

## HOW TO PREPARE FOR A FAMILY REPORT INTERVIEW

A Family Report (**the Report**) is a written document which is prepared by a Family Consultant, often also referred to as Family Report Writer (**the Report Writer**) to give the Court and the parties an independent assessment of the issues which they cannot agree to regarding the children involved in the court proceedings.

The parties can agree to participate in the Report (either at their joint cost or at one party's sole cost) and they can also jointly appoint a Report Writer. If the parties cannot afford to pay for a Report, the Court can order one and appoint a Report Writer from the Courts' panel.

Below is some information about the Family Report process that you should read carefully before attending your family report interviews.

### THE REPORT WRITER'S ROLE

The Report Writer is appointed by the Court or agreed by the parties to be engaged to prepare a Report. If you are in proceedings, for the purpose of the report, the Report Writer is an Officer of the Court. This means that the Report Writer's primary duty is to assist the Court.

The Report Writer is either an experienced social worker, family consultant or psychologist who has been registered with the Family Court to prepare family reports, either within the Court's own department or in private practice.

The overall role of the Report Writer is to conduct an assessment of family dynamics and functioning, children's attachments to their parents and others, and the children's views if they are able and wish to express them, in order to advise the Court and/or the parties what parenting arrangements they believe would be in the best interests of the child/ren.

If they are a psychologist, they are not conducting a full mental health assessment. However, the Report Writer is qualified to comment on parties' presentations and their apparent mental health status at the time of interview and may do so. The Report Writer may also review mental health reports and records that may be available. The Report Writer will not diagnose any party with any condition but may suggest the possibility of a

psychological problem or condition if one is suspected. They may recommend a

mental health assessment of any party and may refer to previous diagnoses or tentative diagnoses that have been made.

The Report Writer is not on any one person's side and participants are not the Report Writer's clients. The Report Writer **is not** a Judge and they do not have any power to decide a court case.

### WHAT WILL BE INCLUDED THE FAMILY REPORT?

The Report Writer must provide an expert opinion to the Court about what is *in the best interests* of any children involved.

- The Report Writer will listen to your concerns during the interview process and decide on what information can and should be reported to the Court.
- Please note that the Report Writer must decide as to what is relevant under the Family Law Act. If information is left out of the report, it does not mean that the Report Writer considered it unimportant to you. Information is left out of the report typically for the following reasons:
  - It is often not possible in the time allocated, to detail every point that is raised.
  - It may not be necessary to detail every point that is raised.
  - The information is hearsay, that is, it is information that you have been told by somebody else.
  - Though the information is of concern to you, it is not directly relevant to the proceedings or the dispute.
- The Report Writer wants to get to the main issues and present these to the Court in summary form.
- Examples of your concerns and of things that have happened in the past may be used in the report.
- Further information can be presented to the Court at any time by filing Court material such as affidavits etc.



- It does not assist the court for a report to simply re-list everything you have said in an affidavit or other Court material.
- It is not the Report Writer's job to believe or disbelieve what he or she is told, it is his or her job simply to report it.
- It is not Report Writer's job to prove or disprove evidence or to contact others in an attempt to prove or disprove evidence.
- The Report Writer cannot, and will not, decide what is true or not true- this is the job of the Judge.
- If at any stage during your interview or during the assessment you are uncomfortable, you should say so.
- If you do not wish to answer a question, you should say so and you will not be pressed further.

The Report Writer will tell the court essentially what you have told them (with the above limitations). That information will be included under the section in the report that is headed *Interview with (your name)*.

It is very important that you understand that the Report Writer is not expressing an opinion in the sections of the report detailing information provided by you or the other parties but is simply reporting the information.

In the Evaluation Section of the report, the writer may comment on information that they have become aware of either from the interviews and observations or from the documentation that has been provided. Generally, this is done to highlight points that the court may need to consider. For example,

*Ms \_\_\_\_\_ reported that there was an incident that involved domestic violence*

*that occurred on (date). Ms \_\_\_\_\_ said \_\_\_\_\_ about it. Mr \_\_\_\_\_ gave his*

*version as follows:\_\_\_\_\_. If it is accepted that \_\_\_\_\_ happened, it may have*

*implications for \_\_\_\_\_. The writer draws the Court's attention to the evidence*

*provided by \_\_\_\_\_.*

The writer will express an opinion at the end of the report in the section entitled Evaluation. That is the only part of the report that contains the writer's views and conclusions except where, in the body of the report, the writer explicitly comments on something they have seen or been told. The writer will comment in the body of the report on each

party's presentation as the Court expects the Report Writer to do so.

### **WHAT WILL BE ASKED AT THE INTERVIEWS?**

The Court wants to know about your background. Hence, the Report Writer will sensitively ask you questions about the following:

- Your family of origin and upbringing
- Education
- Employment history
- Relationship history
- Mental health history
- Physical health history
- Drug or alcohol use (if any)
- Family and Domestic Violence
- Criminal history or history of legal problems
- Interests and social networks, including the degree of support that you have available

### **CONFIDENTIALITY AND HONESTY**

It is very important that you understand that anything that is said or seen is not confidential.

This means that anything the Report Writer hears or sees is reportable to the Court and will be reported if it is relevant. Please do not say something and then ask that it not be reported as this is not possible. If you do not want it reported, please do not say it.

It is important that you are honest with the Report Writer about the questions being asked and the issues being discussed, even if these may be uncomfortable to talk about.

It is natural to want to shy away from discussing any embarrassing incident or mistake or apparent criticism of your parenting, however this can sometimes be misinterpreted as minimising what might have been an important issue. Part of the Report Writer's job is to challenge your responses if they believe it is necessary to elicit the information they need. It is better at all times to be frank and co-operative as possible.

### **SAFETY**

If you feel unsafe at any stage during the day, you should say so. Every attempt will be made to ensure your safety. You do not have to have contact with the other party if you do not want to. If you wish to avoid all contact, please contact your solicitor prior to the assessment day or inform the writer before your interview to discuss arrangements.



Your child is safe during interviews and observations. There is sometimes video surveillance throughout the consulting rooms.

### **WHO WILL BE INTERVIEWED?**

You will be advised before the interview as to who should attend the interviews with you. Attendees will usually include people who are significantly involved in the child/ren's lives and living environments.

The writer may interview your partner (if you have one) or others who live with you. Who is interviewed depends to some extent on the issues that are identified in your dispute.

The Report Writer will not necessarily spend equal amounts of time with each party. Some people are able to get their point across quickly and others simply take more time. Hence, the writer may need more time with one party in order to clarify issues or raise issues. If your interview is shorter than the other party's interview, this will be the reason. Length of interview time is not a reflection of how seriously the Report Writer takes your concerns.

### ***Interviewing child/ren***

Your child/ren will be interviewed individually and in privacy (without either parent present) if they are able to communicate. Interview is a broad term and may mean engagement with the Report Writer through play activities, and/or discussion designed to elicit information about their attachments, concerns, developmental status, and views. Other children who live in the household may also be interviewed and may need to attend. Children are informed at the commencement of the interview that what they say is reportable.

They will be told that they do not have to state their wishes about their living arrangements if they do not want to. There will be told the purpose of the interview and will be asked what they have already been told about the day.

### **OBSERVATIONS**

Observations are conducted during the course of the day both in the waiting room and more formally in the play area. The Report Writer generally observes a child/children interacting with all of the people in the households where the child/ren live; this is done during a play session.

### **DISCUSSING THE REPORT AND INTERVIEWS WITH CHILDREN**

Before the interviews, play it down with your child/ren. Do not elaborate on the process. A simple statement along the lines of "we are going to see someone to help make

decisions about the future and she will want to meet you and talk to you about how things are going for you" is all you need to say.

Please **do not** tell your child to "just tell the truth" as, though children can interpret this instruction in many ways, they often regard it as an instruction to tell your truth.

Before and after its release, you should not discuss the report with your child/ren. Young children do not have the capacity to understand the issues involved and discussing a report with older children and adolescents can influence their views and/or harm them emotionally. Similarly, try not to question children about what took place during their interviews or ask what they said. Please do not tell children what to say in the interviews.

Even saying to a child that they need to "tell how they feel" can be unhelpful. The Report Writer is a skilled interviewer with years of experience in working with children and eliciting information. Please be aware that your child will not be asked to do anything unpleasant and do not have to express their wishes if they do not want to.

### **READING OF DOCUMENTS**

Generally, the Report Writer will have read the Court documents before the interviews. If not, they will be read before writing the report. Your solicitor will provide your documents to the Report Writer.

Sometimes, people provide additional documents at the interviews. The writer is obliged to review Court documents (i.e., filed material). The writer will not read lengthy additional documentation that is provided if it is not in the form of an affidavit or Court filed document.

All documentation provided to the Report Writer will also have been or should be provided to the other party/parties in your dispute; preferably before the interviews. Parties should agree on what additional material is provided if it is not Court filed material. If there is no opportunity to seek agreement, each party will be shown what additional (non-filed) material has been provided and be given the opportunity to comment upon it.

The writer may request copies of additional material, for example school reports, psychological or psychiatric reports.

The writer may be provided with subpoenaed material to review. Generally, this is provided By the Court, the lawyers or when an Independent Children's lawyer has been appointed by the Court but may also be provided by either party if they are not represented.

### **CONTACTING OTHERS FOR INFORMATION**



Generally, the Report Writer will not contact others for information. Information gathered in that fashion is hearsay. The writer may, with the parties' permission, specifically speak with teachers or treating practitioners.

This is not standard procedure but, on occasion, may be appropriate. It is preferable to receive information in Court documented form and preferably in affidavit form. If your matter proceeds to trial, you have the right to call others as witnesses in your case.

### **PROVIDING INFORMATION AND CONTACTING THE REPORT WRITER AFTER THE INTERVIEWS HAVE TAKEN PLACE**

Please only provide additional documentation after the interviews if it is filed material. Please do not telephone, email, or write the Report Writer with updated accounts of what has occurred since the interviews or with additional information that you forgot to tell the writer. If you have additional information that you want the writer to consider, please discuss this with your solicitor, and they may put it in the form of an affidavit filed with the Court before sending it to the Report Writer.

If you have legal representation and wish to communicate with the Report Writer after the interviews or after the report has been released, please do so through your solicitor.

Unless the additional material provided, has been filed, the Report Writer will generally not respond to it. The reason for this is that the process must be transparent, meaning that any documentation provided should be seen by the other party/parties to the proceedings, and by the Judge.

The Report Writer will only respond to additional filed material if it results in a change in the opinion that the writer has formed. That said, the Report Writer may contact either party after interviews have taken place, either to seek additional information or to clarify points about the information that has been provided.

It is stated very clearly in the report that the writer's opinion may change as further information comes to light. The Report Writer keeps an open mind and is able to change their opinion, before and at trial, when presented new or additional evidence.

### **IF YOU DISAGREE WITH THE REPORT WRITER'S FINDINGS**

Is more usual than not that one or more parties will disagree with some aspect of the opinion offered. Remember, the writer is expressing an opinion not a judgment.

If you have additional information that you feel may change the writer's opinion, you are encouraged to put it in the form of an affidavit, file it with the Court and send a copy to the Report Writer. If the writer's opinion changes, or if additional information is needed, the writer will let everyone know, including the Court.

Remember that the primary purpose of the report is to assist the Court. The report is a formal piece of evidence that is presented to the Court. It is considered by the Judge along with all of the other evidence, including sworn testimony. If you do not settle your dispute and your matter proceeds to trial, the Report Writer can be cross-examined and re-examined.

You, or your legal representative will have the opportunity to present additional information at that point. If you feel that the report is lacking or faulty in some way, you can

raise the issues by questioning the Report Writer at Court. In that respect, the Report Writer is subject to the very highest level of accountability. The Judge may also ask the Report Writer questions or ask if their opinion has changed on the issue. The Judge, you, or your legal representative can also seek opinion at trial on any additional issues that the Report Writer may not have covered.

Remember that at trial, the Judge usually has much more information than the Report Writer. Sometimes, is only when all the information has been presented at trial, and everybody else has given evidence, that the Report Writer can offer a final opinion.

### **RELEASE OF THE FAMILY REPORT TO OTHERS**

It is a breach the Family Law Act to publish the Family Report, or part thereof, or release it to anyone or any entity including any government body or authority without the Court's permission. The contents of the report can be shared with your legal representative. If you are unhappy with the report or process, the appropriate body to deal with your concern is the Court. Remember that you or your legal representative can cross-examine the Report Writer and you can raise issues of concern with the Judge.

The duty of the Report Writer is to consider what is in the best interests of the child and the report is a formal document of these considerations. It is hoped that the report will also assist parties to reach a settlement in their dispute that is in the best interests of their child/ren.

### **FURTHER QUESTIONS?**

If you have any questions regarding the Family Report process, please do not hesitate to contact us for assistance before your interviews on (07) 3172 3474 or [reception.bris@redhillgal.com.au](mailto:reception.bris@redhillgal.com.au).