

Can I make arrangements for my children without going to court?



FAMILY VIOLENCE LAW HELP

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If both parents agree on the arrangements for the children

If you and your ex-partner can agree on the arrangements for your children, you have a number of options including:



- Have an informal agreement. This can be a verbal agreement or done in writing. Many parents prefer to have an informal agreement because it is more flexible than Parenting Orders. However, an informal agreement is not enforceable if a parent does not follow it.
- Have a Parenting Plan. You and your ex-partner can write this together or with the help of a Family Dispute Resolution (mediation) service or a lawyer. A Parenting Plan is not enforceable if a parent does not follow it.
- Apply to court for Consent Orders. You can have your agreement made into Consent Orders by filing it with the Family Courts. Consent Orders cover the arrangements until your children turn 18 years old. Consent Orders are legally enforceable and are a type of Parenting Order.



It is important to get legal advice about your options.



If both parents don't agree on the arrangements for the children

If you and the other parent can't agree on arrangements for your children, you should get legal advice.

Unless an exception applies, you must try Family Dispute Resolution (mediation) before you can go to the Family Courts about your children.



Domestic and family violence is an exception to trying Family Dispute Resolution, but sometimes going straight to court may not be the best option for you. Some people prefer to try Family Dispute Resolution even if there's been domestic or family violence.

If you're worried about your safety, steps can be taken to make Family Dispute Resolution safe. You can get legal advice about what is best for you.

If Family Dispute Resolution doesn't work or an exception applies, either parent can apply to the Family Courts so the court can decide what the arrangements for your children should be.

Court orders about children are called Parenting Orders.

Get legal advice about whether going to court and getting Parenting Orders is a good option for you.





What is a Parenting Plan?

A Parenting Plan is a written agreement that parents can make about arrangements for their children. Other people can also be included in your Parenting Plan, like grandparents.

If you attend Family Dispute Resolution (mediation) and reach an agreement with the other parent, the agreement is sometimes written as a Parenting Plan.



To be a Parenting Plan, it must be:

- in writing (it can be handwritten or typed)
- signed by everyone
- dated
- made freely without anyone being threatened or forced to sign it.

If you have experienced domestic and family violence or your children have been exposed to family violence, it's important that you get legal advice before entering a Parenting Plan.

Domestic and family violence sometimes continues after separation, and can make it difficult to negotiate a Parenting Plan that is safe, practical and in the best interests of your children.

A Parenting Plan is different to a Parenting Order which is an order made by a court. Parenting Orders can be enforced by the Family Courts if one parent breaks the agreement, but Parenting Plans cannot. If you and the other parent want your Parenting Plan to be enforceable (binding on both parents) you should get legal advice about this.

If you apply for Parenting Orders after making a Parenting Plan, the Family Courts don't have to follow the Parenting Plan but the court will consider it when deciding what kind of orders to make. Get legal advice about whether a Parenting Plan is a good option for you.

What goes in a Parenting Plan? When you make a Parenting Plan, your children's best interests should be your main focus. You can get legal advice for an idea of the things to think about. It's a good idea to get help writing a Parenting Plan by going to Family Dispute Resolution (mediation) or by seeing a lawyer.



What are Consent Orders?



Consent Orders are orders a court makes when parents agree on arrangements for the children, usually with the help of a lawyer.

Some parents agree on the arrangements for their children without having to go to court and they file Consent Orders to make their agreement binding and enforceable. For example - this may happen if they reached an agreement in Family Dispute Resolution (mediation).

Other parents can't agree and start a case at the Family Courts, but part way through the case come to an agreement and then file Consent Orders to finalise the case.



Consent Orders can also be about dividing property and about spousal or de facto maintenance.

Consent Orders are binding and can be enforced by the courts. This means both parents must follow the order. Consent Orders are a type of Parenting Order and are the same as if you had gone to court and a Judge made a decision after a hearing.

If you have experienced domestic and family violence or your children have been exposed to domestic and family violence, it's important that you get legal advice before agreeing to Consent Orders.



Domestic and family violence sometimes continues after separation, and can make it difficult to negotiate Consent Orders that are safe, practical and in the best interests of your children. It's important that you agree to Consent Orders freely without being forced or threatened.

If you want Consent Orders, it's a good idea to have a lawyer help draft the orders to make sure they are clear, enforceable and in the best interests of the children. Get legal advice about whether Consent Orders are a good option for you.