

# Kamloops Informal Trial Pilot

## Frequently Asked Questions – For parties

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## **What are informal trials?**

An informal trial is a trial in which the judge may take a facilitative role to direct, control and manage the conduct of trials. This means an informal trial:

- is flexible so it can meet the needs of a particular case,
- is inclusive of the parties' involvement in the process, and
- may be more relaxed than is usually the case in a trial.

The parties present their evidence at the trial following the judge's direction about how the information is put before the court. The judge then determines how the information before the court will help it to decide the issues to be resolved.

The Provincial Court Family Rules [Part 9 | Division 5 – Informal Trial Pilot Project Rules](#) set out the purpose and procedures for an informal trial.

## **How is an informal trial different than a regular trial?**

The informal trial is designed to be less formal and more flexible to meet the needs of the parties. At an informal trial, you can expect the use of less formal language and more relaxed court protocol. You will talk directly to the judge, and the judge will be the only person asking you questions. The judge may also allow evidence even if it might be inadmissible (not allowed) under the strict rules of evidence.

At a regular trial, you and the other party, or your lawyers, will call your witnesses and ask them questions. You will also usually ask each other questions. The judge does not ask many questions.

At a regular trial, all the rules of evidence apply. The rules of evidence place limits on things a witness can talk about and the kinds of documents that can be given to a judge to read. A party or their lawyer may object if the evidence isn't allowed under the rules of evidence. You may be more limited in what you can tell the court, even if you think it is important. Regular trials usually have more witnesses. People with something to say about the issues will need to come give evidence during the trial.

After any trial, the judge will decide the issues in your case and make a final order.

## **Do I have a choice?**

Yes. The judge may offer the choice of an informal trial at any time during your pre-trial appearances. You can choose the type of trial that is best for you. All parties must agree to use the informal trial process. To help parties, the court may explain the process and have handouts or refer parties to available resources. If you have any legal questions about using the informal trial, you should speak to a lawyer.

If your income is low, you may be able to talk to a free lawyer at Kamloops Family Duty process, Counsel (250-434-0669) or Family LawLINE (1-888-577-2525). Anyone can use the Lawyer Referral Service (1-800-663-1919) to find a private lawyer.

## **How do I know if my case is appropriate for an informal trial?**

A case is appropriate for an informal trial if you and each other party agree you want an informal trial **and** the trial judge agrees that an informal trial is appropriate. Any issue could go to an informal trial but it may not be appropriate for all cases. The judge will consider many factors including:

- the issues to be resolved,
- the facts in dispute,
- the type of evidence to be introduced,
- the witnesses required,
- the dynamics between the parties,
- whether the parties are represented at trial, and
- the overall length of the trial.

If you aren't sure if you should use the informal trial process, you should speak to a lawyer.

## **How do I ask for an informal trial?**

Talk to the judge before your trial is scheduled. If the judge asks you what type of trial you would like, you can request the informal trial. You must also file your written consent form with the court registry. It is helpful if you file it early so the judge knows you have made a decision.

You can get a copy of the Consent to an Informal Trial form from the court registry or online at [www.gov.bc.ca/courtforms/prov-family](http://www.gov.bc.ca/courtforms/prov-family).

## **What if each party wants a different kind of trial?**

Informal trials can only happen if everyone in the case agrees to have an informal trial and the judge also agrees that it is appropriate. If one person wants a regular trial, or the judge doesn't agree that an informal trial is appropriate, you will have a regular trial process.

## **What if I change my mind about the type of trial I want?**

It's okay to change your mind at any time before the trial. If the judge has not directed a trial to be scheduled, talk to the judge at your next court appearance. Even if you have filed your consent form, you can withdraw it. You can also talk to the judge about scheduling an informal trial if that is what you'd like. If the judge has directed the trial to be scheduled, or it already is scheduled, you will need to file an application about a case management order Form 10, so you can talk to the judge about the decision. The judge will probably need to give a new time estimate for the trial.

## **Can I have a lawyer at an informal trial?**

Yes. A lawyer can represent you at an informal trial but their role is different than at a regular trial. If you have a lawyer at an informal trial, the lawyer can help you prepare and will sit next to you during the informal trial to offer advice. Your lawyer can also:

- give the opening statement and identify the issues in the case,
- respond when the judge asks whether there are other issues that the judge should inquire about,

- question expert witnesses, if any, and
- make a closing argument about the law at the end of the case.

This is different than a lawyer at a regular trial. At a regular trial, the lawyer will also make opening and closing arguments to the judge but will ask questions of you, the other person, and other witnesses. The lawyer may object if the testimony or documents violate the rules of evidence.

### **Are informal trials held in a courtroom?**

Yes. They will usually be held in a courtroom. However, the court set-up may be adapted for an informal trial. This may include where the participants sit, the use of the witness box, or other formalities.

### **Do I have to have a trial?**

You need a trial if you need the judge to decide the issues in your case. You can avoid a trial if you and the other side are able to work out an agreement

- on your own,
- by working with a mediator, collaborative law professional or negotiator, or
- by working with a judge at a family management conference.

Learn more about the out of court resolution options at [www.provincialcourt.bc.ca/about-the-court/alternatives-to-court](http://www.provincialcourt.bc.ca/about-the-court/alternatives-to-court).

### **How do I prepare for an informal trial?**

Preparation should be the same as the preparation for any trial. The informal trial process does not change pre-trial or evidence disclosure requirements. At the informal trial, you will still be required to present your case and introduce evidence. You will be asked to give a brief opening statement, to explain the issues and tell your story to the judge, in your own words, and to make closing statements. The judge will help by asking questions to make sure they understand everything and that you have covered all of the issues. You will also be asked to suggest questions for the judge to ask the other party. The judge will decide what evidence to accept and the weight to give the evidence. At an informal trial, you don't need to be as concerned about using legal terminology, how to ask your question properly or the strict rules of evidence.

### **Is the judge at the informal trial the same judge I saw before?**

Maybe. Most family law cases involve more than one court appearance in front of different judges. Even if your trial takes more than one day, you will only have one trial judge. Your trial judge may not be a judge you've met before but sometimes they are the same judge from your earlier appearance.

### **Who can come to my informal trial?**

Most trials are open to the public. Anyone is welcome to attend court to listen and observe. You may choose to invite friends, family, or other supports. Keep in mind there may be limits to how many people are allowed in the courtroom.

You may also choose to invite a support person. If you don't have a lawyer, you may find it helpful to bring a trusted friend or family member to your trial. At the start of the trial, you must ask the judge's permission to have your support person sit beside you. This person can provide emotional support, take notes, and help organize documents. For more information on having a support person, please visit: [www.provincialcourt.bc.ca/about-the-court/court-innovation/SupportPersonGuidelines](http://www.provincialcourt.bc.ca/about-the-court/court-innovation/SupportPersonGuidelines)

### **How will evidence be considered at an informal trial?**

Evidence is the information you use in court to convince the judge to make the order you've asked for. In an informal trial, the rules of evidence still apply. However, the judge may admit any evidence that is relevant (relates to the issues in your case), material (proves or disproves facts at issue in your case) and reliable (likely to be true or accurate), even if the evidence might be inadmissible (not allowed) under strict rules of evidence. This allows you to tell the court about the issues to be resolved in your own way and ask the court to consider what you say, your witnesses say and documents or other materials that help to prove the facts. If the strict rules of evidence applied, the judge or the other party might stop you from saying something or giving the court something to consider. It will be up to the judge to decide if the evidence is helpful to them in deciding the facts in issue and determine the appropriate weight (importance) to be given to any evidence. This allows the trial to be less formal and less complicated than trials usually are when you need to make sure you are following the rules of evidence more carefully.

### **Can I have witnesses at my informal trial?**

Yes.

Most of the time you and the other party will be the only witnesses.

Other witnesses are allowed only if the judge agrees they are needed. The judge will usually talk to you about witnesses when they are deciding how long the trial needs to be scheduled for. The witnesses must come to the trial but must wait outside the courtroom until they are asked to come in to give their evidence.

You can have an expert witness give evidence, such as a doctor or counsellor, or a report writer, if the judge agrees it would be helpful. You will need to ask the judge about this and decide as soon as possible before the trial if you want them to give evidence at trial as there are other requirements specific to expert witnesses and reports that need to happen.

If a witness needs to give evidence at your trial, you must arrange for them to attend court unless the judge has directed otherwise. You must also pay your witness reasonable estimated travel expenses, such as gas and parking. If you need an expert witness to attend, you will want to ask your expert about what fees you will have to pay for them to attend court. For information about costs see <https://family.legalaid.bc.ca/bc-legal-system/if-you-have-go-court/costs-and-expenses>.

## **What happens if the informal trial is no longer appropriate?**

If the judge or a party has a concern about the informal trial process, they may bring it up at the beginning of the trial or at any other point during the trial process. This allows the judge to decide how the trial should proceed. The trial judge may direct that a proceeding continue as a regular trial, and must determine how any evidence already entered at the informal trial will be used. The same judge continues the regular trial.

## **Is the decision from the judge at an informal trial final?**

Yes. At the end of an informal trial, the judge will usually make a final order about the issues. The final order has the same effect as if it were made at a regular trial.

By going to trial, you are asking the judge to make a decision about the issues in your case. At an informal trial, the judge may try to help the parties reach an agreement on the issues. If the parties reach a facilitated agreement, the judge may make a final order on the terms agreed to by the parties.

If things in your life change any time after the order is made, you may be able to apply to change the order.

## **Can a final decision from an informal trial be appealed?**

Yes. You may appeal a final decision from an informal trial if you think the judge decided your case wrongly. The appeal of a final Provincial Court order may be made to the Supreme Court of BC under [section 233 of the Family Law Act](#). The time limit for starting an appeal is 40 days, beginning on the day after the order of the Provincial Court is made, unless the Supreme Court orders otherwise. For more information about appeals, visit Family Legal Aid BC at <https://family.legalaid.bc.ca/bc-legal-system/court-orders/can-you-appeal-order>.

## **How long does the informal trial process take?**

Getting a court order on most family matters in Provincial Court takes time. The steps you may have to take before you go to a trial will depend on your case and the issues you are trying to resolve. Most family law cases involve more than one court appearance before they go to trial. The informal trial may be shorter than a regular trial. This may mean it can also be scheduled sooner. The judge will be able to talk to you about how long the trial is expected to take and when they are being scheduled.

## **Where can I find more information about informal trials?**

Resources for parties about the informal trial process are available from the Kamloops registry or online at: [www.provincialcourt.bc.ca/types-of-cases/family-matters](http://www.provincialcourt.bc.ca/types-of-cases/family-matters) or [www.gov.bc.ca/FamilyInformalTrial](http://www.gov.bc.ca/FamilyInformalTrial)

Resources include:

- About Informal Trials – Explainer
- Informal Trial Brochure
- How to Prepare for an Informal Trial Guided Checklist
- Informal Trial Journey - visual
- Frequently Asked Questions