

PARENTING POST SEPARATION



Following the breakdown of a marriage or de facto relationship arrangements will need to be made around the ongoing support and care of your child or children.

Any agreement should always focus on what is best for them. There are many aspects to consider such as:



Living arrangements - who they should live with when and where



How you work together to make important decisions including how to best resolve disputes should they arise



How you help to facilitate relationships with other significant people in their life such as grandparents



How to ensure you best manage changes in circumstances as they grow

It is also important to consider how best to financially support them. Please refer to our [Child Support Factsheet](#) for further information.

How do you reach an agreement around parenting?

The best thing you can do for your children when you separate is try and reach an agreement between yourselves as this avoids the need for expensive and often emotionally taxing legal proceedings.

If you can work together to reach an agreement the next step is to formalise arrangements with the Court in either a Parenting Plan or an Application for Consent Orders.



What if we can't reach agreement?

If you are unable to come to an agreement further support is available to help you. The first step is to commence Family Dispute Resolution, a regulated legal process in Family Law whereby a neutral and accredited third person, known as a Family Dispute Resolution Practitioner (FDRP), assists you both through the negotiation process.

Family Dispute Resolution is most commonly accessed through a government funded Family Relationship Centres (FRC), such as Interrelate, at a low cost to the separated couple.

If you are still unable to resolve parenting arrangements your FDRP will issue a section 60I certificate so you can proceed to Court. It is highly recommended that you seek legal advice from an experienced family lawyer once you have been issued with a section 60I certificate so you can receive advice about your best options and next steps from here. Your lawyer may also be able to assist in private negotiations as Court should be seen as a last resort.

If you do decide to make an application to the Court, a Judge will decide on what is best for your child or children. A Judge will make their decisions in what they consider to be in their best interest.



PARENTING POST SEPARATION



What does the Court consider in determining the best interests of the children?

The Family Law Act 1975 provides the Court with six considerations to determine what is in the best interests of the child or children. These 6 factors are set out in section 60CC(2) of the Family Law Act as:

- 1 what arrangements would promote the safety (including safety from being subjected to, or exposed to, family violence, abuse, neglect, or other harm) of:
 - the child; and
 - each person who has care of the child (whether or not a person has parental responsibility for the child);
- 2 any views expressed by the child;
- 3 the developmental, psychological, emotional and cultural needs of the child;
- 4 the capacity of each person who has or is proposed to have parental responsibility for the child to provide for the child's developmental, psychological, emotional and cultural needs;
- 5 the benefit to the child of being able to have a relationship with the child's parents, and other people who are significant to the child, where it is safe to do so;
- 6 anything else that is relevant to the particular circumstances of the child.

If you or your child is Aboriginal or Torres Strait Islander, the Court also considers the impact the Orders may have on the child's right to maintain their connection to their family members, community, culture, country and language. The law recognises the child's right to explore their culture and the child's right to develop a positive appreciation of their culture.

When should I seek legal advice?

We strongly encourage both parties to seek legal advice and you are free to do so at any stage of the negotiation process. If appropriate your FDRP may also suggest that you have legal representation in the Family Dispute Resolution process, known also as Legally Assisted Mediation.

Contact I Relate. Family Law to have one of our solicitors support you during this negotiation process. They are also able to assist you formalising your parenting agreements.

We're Here to Help

If you have any questions, are unsure about next steps or would like legal assistance speak to our team of experienced family lawyers or visit our website for more information.

Learn more: [Free Discovery Call](#)

For Legal Advice: [Book Initial Consultation](#)