the Federal Court of Australia to manage staff and finances
  - two family consultants at each PMH pilot location
  - one legal aid lawyer at each PMH pilot location, and
  - support services in each pilot location.

# The Panel

- Multidisciplinary panel will have range of legal and non-legal expertise, including psychology, family violence, mental health and child development
- Principal Member will constitute each Panel according to the individual needs of the case
- Panel will always include a legal member
- Panel will be supported by trained staff

# Process

- Applications can be made directly to the Panel, or referred by a court (with consent)
- Anyone who has parental responsibility for the child must **consent** to the application
- Family dispute resolution practitioners and other legal services will play a key referral role
- The requirements for an application will be provided in Practice Directions made by the Principal Member

# Decision-making framework

- The PMH will use substantially the same legislative framework that the courts use (Part VII of the *Family Law Act 1975*)
- Panel will be required to follow the ‘11 step process’, as set out in *Goode & Goode*
- The best interests of the child remains the paramount consideration

# Scope of jurisdiction

- The Panel will be able to make determinations relating to:
  - living arrangements
  - who the child should spend time with
  - the allocation of parental responsibility, and
  - how parties are to communicate with one another, and with their child, and other aspects of the care, welfare and development of the child.

# Scope of jurisdiction

- The Panel will not make decisions about:
  - divorce
  - property disputes
  - child or spousal maintenance
  - authorisation of medical procedures
  - relocation disputes that would substantially affect the child's ability to live with or spend time with a parent or other person who is significant to the child's care, welfare and development
  - disputes where parentage of a child is in issue.

# Scope of jurisdiction

- Panel must dismiss applications involving:
  - allegations of child sexual abuse, or
  - a child under the care of a child welfare law.
- Panel must also consider dismissing applications where it is reasonably satisfied there has been family violence or child abuse
- Panel has discretion to dismiss applications on a range of grounds, including complexity

# Managing safety risks

- Parties are required to notify the Panel of family violence and child abuse allegations and risks
- PMH staff will carry out detailed risk assessments at intake to identify any safety issues, such as family violence and child abuse
- The PMH location will also be co-located with support services to manage any risks and appropriately refer-on highly complex cases

# Powers of the Panel

- The Panel will have broad powers to obtain relevant information, including by directly putting questions to the parties
- Panel members will control hearing, consistent with the requirements of procedural fairness
- The Panel may appoint an Independent Children's Lawyer to represent the child's interests
- The Panel may also refer parties to support services

# Redetermination and review

- The Panel's decision can be appealed to the Federal Circuit Court on a question of law
- On appeal, the Federal Circuit Court may:
  - make an order affirming the decision of the Panel, or
  - set aside the decision and remit the matter back to the Panel to be decided again
- The Panel or a court may reconsider a parenting determination where there is a significant change in circumstances in relation to the child

# Enforcement

- If a party does not comply with their obligations under a parenting determination, the person alleging the breach may apply for a court order
- The enforcement options and penalties for breaching a parenting determination are consistent with those for similar existing offences in the *Family Law Act 1975* in relation to breaches of parenting orders

# Interaction with other orders

- If a parenting order has been made by a court, the Panel must dismiss an application for a parenting determination unless there is a **significant change in circumstances** in relation to the child
- The Panel will not be able to make a determination that is inconsistent with an existing state and territory family violence order

# Evaluation

- The PMH pilot will be subject to a comprehensive, independent evaluation
- Any future roll out in other locations will be informed by the evaluation and the Australian Law Reform Commission's review

# Next steps

- The Senate Standing Committee on Legal and Constitutional Affairs inquiry into the Family Law Amendment (Parenting Management Hearings) Bill will report by 26 March 2018
- More information on the Bill can be found at [www.aph.gov.au](http://www.aph.gov.au)
- Subject to the passage of the legislation, the pilot is expected to commence in Parramatta, and a second location, in late 2018

**Any questions?**