



# Parenting *After separation*

- ▶ Through a legal lens  
Trying to reach an agreement about your children?

**Sorting out your own care arrangements is usually better for you and your children. If you and your expartner can reach an agreement you can make a parenting plan, without having to involve the courts. This plan should be written down, dated, and signed by both parents. A break-up can be extremely hard to navigate, so it's important to remember that everyone's journey will be different.**

Where there are children involved, parenting through a break-up is inevitable and this aspect can be tremendously challenging. However, decisions about the children need to be made, and care arrangements need to be decided.



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## Inter-parental discussions

The first step to reaching any agreement is to discuss the topic with the other parent. Communication and understanding is key to reaching any agreement. As well as compromise. Consider and compare what the thoughts of both parents are, consider how it is or isn't in the best interests of the children, and then think about what compromise each parent could live with.

Hopefully, an agreement can be reached by parents considering the topic of dispute through the lens of the best interests of their child.

## Parenting plan

Sorting out your own care arrangements is usually better for you and your children. If you and your ex partner can reach an agreement you can make a parenting plan, without having to involve the courts. This plan should be written down, dated, and signed by both parents.

What if we can't reach agreement? In any agreement, or dispute, parents must always place the best interests of the children as the paramount consideration.

## The best interests of the children

The first thing to consider is the child's safety. However, other things to consider include:

- ▶ Parents being primarily responsible for the welfare, development and upbringing of their children;
- ▶ Parents engaging in ongoing and cooperative consultations;
- ▶ Continuity in a child's development and upbringing;
- ▶ A continuing relationship with both parents and wider family;
- ▶ Preserving and strengthening a child's identity, culture, language and religious denomination.

## Consent orders

If you and your partner have reached an agreement about care arrangements, without needing to go to Court, but want your agreement to be recognised by the Court, you can ask the Court to make a Consent Order. You will have to file the following documents with the Family Court: Joint Application to make a new Parenting Order by Consent; General Consent Memorandum relating to Children; and, Your Parenting Through Separation Certificate.

You will need to pay **\$220** to file your **Consent Order application** with the court. In some circumstances this fee can be waived, meaning **you don't have to pay.**

Upon receiving your application, a Judge will consider your proposed orders, and determine whether what you have proposed is in the best interests of the children involved. This means that if a Judge is not satisfied of this, they can request further information, or appoint a lawyer to represent your children.

If a Judge does consider your proposal to be in the best interests of the children they will grant a Consent Order. This means if it is breached, the Family Court can make you pay a bond or compensation. If the person continues to not follow the Consent Order, then they may get charged with a crime and could be fined or jailed. However, if an agreement cannot be reached, the parents should consider mediation.

## Mediation

This is a process where both parents meet with an independent mediator who will facilitate a discussion in the hope of reaching an agreement. This process requires consent from both parents to participate. The major benefit is that ultimately, parents know their children better than anyone else, and during this process any agreement reached will be determined by both parents.

## Family Court

If no agreement can be reached through inter-parental discussions, or mediation, you might consider issuing proceedings in court.

If you want to issue proceedings in court, generally you will have had to attended a parenting through separation course in the two years, and attended mediation in the last 12 months.

You can apply for a parenting order where there is a dispute about day-to-day care or contact time.

You can apply for an order to settle a dispute between guardians if there is a dispute about other matters, including what school the children will attend, what medical treatment they are permitted or what culture, religion or language they will learn.

## Family Violence

You can apply to the Family Court for a protection order if you, or your child, has been the victim of violence where the perpetrator is a family member. Where the perpetrator is not a family member, you can apply for a restraining order.

If you're applying for any order from the court, you can contact a lawyer at Aspiring Law to help you.