



THE 18TH ANNUAL FAMILY LAW CONFERENCE

Parenting Arrangements: A New Pathway or Stuck on the Same Old Road?

Has Varying Final Parenting Orders become a lot more Difficult?

Family Law and the Relocation of Children

Child Support Departures: Has the bar been set too High?

Disclosure and Publication Challenges under the new Family Law Regime

The National Contravention List: Its Impact and Outcomes

Hand in Hand: The Evidence Act and Family Law Proceedings

BFA Protection Strategies for New Relationships

The Value of Discretionary Trust Entitlements in Property Settlements

Superannuation and Relationship Breakdown: Cracking Open the Nest Egg

When Coercive Control meets Family Law

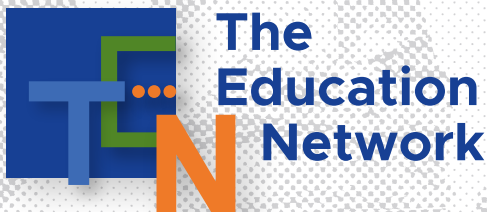
Special Need Clients: Managing Impact and Risk in Family Law

A Two-day Conference
Thursday 8 & Friday 9 August 2024

Imperial Hotel, Gold Coast (formerly Palazzo Versace)

Feedback from last year's conference:

- Great bunch of people and lovely speakers! Overall very well organized and lovely to attend again!
- I always love this conference. It is my 5th. It is high level which I appreciate. I enjoyed it overall.
- Papers always on point and relevant. Speakers convey well their topics and with humour. Also a good opportunity to meet interstate practitioners with like interests.
- Really excellent content thank you!



The Professional Development Specialists

DAY 1 - THURSDAY 8 AUGUST 2024

CHAIR: THE HONOURABLE RODNEY K BURR AM, RETIRED JUSTICE, FAMILY COURT OF AUSTRALIA, ADELAIDE, SA

MORNING THEME: PARENTING ARRANGEMENTS

9.00 - 9.15am

Introduction and welcome

9.15 - 10.00am

Session 1: Family Law Parenting Arrangements: A New Pathway or Stuck on the Same Old Road?

The significant changes to the Family Law Act have brought into sharp focus the best interests of the children and have removed the presumption of shared parental responsibility. This session will examine recent parenting cases under the new laws and provide guidance to practitioners on the impact of the changes and what the decisions tell us about the application of the new tests, including:

- Are there any discernible trends?
- Strategies for presenting evidence as to “best interests”
- Does the approach to litigation need to be reconsidered?
- How have the processes changed? Do family reports need to be updated? Are family report writers making different recommendations?
- A guide to the way forward

Speaker: Jacky Campbell, Partner, Accredited Family Law Specialist, Forte Family Lawyers, Melbourne

10.00 - 10.10am Panel Comments and Questions

10.10 - 10.55am

Session 2: Has Varying Final Parenting Orders become a lot more Difficult?

The addition of a second limb to the test in Rice v Asplund (1979) FL90-725 adds a new challenge to applicants wishing to amend final parenting orders. This session will explore the new legislation with a view to determining how the outcomes for children and parents may change going forward, including:

- A re-examination of the Rice v Asplund test and the background to its codification
- Why the change?
- The new second limb “best interests” requirement and its application
- Will the change make it more difficult to bring fresh proceedings?
- What involvement will the children have in the process?
- Even where both parents consent to changes to their final parenting orders, will both limbs need to be satisfied?
- Does the previous case law still provide a precedent to application of the test?
- Applying for a variation of orders made prior to the amendments removing the presumption of shared parental responsibility— how to apply the amendments
- What recent cases tell us

Speaker: Adam Cooper, Principal, Cooper Family Law, Spring Hill, Qld

10.55 - 11.05am Panel Comments and Questions

11.05 - 11.30am Networking Break and Morning Tea

DAY 1 - THURSDAY 8 AUGUST 2024

11.30am - 12.15pm

Session 3: Up, Up and Away: Family Law and the Relocation of Children

The movement of children, both domestically and internationally, poses significant challenges when opposed or undertaken without the consent of a parent. This session will explore the law, legal considerations and application process in cases involving the relocation of children, and how these processes have changed in light of recent amendments. It covers:

- The perils and pitfalls of applications for relocation
- How to apply for a location order or a recovery order
- Applications for return under the Hague convention and otherwise
- The impact of risk on judicial determinations
- Expected evidentiary changes following the recent parenting amendments
- Criminal consequences of abduction and breach of orders
- Dealing with international jurisdictions, conventions and authorities
- Recent cases and examples – how are matters being decided differently following recent legislative reforms?

Speaker: The Hon. Justice Suzanne Christie, Federal Circuit and Family Court of Australia, Sydney

12.15 - 12.25pm Panel Comments and Questions

12.25 - 1.10pm

Session 4: Child Support Departures: Has the Bar been set too High?

There are always exceptional cases where the standard child support formula does not take into account a family's circumstances, or where things change to such an extent that the formula or agreement can no longer be considered appropriate. This session will look at the key challenges in seeking changes to child support assessments, including:

- When do the circumstances warrant a different child support route? What are the options?
- Drafting tips and traps for Limited Child Support Agreements and Binding Child Support Agreements
- Can one party ever get out of a private agreement?
- Eligibility requirements for a child support departure order
- The evidentiary burden and the key to good preparation
- Can a child support departure be the subject of a consent order?
- Cases and examples

Speaker: Cath Devine LLB LLM (Family Law), Barrister, Melbourne

1.10 - 1.20pm Panel Comments and Questions

1.20 - 2.15pm Luncheon

DAY 1 - THURSDAY 8 AUGUST 2024

AFTERNOON THEME: COURTROOM STRATEGIES

2.15 - 3.00pm

Session 5: Loose Lips Sink Ships: Disclosure and Publication Challenges under the new Family Law Regime

The recent amendments to the Family Law Act will have a significant impact on the disclosure and use of information in disputes and proceedings, and not necessarily for the better. This session provides a deep dive into the new provisions and how they will affect all aspects of a practitioner's work, including:

- The ALRC recommendations and background to the new provisions
- What constitutes a "communication" and when is it prohibited?
- Exclusions and limitations in the new provisions
- How will contravention be enforced?
- Details of the enhanced information sharing scheme and the new national framework
- The scope, safeguards and exclusions of the new orders and restrictions on issuing of subpoenas
- The practical implications of the new process – for better or for worse?
- Tips and traps for practitioner compliance
- What should you be telling your client?

Speaker: Barry Berger, Family Law Accredited Specialist, a Mediator, Collaborative Lawyer and an AIFLAM Accredited Arbitrator, Dignity EDR, Melbourne

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: Special Need Clients: Managing Impact and Risk in Family Law

Family lawyers are increasingly having to deal with adult clients who have their own special needs, including addictions and mental illness, which affect the rest of the family and ultimately the court's decisions. This session takes a practical look at the impact and risk of these issues on family law dispute management, including:

- What to do if your client is an addict or has other relevant health issues
- What evidence should be provided to support your client's special needs?
- Undertaking a client risk assessment
- When to seek medical advice or treatment for your client
- Managing challenges to your client's diagnosis
- The risks in following the instructions of a client with capacity issues
- Building special needs considerations of a parent into orders
- Recent cases concerning special needs parents - could the courts be more helpful?

Speaker: Dr Sophia Franks, B. Bus, B, Arts, G. Dip (Prof Psy), G. Dip (Parent-Infant Mental Health), M. Psy (Clin), PhD, Clinical Psychologist, Single Expert Witness, Brisbane

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

4.25 - 5.10pm

Session 7: Hand in Hand: The Evidence Act and Family Law Proceedings

The laws of evidence can be complex, and their application to family law matters can sometimes provide challenges to practitioners seeking to argue their client's case in a detailed and personal manner. This session will examine some of the key evidentiary issues in family law and provide a best practice guide to practitioners in preparing and submitting evidence, including:

- The application of the Evidence Act to family law disputes
- Conflicting provisions and how they are managed
- The rules of evidence for child-related proceedings
- Legal professional privilege and waiver issues – revisiting Strahan
- The use of secretly recorded evidence and the court's discretion
- Self-incriminating evidence in family law and the use of s128 certificates
- Social media posts as evidence
- Cases and examples

Speaker: Adrian Stone, Accredited Family Law Specialist, Goldstone Family Lawyers, Melbourne

5.10 - 5.20pm Panel Comments and Questions

DAY 1 - FRIDAY 9 AUGUST 2024

CHAIR: THE HON. COLIN FORREST SC, BARRISTER, MEDIATOR, ARBITRATOR, SESSIONAL JUDICIAL MEMBER, QCAT, BRISBANE

MORNING THEME: DIVING INTO THE ASSET POOL AND FINANCIAL MATTERS

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 8: Everlasting Love? BFA Protection Strategies for New Relationships

Family law practitioners have traditionally been sought out for the bad endings rather than the happy beginnings, but with the rise of serial monogamy and later in life relationships where the parties arrive with assets in hand, there is a shifting focus on proactive protection. This session will examine the role binding financial agreements can play at the start of new relationships, in order to prevent messy litigation once a relationship runs its course. It covers:

- Drafting strategies – what's in and what's out?
Determining content – property, financial issues, liabilities, proposed division, spousal maintenance claims, children and pets
- Incorporating additional complexities, such as family businesses, and blended families
- When financial agreements may be vulnerable to attack on account of content
- Are binding financial agreements worth the paper they are written on? What are the courts telling us?
- Making sure the stars align in BFAs and wills

Speaker: Cathie Blanchfield, Principal, Blanchfield Nicholls, Sydney

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: A Moveable Feast: The Value of Discretionary Trust Entitlements in Family Law Property Settlements

Trusts are increasingly a target for consideration in family law property claims. The nature and value of a beneficiary's entitlement in a discretionary trust has been the subject of a number of decisions since Kennon & Spry and still remains in contention. This session will take a deep dive into the issues surrounding the treatment of discretionary trusts in family law, including:

- Revisiting the discretionary trust structures and legal issues
- Kennon & Spry [2008] HCA 56 as the starting point of trust consideration under s79
- The impact of recent decisions including Rigby & Kingston (No 4) [2021] FamCA 501 and Woodcock & Woodcock (No 2) [2022] FedFCFamC1F 173 and Owies v JJE Nominees Pty Ltd [2022] VSCA 142
- Current status of the Woodcock case and expert evidence concerning the valuation of beneficiary's right to due consideration under a discretionary trust
- Issues in joining third parties to litigation
- Strategies for proactive protection of trust property and rights.

Speaker: Ian Kennedy AM, Senior Partner, Kennedy Partners, Melbourne

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

11.15 - 12.00pm

Session 10: Superannuation and Relationship Breakdown: Cracking Open the Nest Egg

Superannuation is often one of the most valuable assets held by each party, and comes with its unique challenges and complexity when it comes time to dividing up the asset pool. This session will provide a guide to some of the more problematic issues when it comes to dealing with superannuation, including:

- Asset valuations in SMSFs – tips and traps to consider
- Should the SMSF be split or members remain with separate accounts? What if there are multiple members of a fund?
- Warning signs to consider whether an SMSF is non-compliant
- Options for recording agreement over super splitting including consent orders and binding financial agreements
- Recent developments in superannuation law and taxation of fund property
- Spotlight on CGT issues the parties will need to navigate
- Practical case studies

Speaker: Peter Crump, Senior Consultant, Private Wealth, BDO, Adelaide

12.00pm - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

DAY 1 - FRIDAY 9 AUGUST 2024

AFTERNOON THEME: CONTEMPORARY CHALLENGES

1.10 - 1.55pm

Session 11: When Coercive Control meets Family Law: The Responsibilities of Legal Practitioners

Domestic violence comes in many forms, including the growing recognition of coercive control. This session will explore the nature of coercive control, its criminalisation in some jurisdictions and the role family law practitioners need to play in its identification and relevance to their clients' respective family law dispute, including:

- The origin and meaning of "coercive control" and identifying relevant behaviours
- State legislation and coercive control – definitions and offences
- How does the Family Law Act take into account of behaviour which can be described as coercive control?
- A discussion of indicative behaviours and examples, including the cases of Hannah Clark and Preethi Reddy
- Is withholding a child from seeing the other parent coercive control? Carter & Wilson [2023] FedCFamC1A 9
- The intersection of family law and coercive control and the obligations of legal practitioners
- How the courts are dealing with coercive control, including The Lighthouse Project
- The role of the National Principles to Address Coercive Control in Family and Domestic Violence (Commonwealth) and potential federal and State legislative reforms
- The impact of coercive control in relation to property settlements as a result of recent reforms

Speaker: Stephen Page, Family Law Accredited Specialist; 2023 Queensland Law Society President's Medal Recipient, Director, Page Proven, Brisbane

1.55 - 2.05pm Panel Comments and Questions

2.05 - 2.50pm

Session 12: The National Contravention List: Its Impact and Outcomes

The introduction of the National Contravention List was a response to the increasing non-compliance with both parenting and financial orders. Several years on, has this new process led to better outcomes for families? This session will examine the operation and outcomes of the NCL through a study of cases and examples, including:

- The key objectives on establishment
- The pro's and con's of the process
- What has been the impact of the NCL rules on the bringing of contravention applications?
- Are instances of serious non-compliance being appropriately dealt with?
- What constitutes a reasonable excuse?
- Are threatened costs orders modifying lawyer behaviour?
- Are the remedies and orders of the Court achieving the desired practical outcomes for families?
- Are contravention applications the best way to remedy ongoing compliance issues or are there more effective and less costly alternatives?

Speaker: Senior Judicial Registrar, Ann-Maree McDiarmid, Federal Circuit and Family Court of Australia, Brisbane, Qld

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunches are included for face to face attendees.

Conference Papers

TEN does not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

CPD

Lawyers (except WA): 11 CPD units/points (substantive law)

Lawyers WA: 6 CPD points (substantive law) – being the maximum allowable per conference by the LPBWA. TEN is an accredited provider.

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Imperial Hotel, Gold Coast (formerly Palazzo Versace)

Sea World Drive, Main Beach

Hotel Reservations:

Phone: (07) 5509 8000

Email: reservations@theimperialgc.com.au

Website: <https://www.theimperialgc.com.au>

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

TERMS AND CONDITIONS

1. In these terms,
 - a. "TEN" means Television Education Network Pty Ltd
 - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
 - c. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
 - d. "live conference" means a conference other than a recorded conference.
 - e. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
 - f. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
 - g. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

Conversion of face to face conferences to live online conferences

5. If the conference is being held face to face or face to face AND online, TEN reserves the right to convert the conference on no less than 24 hours' notice to a solely online conference or to cancel the conference or to postpone the conference to a later date if TEN determines that it is unable to hold the conference face to face on the date/s advertised for any one or more of the following reasons:
 - a. State or national border closures
 - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
 - c. The inability or refusal of one or more presenters or TEN team members to attend the conference to present
 - d. In its opinion, it is unsafe to hold the conference face to face for any reason.
6. If TEN converts the conference from face to face only or to face to face and online to online only or postpones the conference or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result including any travel costs relating to the conference.
7. If TEN converts the conference from face to face to online or postpones the conference and as a result you are not able to attend you will be entitled to a full refund of registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

Copyright

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Conference cancellation by TEN – all conferences

12. TEN reserves the right to cancel a conference for any reason.
13. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

Cancellation by You – all conferences

14. Refunds for registration cancellation by you other than under Clause 6(b):
 - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
 - b. Otherwise, no refund.

Governing Law – all conferences

15. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

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Registration is simple; complete the form below and fax or post your registration to us or register online.
Television Education Network Pty Ltd (ABN 19 052 319 365) trading as TEN The Education Network.
GPO Box 61, Melbourne, Victoria 3001
Phone (03) 8601 7700 Enquiries Jenna Pickrell (03) 8601 7729 (jenna@tved.net.au)
Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **18th Annual Family Law Conference** – a 2-day conference to be held at the Gold Coast on Thursday 8 & Friday 9 August 2024

Delegates have 2 options for attending the 2024 conference – both cost the same.

- Registration type 1:** Attend in person [code: GFLAUG24]
- Registration type 2:** Attend online [code: GFLAUG24L0]
- Early Bird Registration** – for registrations made on or before 21 June 2024 – **\$1980** (\$1800 + \$180 GST)
- Discount Registration** – for registrations made on or before 19 July 2024 – **\$2145** (\$1950 + \$195 GST)
- Full Price Registration** – **\$2288** (\$2080 + \$208 GST)

Multiple registration discount? Discounts are available for multiple registrations. The more you send, the greater the discount. You can access the discount by contacting our Conference Manager, Jenna Pickrell, to organise your registrations. email: jenna@tved.net.au or phone (03) 8601 7729.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

One-day only? We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Jenna (details above).

Conference Papers

The papers from this conference will be available in electronic format approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at www.tved.net.au.
The papers are \$198 (\$180 + \$18 GST) [code: PGFLAUG24].

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