

Parenting Arrangements after Separation

The Basics

Both married and de facto (same sex and heterosexual) relationships are governed by the *Family Law Act 1975* (Cth).

The main concern when a separation occurs is what is best for the children, rather than what is in the best interests of the parents.

Children have a right to have a meaningful relationship with each parent and any other important people in their lives, provided that they are protected from harm.

Parenting Arrangements

You can make arrangements for your children without being divorced.

Are you in agreement?

If you are in agreement, you do not have to make any formal arrangements.

Are you having trouble coming to an agreement on parenting arrangements?

If you are in disagreement about the parenting arrangements for your children, the first step is to attend mediation.

Mediation enables you to reach an agreement while avoiding the cost and stress of a court process.

Mediation (or a certificate to say mediation is not appropriate) is required before commencing court proceedings, unless it is urgent. This is often called a 's 60I certificate'.

There are several services that can help with mediation. Legal Aid ACT can provide lawyer-assisted mediation if one party is eligible for a grant of assistance.

Legal Aid ACT

www.legalaidact.org.au

Phone: **1300 654 314**

Conflict Resolution Service (CRS)

CRS can help you to resolve your dispute

www.crs.org.au

Phone: **(02) 6162 4050**

Family Relationship Advice Line

www.familyrelationships.gov.au

Phone: **1800 050 321**

Relationships Australia

www.relationships.org.au

Phone: **1300 364 277**

Parenting Plans

At mediation, the parties may be able to enter into an agreement about the arrangements for their children, known as parenting plans.

A parenting plan is an agreement:

- in writing
- signed
- dated
- not legally binding

However, the Court must refer to the parenting plan to see the intentions of the parties if there are court proceedings later.

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Consent Orders

Although you might not need a formal Court Order, you can still choose to apply to the Court for orders by agreement. These are known as 'Consent Orders'.

Once the Court accepts the agreement, it is legally binding and enforceable by the Court.

Family Court of Australia

There is a do-it-yourself consent order kit available on the Family Court website www.familycourt.gov.au

Parenting Orders

If you are unable to make arrangements by agreement, you can have an order made by the Court.

The Court will make the order it determines is best for the children, after taking into account what the law says and the evidence.

Get Help

Legal Aid ACT

If you need to speak to a lawyer, there is a free duty lawyer at the Family Court Monday-Friday 10am – 3pm or you can call the Legal Aid Helpline.

Legal Aid also runs free legal information sessions on family law and children. Visit the website for further information.

<http://www.legalaidact.org.au/events>

Phone: 1300 654 314

Commonly Asked Questions

Q. What are court orders?

Court orders are the way the decisions or judgments of judicial officers are described.

Q: Can children make their own decisions about who they want to live with?

The Court will consider children's views, but it will depend on each child's age, maturity and understanding.

Q. Can a grandparent apply to the Court for an order to spend time with the children?

Yes. It can happen when there is a breakdown of the relationship between the grandparents and the parent, and the grandparent is an important person in the child's life.

Q. What if the other parent breaches an order?

There are serious consequences for breaching a court order without a reasonable excuse. Seek legal advice if this occurs.

Q. How do I change my child's surname?

You must make an applications through Access Canberra. This application must be made by both parents. If one parent does not agree, either parent can apply to the Court seeking permission to change the name of the child.

Q. Can I move out of the region with my children without the other parent's permission?

The answer is almost always 'No'. Seek legal advice if this occurs.

This factsheet provides only basic information on family law. You should seek legal advice about what to do in relation to any of these matters.