



legal chat

with Robert Brown
solicitor with
Johnston Tobin Solicitors

LEGAL REPRESENTATION AND MCKENZIE FRIENDS

A competent lawyer is important for people needing help with disputes or caught up in the legal system which can, put bluntly, be a very stressful and frustrating ordeal. When it comes to having the right information or advice or just knowing what is necessary to protect your rights it can be very difficult without a lawyer acting for you. While many just consider the cost as prohibitive, often acting without getting proper legal advice is not only fraught with danger but can be simply wasting money you might be entitled to yourself. It is not uncommon in family law property disputes to hear of people not seeing a solicitor because they can't afford it but then end up losing thousands of dollars they shouldn't have. Some Tribunals won't allow parties to have legal representation which is very difficult if you are not experienced and you could lose even though you had a good case. Something that is becoming more common is what is known as a McKenzie friend. A McKenzie Friend is someone who assists an unrepresented person in court but they are not intended to be a substitute for a lawyer. They can even sometimes be a lawyer. A McKenzie Friend, even if they do happen to be a lawyer, may not address the court, they can help you prepare, take notes, organise your evidence and paperwork, quietly make suggestions to you to help you out when in a court or tribunal and generally assist. The reason for allowing a McKenzie Friend is generally fairness and it allows unrepresented persons to have basic assistance when presenting their case. Normally you have to ask permission to have a McKenzie Friend help you out in a Tribunal or Court. The name came from an old court case, *McKenzie v McKenzie* in 1970.

That was a family law case and they have ended up being common in family law matters. The NSW Civil and Administrative Tribunal allows McKenzie Friends in disputed Powers of Attorney and Guardianship matters as otherwise there is no general right to legal representation in such matters. I have heard of many going wrong because they just didn't know or understand the process. They are also permitted in most courts where an unrepresented person needs assistance to ensure fairness. Courts and Tribunals are obliged to ensure fairness and go to great lengths to ensure they are seen to be reasonable. While they can be helpful, getting proper legal advice from a lawyer is important.

Give us a call at Johnston Tobin Solicitors if you need help with a legal matter.



JOHNSTON TOBIN
Solicitors

Ph 4421 5344
74 Berry St, Nowra
www.johnstontobin.com.au