



Australian Government
Attorney-General's Department

Parenting Orders: What You Need to Know (2nd ed)





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Background to this handbook

This handbook was originally prepared by the Attorney-General's Department (the department) with the assistance of Professor Richard Chisholm AM.

This second edition (2026) has been prepared to reflect the changes to the laws about parenting arrangements that came into effect following the commencement of the *Family Law Amendment Act 2023* (Cth) on 6 May 2024 and amendments made to the *Family Court Act 1996* (WA) on 10 February 2025.

The department would like to express our deep gratitude to the many people who assisted with the update of this handbook. They include Professor Richard Chisholm AM, the Federal Circuit and Family Court of Australia, the Family Court of Western Australia, National Legal Aid, the Family Law Section of the Law Council of Australia, Relationships Australia, and Women's Legal Services Australia. This guide is available online at www.ag.gov.au. Any questions about the guide can be directed to the department at familylawunit@ag.gov.au.



Introduction

WHO THIS HANDBOOK IS FOR

The 'Parenting Orders: What You Need to Know (2nd ed)' handbook aims to assist parents to reach clear, safe and workable arrangements ('parenting arrangements') to care for their children during and following parental separation.

The handbook refers to 'parents' throughout, but it can also be used by other caregivers in a child's life (including grandparents, relatives and kinship carers). It will also assist people who provide services to separated parents, including lawyers, family counsellors, Family Dispute Resolution practitioners and mediators.

Agreements between parents on how to care for their children ('parenting agreements') can take several forms. The handbook outlines common forms of parenting agreements, including informal agreements, written parenting plans and parenting orders made by a court. It also covers the range of services parents can contact to help them make decisions about what arrangements will be best for their children, and how to document these.

The main focus of the handbook, however, is assisting parents who have decided that legally enforceable parenting orders are the best option for their situation. For these parents, the handbook explains in detail the issues that are usually covered in parenting orders and provides tips and adaptable examples of how these can be drafted. These examples do not cover everything that might be required by a family when considering

the unique needs of a particular child, but are a good starting point for the types of matters that could be included in parenting orders.

In situations where there is a high degree of conflict or effective communication is not possible, you should consider seeking professional support from a lawyer, Family Dispute Resolution practitioner or other specialist service in reaching your parenting arrangements. This is very important when there are serious issues that pose safety risks for children and parents, including family violence.

If you or your child have experienced, or are experiencing family violence, more information is available at **Family violence** about the services available to assist you to navigate separation, and post-separation parenting, as safely as possible.

There are a number of government-funded organisations that provide free or low-cost legal assistance to vulnerable members of the community. You can find more information at <https://www.familyrelationships.gov.au/legal-advice> or at <https://www.ag.gov.au/families-and-marriage/publications/family-law-services-and-support-fact-sheet>.

What is in this handbook

- Chapter 1** provides guidance on key issues and factors to consider when negotiating parenting arrangements for children after separation. It also sets out your options for recording parenting agreements, including in legally enforceable parenting orders, and the services that can assist parents to do this.
- Chapter 2** provides a detailed explanation of the main topics that will usually be covered in parenting orders.
- Chapter 3** provides tips on how to draft parenting orders, including the type of language to use, the level of detail to include, and how they can be structured.
- Chapter 4** provides specific examples of parenting orders that cover the most common issues in post-separation parenting arrangements.
- Appendix 1** provides detail about the process of applying to a family law court for parenting orders by consent.
- Appendix 2** provides further context and legal background with respect to the relationship between family law and other related areas of law.
- Appendix 3** provides some prompts on what to think about when deciding parenting arrangements in the best interests of your child.

There is a **Glossary** at the end of this handbook that explains commonly used terms in family law proceedings.



FAMILY VIOLENCE

Family violence means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family or causes the family member to be fearful.

Family violence is defined in section 4AB of the *Family Law Act 1975* (Cth) (Family Law Act). Further information is also contained in the **Glossary**.

Examples of behaviours that may constitute family violence include (but are not limited to):

- physical abuse such as hitting, punching, choking, using weapons to frighten
- damaging property
- verbal abuse such as using insulting names or saying things to cause fear
- sexual abuse
- stalking and harassment such as tracking of a phone, persistent messages or calls
- financial abuse such as forcibly controlling all the family member's money
- coercive controlling behaviour which is a pattern of controlling and manipulating behaviours. This can include isolating a family member from friends and family, not letting a family member make their own choices or have freedom, or threatening children or the family pet.

When a parenting matter comes before the court, the court must consider whether there has been a history of family violence, including whether a child has been exposed to family violence. The court must consider the need to ensure protection from future family violence.

If there has been family violence or there is ongoing conflict, it might be unsafe for you and your former partner to negotiate parenting arrangements. If you do not feel safe negotiating with your former partner directly, we recommend seeking assistance from a legal professional or dispute resolution service to assist with negotiations. You may also wish to engage with a family violence service for support.

If you believe there is an immediate risk of harm to you or your family, contact the police on **Triple Zero (000)**.

If you are concerned about your child's safety or wellbeing, state and territory government child protection services may be able to help. You can find local support and contact details at www.familyrelationships.gov.au by searching 'children's safety'.

The following services are available to help people who are experiencing or have experienced family violence and abuse.

- The **Family Violence Law Help** website at familyviolencelaw.gov.au provides information about domestic and family violence, relevant laws in Australia (including family law, child protection law and domestic violence protection orders), and where to get help

- The **Family Advocacy and Support Service (FASS)** provides free assistance to families who have been affected by family violence. You may be eligible for this service if you or a family member has experienced, used, or is alleged to have used, family violence in your relationship and you need legal assistance with a family law, or related child protection or family violence matter. More information on how to access FASS can be found at the Family Violence Law Help website at www.familyviolencelaw.gov.au/fass/
- **Women's Legal Services Australia** is the peak organisation for Community Legal Centres specialising in women's legal issues. These centres can provide women with access to free legal assistance and supports to escape and recover from violence and abuse. More information can be found at www.wlsa.org.au/about/.
- **Mensline** is a free 24/7 counselling service for men facing issues like family violence, mental health challenges and relationship breakdown. It offers confidential support via phone, online chat and video. Men can get advice, counselling and referrals by calling 1300 789 978 or visiting www.mensline.org.au
- **1800RESPECT** provides confidential information, counselling, and support to people experiencing or who have experienced sexual assault, domestic or family violence, or abuse. The service also supports family and friends of those affected. Call 1800 737 732 or visit 1800respect.org.au.

Support is also available for those who want help to change their behaviour:

- The **Men's Referral Service** provides information and counselling to men who use family violence and would like help with behavioural and relationship concerns. You can contact the Men's Referral Service on 1300 766 491 or visit www.ntv.org.au
- **SeaChange** provides a program to support women who want to feel more in control of their anger and to express their emotions in a healthy way. You can contact SeaChange on 1300 543 396 or visit <https://relationshipmatters.com.au/seachange-anger-management-for-women/>.

HEALTH AND SUPPORT SERVICES

Separation is often highly stressful and emotional, and it is common for people to feel distress, uncertainty, or emotional exhaustion during this time. Mental health and wellbeing support can be especially helpful to process and work through the emotional impacts of your separation. The following information and free services are available to support you to look after your own or someone else's wellbeing:

- **Lifeline** provides 24-hour crisis support and suicide prevention services for anyone in Australia. Call 13 11 14 or visit lifeline.org.au
- **Beyond Blue** provides information and support to help anyone in Australia maintain good mental health. Call 1300 224 636 or visit beyondblue.org.au
- **QLife** provides anonymous, free LGBTIQ+ peer support and referrals for people wanting to talk about sexuality, gender, identity, relationships, or mental health. Call 1800 184 527 or visit qlife.org.au
- **SANE Helpline** provides a counselling service for anyone in Australia, and a free translating and interpreting service for people who do not speak English as their first language. Call 13 14 50 and ask for your preferred language. When connected to an interpreter, ask to speak to the SANE Helpline on 1800 187 263.

Separation can also be a very confusing and overwhelming time for any children involved. The following information and free services are available to support children's mental wellbeing and to help them better understand family law processes:

- **Kids' Corner** is an interactive space on the Federal Circuit and Family Court of Australia website that provides clear, age-appropriate information about family court processes and information about where they can go for support. Visit fcfcoa.gov.au/kids
- **Headspace** provides mental health support and information to children over the age of 12. Visit headspace.org.au for information and to chat online with a clinician or call 1800 650 890
- **Kids Helpline** provides a 24-hour service to support children through separation and divorce. Visit kidshelpline.com.au for information and to chat online with a counsellor or call 1800 55 1800
- **FamilyLaw4Kids** is an online resource to help children and young people understand the family law process and to support them to participate in the process and have their say, if they choose to. Visit familylaw4kids.au.

LEGAL SERVICES AND SUPPORT FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

- **Aboriginal and Torres Strait Islander Legal Services (ATSILS)** are community based independent organisations that deliver culturally appropriate legal assistance services to Aboriginal and Torres Strait Islander Australians in each state and territory. Further information on ATSILS can be found at natsils.org.au
- **Family Violence Prevention and Legal Services (FVPLS)** provide culturally sensitive assistance to Aboriginal and Torres Strait Islander victim/survivors of family violence and sexual assault. FVPLS work collaboratively with other legal assistance and support services including court support, child protection, and information and referral services. Visit <https://fnaafv.org.au/fvpls-services/> to find a FVPLS near you
- **13Yarn** provides a culturally safe and confidential 24-hour crisis support service to Aboriginal and Torres Strait Islander people anywhere in Australia. Call 13 92 76 or visit 13yarn.org.au
- **The Specialist Indigenous List** operated by the Federal Circuit and Family Court of Australia offers a culturally appropriate case management process and support services in matters involving Aboriginal and Torres Strait Islander parties, in 10 locations. Further information is available on the court's website at fcfcoa.gov.au/fl/indigenous-list.

ASSISTANCE WITH OTHER ISSUES

Parenting support

The Australian Government funds a number of organisations to provide programs and support to parents. To find the nearest organisation to support your needs, visit <https://serviceproviders.dss.gov.au/>. The Australian Government also funds the Raising Children Network which has a range of information for parents. Visit <https://raisingchildren.net.au/grown-ups/family-life>.

Child support

This handbook does not deal with child support matters. Information about child support is available on the Services Australia website at www.servicesaustralia.gov.au.

Please be aware that orders relating to child support matters generally cannot be sought as part of parenting orders. For further information about child support and the courts, see www.fccoa.gov.au/fl/fp/child-support.

Financial matters

This handbook does not deal with financial or property settlement matters that may arise following separation.

The department has published other guides to assist family law users to resolve their disputes, including *A guide to dividing your property and finances after separation*, available at <https://www.ag.gov.au/families-and-marriage/publications/guide-dividing-your-property-and-finances-after-separation>.



You may wish to discuss your circumstances with a financial counsellor. Financial counselling is available through community organisations, Community Legal Centres and some government agencies. Visit www.moneysmart.gov.au/managing-debt/financial-counselling for more information. The Moneysmart website also provides information about emergency financial relief and other resources to help those feeling the impact of family separation. Further information is available at www.moneysmart.gov.au/family-and-relationships/getting-divorced-or-separating.



CHAPTER 1.

How to decide parenting arrangements

Chapter 1

What the law says about parenting arrangements for children

The Family Law Act sets out the following important principles for deciding parenting arrangements:

- your parenting arrangements should be guided by what is in the best interests of your child
- you and the other parent are both responsible for making decisions on major long-term issues for your child, unless this is changed by a court order
- you and the other parent are encouraged to consult each other when making decisions on major long-term issues for your child, unless this is unsafe for you or your children, or a court order says something different.

The Family Law Act does not specify how much time a child should spend with each parent. Instead, it provides that decisions about time arrangements should reflect what is best for the individual child in the circumstances.

The Family Law Act sets out legal principles that you should be aware of when agreeing to any type of parenting arrangement. Understanding these principles can assist you to have constructive conversations about your child, and realistic expectations about what might happen if your parenting arrangements were decided by a court.

Keep in mind that arrangements which may be in the best interests of one child may not suit your other children. Accordingly, references to 'child' rather than 'children' are intentional – because you should consider these factors in relation to each child.

Best interests of the child

The most important principle is that decisions about parenting arrangements should be made in the 'best interests' of the child.

The law sets out 6 factors to assist parents and courts to think about what this might mean in a child's individual circumstances. A court cannot make orders that it does not believe are in the child's best interests, even if both parents want those orders. It is useful to keep these factors in mind when negotiating parenting arrangements and deciding things such as who will make decisions for your child and who they should live and spend time with.

The 6 factors are:

- what parenting arrangements will promote the safety of your child and people who care for them (a court will also consider any past family violence and family violence orders when deciding this)
- your child's views
- your child's developmental, psychological, emotional and cultural needs

- the capacity of you and the other parent to provide for your child's developmental, psychological, emotional and cultural needs
- the benefit to your child of having a relationship with you and the other parent, and other people who are significant to them, where it is safe to do so
- anything else that is relevant to the particular circumstances of your child.

The law also says that Aboriginal and Torres Strait Islander children have a right to take part in their culture and connect with their family and kinship groups. Where a child has Aboriginal or Torres Strait Islander heritage, parents should think about the impact the parenting arrangements may have on their child's ability to explore and remain connected to their heritage and culture, including the opportunity to participate in traditional and culturally significant events and ceremonies.

See **Appendix 3: Best interest factors**, for more information on what to consider when trying to work out what is in the best interests of your child.

Making decisions for children

Unless a court makes an order that changes this situation, you and the other parent each have 'parental responsibility' to care for your child and make long-term and day-to-day decisions for them.

If it is safe to do so and subject to any court orders, the Family Law Act encourages you and the other parent to work together to make decisions to provide for your child's needs. Where court orders are necessary, the court is not required to presume that decision-making should be shared in any particular way or split equally between you and the other parent. Instead, a court must decide this based on what is in your child's best interests.

It is common for court orders to be made about who is responsible for making decisions about major long-term issues for the child (see **Chapter 2, Content of parenting orders**).

Time arrangements

The law does not say that your child must spend an equal amount of time with each parent, or a minimum amount of time with either parent. These arrangements should be made according to what is best for your child in the circumstances, and what is appropriate for their age and stage of development.

KEY ISSUES THAT CAN BE DEALT WITH BY A PARENTING AGREEMENT

There are a number of key issues you may need to discuss when talking about parenting arrangements for your child. The most important issues often relate to which parent a child should live with, the time the child should spend with each parent, and who should have responsibility for making decisions for the child.

When you reach an agreement about these issues, this can be recorded in a parenting agreement (see also **Chapter 1, Options for recording your agreement**).

At a minimum, it is important that any parenting agreement is clear about:

- who is responsible for making decisions about major long-term issues for your child, and
- who your child will live with and the time they will spend with each parent (and sometimes other people important to them).

While these are the most obvious issues, it is often important to make sure that you have reached agreement on:

- how you will consult with each other to make decisions, and whether you will reach agreement verbally or in writing
- the arrangements about 'changeovers' when your child goes from one parent's care to the other's
- how often, and in what way, your child will communicate with each parent (and sometimes other people important to them)
- the sharing of information from various departments and organisations involved in your child's care with you and the other parent (such as their school)
- the authority for organisations and professionals (such as a school or medical professional) to release documents or information about your child to you and the other parent, or arrangements for your attendance at events (such as school assemblies)
- any necessary restrictions (known as 'restraints') on your or the other parent's behaviour (e.g. a restraint on criticising the other parent in front of your child)
- the arrangements for interstate and international travel for your child
- the process used for resolving disputes about the terms or operation of parenting orders
- any other important issues about the care, development and welfare of your child.

See **Chapter 2**, *Content of parenting orders* for a more detailed explanation of each of these issues and the orders that can be made about these topics.

OPTIONS FOR RECORDING YOUR AGREEMENT

There are 4 main ways you can make arrangements for your children after separation. If you can agree with the other parent, you can consider:

- *an informal agreement*
- *a written parenting plan signed and dated by the parents of the children, or*
- *parenting orders agreed by both parties (consent orders).*

If you cannot agree, you may require:

- *parenting orders decided by the court (court orders).*

Parenting orders (by consent or decided by the court) create obligations that are legally enforceable (i.e. there are legal consequences for not following the orders), while parenting plans and other informal agreements are not legally enforceable.

Deciding which of these options is best will depend upon your individual circumstances and the outcomes you want to achieve.

You may also choose a combination of these options.

Informal parenting agreements

You may choose to keep your parenting arrangements informal. Informal arrangements give parents the greatest flexibility. This approach means you can decide to discuss your child's care arrangements when and how it best suits your family's needs, for example on a week-by-week or day-by-day basis.

You can also choose to communicate these arrangements in the way that works best for your family (e.g. by text message, over the phone, or in person). An informal agreement is not legally enforceable and may be appropriate if you have an amicable relationship and can agree on all or most issues.

Parenting plans

You can also record a parenting agreement in a parenting plan. This is a voluntary, written agreement that is signed and dated by each parent.

Parenting plans are a cheaper and less formal option than parenting orders and may be appropriate where you can agree on all or most issues. They are a useful way to ensure that what you have agreed is clearly set out.

A parenting plan does not need to set out the parenting arrangements for your child all the way from the date it is signed until your child turns 18. It is able to cover a specific period of time and is also able to be changed at any time as long as both you and the other parent agree. This gives you the flexibility to make changes to parenting arrangements as your family's needs change (e.g. as your child grows older and their needs and interests change) without having to go to court.

A parenting plan can cover a range of issues including the time your child spends with each parent and who is able to make decisions on major long-term issues for the child. You can include other people, such as grandparents and stepparents, in a parenting plan.

Parenting plans are not legally enforceable, which means that if one of you does not follow the agreement, there will be no legal consequences for breaking the agreement. It may create conflict if one of you does not comply, or if there is uncertainty about what was agreed. However, if you do end up going to court, parenting plans can be considered as evidence when the court is determining what parenting orders would be in the best interests of your child.

If you create a parenting plan after a court has made parenting orders, the parenting plan can replace some or all of your obligations under the existing court orders (except where the court has made an order prohibiting parents from changing court orders with a parenting plan). This can be helpful if your situation changes and you both agree that the court orders are no longer appropriate.

You do not need to go to court to enter into a parenting plan. However, you might want to seek advice from a Family Dispute Resolution practitioner or a lawyer before entering into one (see **Chapter 1**, *Where you can get help with your parenting arrangements*).

Parenting orders

If you want your parenting agreement to be legally enforceable, you will need to apply for a parenting order through the court. You can do this by applying for consent orders or by applying to resolve your matter through litigation.

Consent orders

If you and the other parent agree to parenting arrangements, you can apply to the court for consent orders to be made. This process will generally not require you to go to court in person or attend a hearing online. You can also propose orders by consent at any time after you (or the other parent) have applied to the

court to resolve the matter through litigation. See **Chapter 1**, *Parenting orders resolved through litigation* for more information.

Consent orders are useful to ensure that what you have agreed to is clearly set out, to avoid misunderstandings or disputes. They work well when everyone agrees on the main issues but wants clear rules and consequences for not following the agreement. Recording your agreement in consent orders can have the added benefit of providing longer-term certainty for both parents and children about living arrangements and who is responsible for making decisions on major long-term issues.

Both you and the other parent have an obligation to take all reasonable steps to follow parenting orders (whether made by consent or determined by the court). You both must also do what is reasonable to encourage your child to follow the orders, even if they do not wish to. If one parent does not follow the parenting orders, the other parent may ask the court to 'enforce' the order and address the non-complying parent's failure to follow the order. There are exceptions that a court will consider, for example if there are safety concerns for your child, or for you, or the other parent that were the reason for the non-compliance. See **Appendix 2**, *Contravention and enforcement of parenting orders*, for further information.

There are limits to what your consent orders can include. Each order included in a consent order must:

- be related to the care, welfare and development of your child
- only direct the people who are applying for the order (the 'parties') to do or not do something (it cannot make someone do something if they are not a party to the order)
- be capable of being followed by the parties to the order (i.e. be clear about the obligation being placed on each party, and not require a party to do something that is illegal), and

- be able to be enforced by the court – for example, a court would probably not make an order for someone to be tactful or generous (as it is difficult to prove if someone has always been tactful and generous in order to enforce the order).

A consent order has much less flexibility than a parenting plan. Consent orders will remain in place until your child reaches the age of 18 unless:

- all persons named on the order make a written, signed and dated parenting plan agreeing to a different parenting agreement (unless this option is excluded by a court order), or
- the court makes a new parenting order.

Some parents may choose to include a ‘staged’ approach to the parenting arrangements for their child. For example, orders may provide for time with each parent on a gradually increasing basis with one parent, as the child attains a certain age or stage of development (e.g. starting daycare, primary school, or high school).

It is normally best to seek legal advice before entering into consent orders.

The court must be satisfied that your consent order meets the criteria in the Family Law Act for being in the best interests of your child. The court cannot make orders that do not meet those criteria, even if all parties agree. More detail on these requirements is at **Chapter 1**, *What the law says about parenting arrangements for children*.

In some circumstances, you can also apply to have parenting orders cover minor incidental financial aspects of arrangements for your children. See **Appendix 2**, *Financial matters and parenting orders*, for more information.

Parenting orders resolved through litigation

If you cannot reach an agreement, or it is not safe for you to engage in dispute resolution with your former partner, you may consider applying to the court for parenting orders. Sometimes this may be the only way to deal with a dispute.

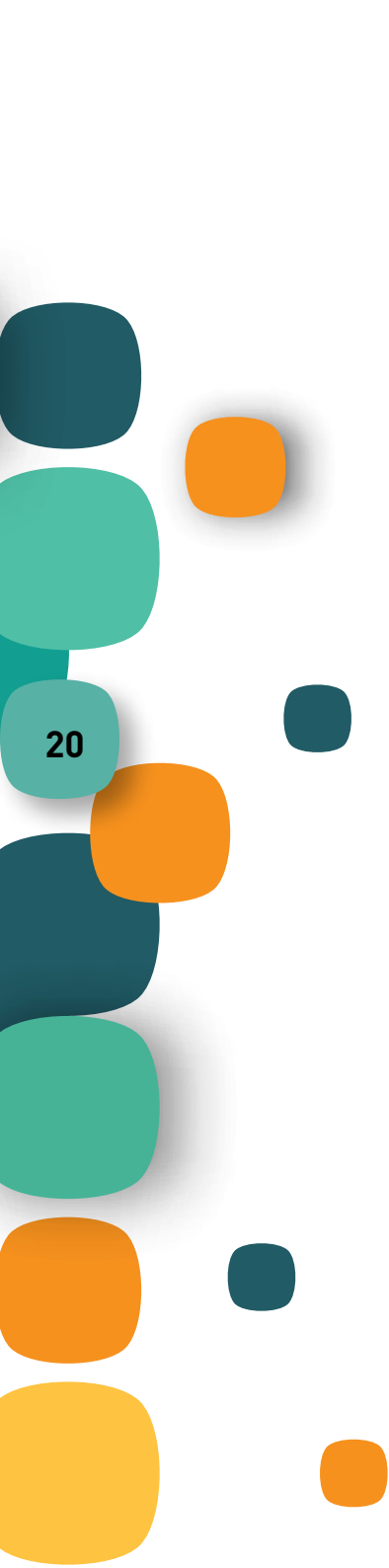
You may choose to litigate the whole of your parenting matter in court, or you may choose to litigate particular issues that you were not able to agree on through negotiations outside of court. Limiting the issues that the court has to make a decision about may help your matter go through the court system faster, and it may be cheaper and less stressful to prepare the evidence.

There are procedures you must follow when you file an application in court to apply for parenting orders. You will need to complete a form that outlines any safety risks or allegations of child abuse, family violence or other risk, and you will also need to tell the court if there is, or has been, a family violence order in place. This information allows the court to manage your case in the safest and most appropriate way.

Before you go to court – Family Dispute Resolution

Before you can ask the court to decide parenting arrangements, it is a requirement that you try Family Dispute Resolution (FDR) unless an exemption applies. FDR is a type of mediation with a qualified practitioner that helps parents talk through their issues and try to reach an agreement without going to court.

If you attend FDR but can’t reach agreement on everything, you can ask the FDR practitioner for a certificate. The certificate is issued under section 60I of the Family Law Act (or section 66H of the *Family Court Act 1997* (WA)). You must file this certificate with your court application for parenting orders. You do not need a certificate if you are applying for consent orders, because both parents have already agreed.



Before starting FDR, the practitioner must talk with each parent to check whether FDR is appropriate. FDR can still go ahead even if there are risks (such as family violence) as long as the practitioner believes those risks can be managed and both parents can negotiate safely and freely. If FDR is not suitable, if one parent refuses to take part, or if you are not able to reach full agreement, the practitioner can issue a certificate.

Getting a certificate does not mean you must go to court; you can still continue discussions or try FDR again later if you want to.

Requiring parents to try FDR before going to court is designed to save families time, money and stress, and make sure court time is used for cases that truly need a judge's decision.

There are some situations where the court may allow you to start proceedings without a certificate, including when:

- the matter is urgent
- there has been family violence or child abuse
- waiting for FDR could put your child at risk, or
- you or the other parent cannot take part in FDR (e.g. due to disability or distance when phone or video options won't work).

If you believe an exception applies to you, you must explain this clearly in your court documents, and the court will decide whether to grant the exemption.

Even after filing an application in court, you don't have to go through to a final hearing. Many parents reach agreement part way through the process and ask the court to make consent orders instead. You can also return to FDR at any time during the court process to try to resolve issues or reduce the number of matters a judge needs to decide.

For more information about what happens in FDR, see **Chapter 1, *Family Dispute Resolution***.

WHERE YOU CAN GET HELP WITH YOUR PARENTING ARRANGEMENTS

There are services to help you manage your parenting dispute, and reach agreement on your parenting arrangements, including:

- *Family Relationship Advice Line*
- *Family Relationship Centres*
- *Family Dispute Resolution*
- *Mediation*
- *Legal Assistance, and*
- *Children's Contact Services.*

The Australian Government funds a range of services to help parents manage disputes relating to the care of children. There are also privately funded options for support that you can consider. This section sets out the different resources and services that may be able to assist you to agree on parenting arrangements.

Family Relationship Advice Line

The Family Relationship Advice Line (FRAL) (1800 050 321) is a free national telephone service available to help families affected by relationship and separation issues. The FRAL provides callers with support that is tailored to their specific family situation, where some callers may require legal information, and some may be more in need of advice about the impact of conflict on children.

Callers wishing to resolve their parenting matter outside of court can receive information and guidance to help them to develop workable parenting arrangements while maintaining a healthy relationship with their former partner. The FRAL also provides over-the-phone Family Dispute Resolution services and referrals to other appropriate dispute resolution and family relationship and separation services.

For callers who are experiencing a higher level of conflict or are already involved in the family law system, the FRAL can provide information about the court system and simple legal advice. Callers can also be referred to local services, such as Family Relationship Centres and family counselling. The FRAL is available from 8am to 8pm, Monday to Friday, and 10am to 4pm on Saturday (local time), except national public holidays.

The FRAL is a helpful starting point to give you some simple advice on your options and where you can go if you need more support.

For more information, refer to www.familyrelationships.gov.au/talk-someone/advice-line.

Family Relationship Centres

Family Relationship Centres (FRCs) are available across Australia, and can provide advice, information and confidential assistance for separating parents. They have a focus on helping families come to workable parenting arrangements outside the courts, including through mediation supported by qualified Family Dispute Resolution practitioners. FRCs can also help you identify the best option for you to record your agreed parenting arrangements and refer you to a range of services that may be able to help you further. This includes educational programs for parents and children to help you navigate separation, family counselling, financial guidance, family violence specialist support and legal assistance.

Information on FRCs, including where to find a service near you, can be found at

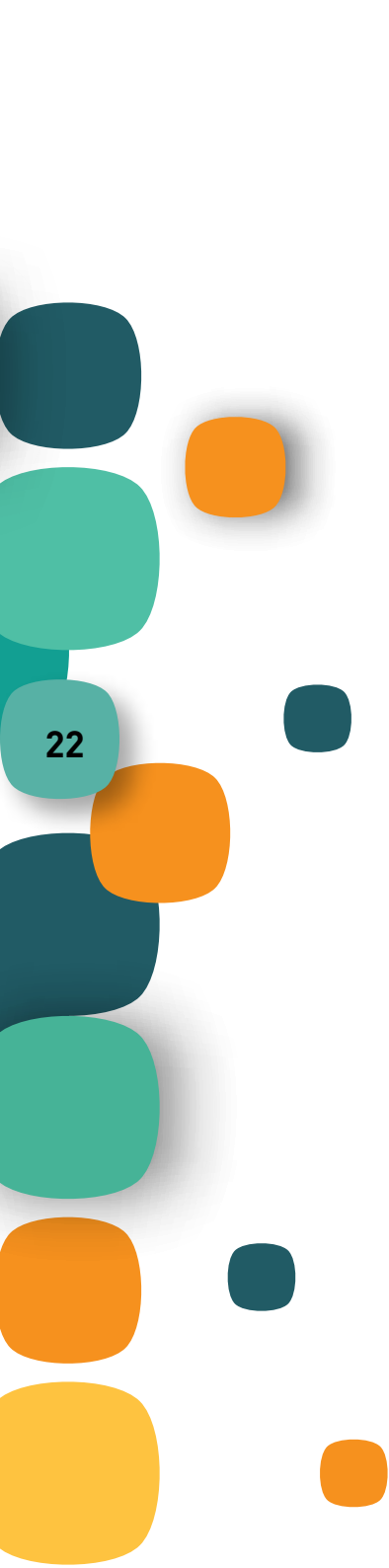
www.familyrelationships.gov.au/talk-someone/centres.

Family Dispute Resolution

FDR is a type of mediation aimed at assisting families to work together to reach their own agreement about parenting arrangements. You must attempt FDR before going to court, unless the court says you are exempt. It is a practical way of sorting out parenting arrangements, without the legal costs, stress, and time-delay involved with going to court. This aims to ensure that where the expense and stress of going to court can be avoided, families have the option to do that. FDR practitioners also help families to work together to reach property agreements.

FDR is led by an FDR practitioner, who is an independent person trained to mediate family disputes arising from separation and help people reach agreement about parenting and/or property matters. An FDR practitioner will facilitate communication between you and your former partner and guide you towards a mutually acceptable solution, but they cannot give legal advice or impose decisions. FDR practitioners are accredited and must meet specific standards.

During FDR you and your former partner will discuss the different options for your child's parenting arrangements and try to work through issues that you might have different opinions on. There are different ways to do FDR. You and your former partner do not have to be in the same physical space. You should discuss options for conducting FDR with your FDR practitioner.



FDR can be very helpful in reaching an agreement about parenting matters without the court, or lawyers, becoming involved. If a full agreement cannot be reached, FDR can be helpful in narrowing the issues in dispute.

You can participate in more than one session of FDR, if the FDR practitioner considers this to be appropriate, to allow you to fully discuss and agree on all the issues in dispute. You can use FDR to attempt to resolve the matter before going to court, but you can also use FDR to try to reach agreement if your matter is already in the court system. FDR can also be used after you have court orders, to help with any disagreements that come up about how to interpret those orders or to discuss making changes to those orders, unless the court prohibits this.

Anything you or the other parent says in front of the FDR practitioner at FDR, including any proposals made, is strictly confidential and cannot be used as evidence in court unless it relates to child abuse. There are some exceptions to confidentiality, for example, to prevent a threat to someone's life or health or the commission of a crime.

You can find details of publicly-funded FDR providers at www.familyrelationships.gov.au/talk-someone/centres or search for FDR practitioners who provide private services at <https://fdrr.ag.gov.au/>. You can also use the register of FDR practitioners at <https://fdrr.ag.gov.au/> to confirm if someone is accredited to provide Family Dispute Resolution.

The Family Relationship Advice Line (1800 050 321) or Family Relationship Centres can also refer you to one of their own FDR practitioners or to another publicly-funded FDR service at a location near you.

Legally assisted Family Dispute Resolution

Legally assisted FDR is a form of FDR where you and your former partner each have your own lawyer present during the mediation session. In this approach, the lawyers for you and your former partner will support you to each understand your rights and options, reality-test proposals, negotiate safely and constructively, and record agreements clearly.

It may be helpful when:

- your situation is high conflict, or communication is difficult
- you or your former partner have safety concerns
- the issues in your matter are complex, or you or your former partner feels disadvantaged
- you and your former partner need real-time legal advice while negotiating.

Legally Assisted FDR can occur through:

- FRCs in some locations
- Legal Aid Commissions (in some locations)
- Private lawyers and dispute resolution services.

It can help to avoid court by giving you and your former partner support and confidence during the negotiation process.

Child-inclusive Family Dispute Resolution

Child-inclusive FDR is a form of FDR designed to bring your child's voice and experience into the process in a safe, developmentally appropriate way. It involves a specially trained child consultant meeting with your child or children to help them express their feelings and needs. The consultant will then provide feedback during the FDR session (children do not attend the mediation).

Child-inclusive FDR can be useful to help you and the other parent understand how separation and conflict are affecting your child and to focus on what arrangements support your child's wellbeing. This can help to reduce conflict by grounding conversations in your child's needs, and can result in more child-focused, durable agreements, as well as helping your child feel empowered by knowing their voice will be heard when you and the other parent are deciding the arrangements that work best.

This option is not used in every case. The FDR service provider will assess whether it is safe and appropriate for your child.

Child-inclusive FDR is offered through:

- FRCs in some locations
- specialised family relationship services
- private FDR practitioners with child-inclusive expertise.

Mediation

Mediation is very similar to FDR, however, unlike in FDR, mediation is facilitated by a mediator rather than an FDR practitioner. Family law mediators are trained professionals who act as neutral third parties to facilitate communication and negotiation between separating individuals to help them agree on parenting and/or property matters. Mediation can offer some benefits in terms of flexibility, a more customised process and a more informal, personalised experience.

Only FDR practitioners can issue a section 60I certificate, so if your mediation is unsuccessful, you would still need to go to an FDR practitioner before you could proceed to court to resolve your dispute, unless an exception applies. Not all mediators specialise in family law disputes, so you should look carefully into a specific mediator's experience and specialty before attempting to resolve your dispute through mediation. In particular, FDR practitioners are required to have regular training on understanding family violence dynamics, whereas mediators do not have this requirement.

The things discussed in mediation are confidential. This protection is based on rules of evidence in Australia, though it is not specifically covered in the Family Law Act.

There is a general mediator register on the Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS) website at <https://amdras.au/>.

Legal assistance

You may choose to engage the help of a lawyer to assist with your parenting matter. A lawyer can negotiate with your former partner or their legal representative, engage in lawyer-led FDR and mediation, write up your agreement in the form of consent orders or a parenting plan, file a court application, or advocate for you in court. Lawyers can give you advice about what a court might do in your particular circumstances. This can help you to achieve a result that is in the best interests of your child.

Legal assistance is recommended in matters that are high conflict, such as where negotiating directly with your former partner may not be safe or possible, and in matters that involve serious issues that have the potential to impact the safety of your child.

It is important to note that lawyers represent each client individually, so it is not possible to engage a lawyer to help both you and your former partner. If you both want legal assistance, you will each have to engage a separate lawyer.

For help finding a private lawyer to assist you, see <https://www.fccoa.gov.au/fl/legal-help/family-law-find-lawyer>.

The cost of private legal assistance depends on the type of assistance you need and the complexities of your individual situation. It will generally be cheaper to have a lawyer assist in out-of-court negotiations, including FDR and mediation, than to litigate a parenting application through the court system. If your matter is in the court system and you can't afford the costs of legal representation, you may be eligible to receive legal aid. Legal Aid Commissions in the states and territories provide in-house lawyers in some cases, and in other cases may assist with the funding of lawyers in private practice. Managing a family law case as a self-represented litigant can be challenging.

For more information on lawyers and their role in the family law system, see **Appendix 2**, *Professionals involved in family law*.

There are also a number of government-funded organisations that provide free or low-cost legal assistance to vulnerable members of the community. You can find more information at <https://www.familyrelationships.gov.au/legal-advice> or at <https://www.ag.gov.au/families-and-marriage/publications/family-law-services-and-support-fact-sheet>.

Children's Contact Services

Children's Contact Services (CCSs) are specialist service providers that provide a venue for parents and others significant to the child to spend time with children in a secure and supervised environment.

Many of the families who use CCSs have been referred by the courts or a family law professional. CCSs deliver a service that provides a safe environment for children to maintain contact with parents and family members they do not live with, while supporting separating families to transition to self-managed parenting arrangements (where it is safe to do so).

For more information on accessing these services, see the Australian Children's Contact Services Association website at accsa.org.au and the Attorney-General's Department's website at <https://www.ag.gov.au/families-and-marriage/children-and-family-law/childrens-contact-services>.

Family Counselling

Family counselling is a specialised service that can support you and the other parent to improve your co-parenting and communication, develop strategies to manage and resolve conflict, and better understand and meet your child's needs. Family counselling services are available to couples who are together or separated. Family counselling can involve you and the other parent, your child, as well as extended family members such as grandparents and kinship carers, to ensure all members of the family are supported in working through issues that may arise following separation.

There are a number of government-funded organisations that provide family counselling services. The Family Law Act makes it clear that what is said to certain family counsellors authorised by designated family counselling organisations is to remain confidential except in certain situations, including when child protection and safety issues arise, and it cannot be used in evidence unless it relates to child abuse.

For more information about family counselling, see <https://www.familyrelationships.gov.au/separation/separation-counselling>.

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CHAPTER 2.

Content of parenting orders

Chapter 2

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If you have decided that you want legally enforceable parenting orders, the next step is to discuss and reach agreement about the key issues you want the parenting orders to cover. It may be beneficial to engage a legal professional to help you negotiate an agreement about parenting arrangements.

This chapter provides an overview of the topics you may wish to discuss and include in parenting orders, though you can also include these topics in other parenting agreements (such as an informal agreement, or a parenting plan).

There is no requirement for your consent orders to include each topic outlined in this chapter, but all orders that are included must relate to the care, welfare or development of your child.

Your parenting orders can cover one or 2 topics, or an extensive list, so long as the topics relate to the care, welfare or development of your child.

When choosing the topics to cover, it may be helpful to consider:

- *the issues that are likely to arise following family separation*
- *which of those issues should be addressed in the parenting orders.*

PARENTAL RESPONSIBILITY AND DECISION-MAKING

Parental responsibility

'Parental responsibility' is defined in the Family Law Act to mean all of the duties, powers, responsibilities and authority that parents have in relation to their child. All parents have parental responsibility, unless this is modified by court order. Parents have parental responsibility even if they have gone to prison, moved overseas, were not involved in raising their child, or are for some reason unable to exercise their parental responsibility.

In practical terms, parental responsibility involves decision-making about your child in 2 key ways:

- decision-making about major long-term issues
- decision-making about day-to-day issues (such as what your child eats or wears on a particular day).

Parenting orders can change how parental responsibility is divided between parents. For example, the orders can specify whether you and the other parent will have joint or sole decision-making responsibility about some or all major long-term issues for your child.

Usually, day-to-day decisions (i.e. not about major long-term issues) will be made by the parent that your child is living or spending time with on the day, and orders do not need to be made for that to occur.

Other caregivers or important people in your child's life (e.g. grandparents or stepparents) do not have parental responsibility, even if your child is living with, or spending time with, them. These other caregivers can only obtain parental responsibility through a parenting order made by the court. It is not enough to include this in a parenting plan.

Decision-making

A 'parental responsibility' or 'decision-making' order can set out who is responsible for decision-making about major long-term issues for your child and includes whether certain decisions must be made jointly or can be made solely by one parent.

Major long-term issues

Major long-term issues about the care, welfare and development of your child include (but are not limited to) issues about:

- health
- education (current and future)
- religious and cultural upbringing
- name
- changes to your child's living arrangements that make it significantly more difficult for them to spend time with a parent.

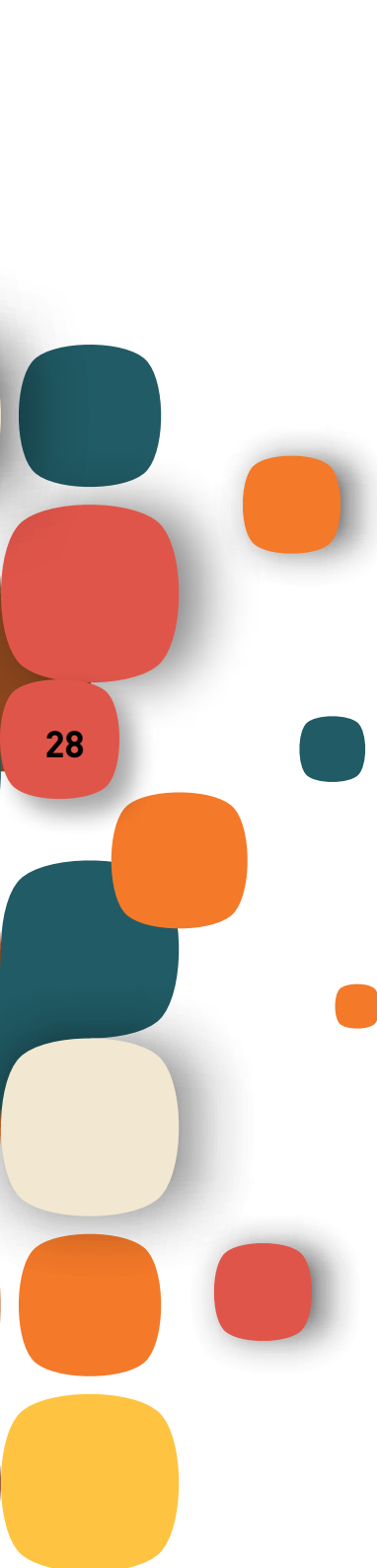
The Family Law Act notes that a decision by one parent to form a relationship with a new partner is not, in itself, a major long-term issue.

Allocation of parental responsibility including decision-making

Order for joint decision-making

If you would like to create a legal obligation for you and the other parent to make a genuine effort to consult with you and come to a joint decision about all major long-term issues, you may include an order like this:

'The parents have joint parental responsibility including joint decision-making about major long-term issues in relation to the [child/children], [insert child's name and date of birth].'



If you include a joint decision-making order in your parenting orders, you will be required to consult with the other parent and make a genuine effort to come to a joint decision about major long-term issues. If you choose to include a joint decision-making order but do not consult and do not make a genuine effort to come to a joint decision, this could result in a penalty for breach of a court order. There are some exceptions that a court will consider if there has been a breach of this obligation, including whether complying with the order would expose you or your child to safety risks.

Order for sole decision-making

If you believe it is in your child's best interests to have an order that one parent alone makes all the decisions about major long-term issues for your child ('sole parental responsibility including sole decision-making'), you may include an order such as this:

'The [mother/father] has sole parental responsibility including sole decision-making about major long-term issues in relation to the [child/children], [insert child's name and date of birth].'

You should be aware that an order for sole parental responsibility including sole decision-making may not, by itself, be sufficient for a federal or state/territory department or government agency to act on the decision you have made without the consent of the other parent (e.g. to issue a passport for your child or to change your child's name). It may be necessary to include a more specific order to empower such a department or agency to act on the decision made. For examples of such orders, see **Chapter 4, examples 36 and 39.**

Other decision-making arrangements

If you believe a different arrangement is in the best interests of your child, you could also consider including an order for:

- both you and the other parent to share decision-making responsibility for one particular issue (e.g. health decisions) and for one parent to have sole decision-making responsibility for every other major long-term issue, or
- one parent to have sole decision-making responsibility for one issue (e.g. schooling) and for both you and the other parent to share decision-making responsibility for every other major long-term issue.

For examples of orders like these, see **Chapter 4, examples 6 and 7.**

Multiple children

If you have more than one child, you can seek orders allocating decision-making responsibility differently for each child. For example, you might have joint decision-making responsibility for one child, but one parent alone might have sole decision-making responsibility for healthrelated matters for the other child.

'LIVE WITH' AND 'SPEND TIME WITH' ARRANGEMENTS

Deciding when, where and how your child will spend time with each parent

Parenting orders will usually set out clearly when a child will spend time with one parent or the other. Often it will be convenient to set out rotating arrangements by week or fortnight.

There is no requirement in the law that your child should spend equal (50/50) or 'substantial and significant' time with you or the other parent. There is also no legal requirement that your child

should spend a minimum amount of time with either parent. Your child's best interests must be the most important thing when deciding where they live and who they spend time with.

When you are deciding what living arrangements are in the best interests of your child, it will be important to think about the arrangements that will be safe, meet your child's needs, and help your child to maintain the relationships that are important to them. For a complete list of the 'best interests' factors considered by a court under the Family Law Act, see **Chapter 1**, *Best interests of the child*.

It is also very important to think practically when deciding living arrangements. For example, if you and the other parent live far apart, it might be easier and less stressful for your child to live mostly with one parent and spend time with the other parent (e.g. during school holiday periods).

See **Chapter 4**, *examples 10-14* for example orders with respect to 'spend time' arrangements.

School holidays and special occasions

Your parenting orders should clearly set out care arrangements for school holidays if your child is school age and you want to have different care arrangements for school terms and school holidays. If this is not included, then the 'normal' school term arrangements will continue through the school holiday periods.

It is also common to set out arrangements for special occasions, such as cultural events, religious and other holidays, and birthdays where you want to ensure a child spends time with either one parent or both parents, even if the child would not ordinarily be spending time with that parent on that day. For example, you could make provision for your child to spend time with the mother on Mother's Day, the father on Father's Day, and with each parent on your child's birthday.

See **Chapter 4**, *examples 15-17* for example orders with respect to time during school holidays and special occasions.

The child and other people

Parenting orders are only binding on people who are a 'party' named in the orders (typically, the parents). However, orders can also deal with aspects of your child's relationship with other people, for example by requiring the parent who is caring for the child to facilitate the child spending time with a grandparent on the grandparent's birthday or to attend a family wedding.

It is typically not necessary to include specific orders for your child's time with another person if they see this person during the time they spend with you or the other parent. For example, when a child is spending time with the other parent, the other parent could take them to see their parents – i.e. the child's grandparents – without needing a specific order to do so (as this would fall within the other parent's day-to-day decision-making for their child).

You may want the orders to create an obligation on a third party (e.g. for the third party to have care of the child for specified periods of time), rather than the order placing the obligation on the parents to facilitate the child spending time with that third party. If this is the case, the third party will need to join the court proceedings as a 'party' and be given the opportunity to tell the court whether they agree to the order that you and the other parent are asking the court to make. If this is the case for you, it is recommended that you seek legal advice.

Parenting orders can also require that you and/or the other parent not allow your child to come into contact with a particular person. See **Chapter 4**, *example 38* for an example order restraining parents from bringing a child into contact with a particular person.

This type of order is generally only used when you or the other parent are concerned about the safety of your child if they come into contact with a particular person.

Multiple children

Where there are 2 or more children in the family, it is often appropriate for siblings to be kept together as they move between households. In some circumstances though, it may be in the children's best interests to make different arrangements for each child.

CHANGEOVER

When deciding time arrangements, it is important to also consider 'changeover' arrangements for how, where and when your child will transition from one parent's care to the other parent's care.

If your co-parenting relationship is amicable, you may decide that changeovers can occur at each parent's home or at your child's school on school days, if that is more convenient.

If you have a more strained co-parenting relationship, or if there have been allegations of family violence, you may not feel comfortable facilitating changeover at your home and may instead agree that changeover should occur at your child's school on school days (to take away the need for you to come into contact with the other parent) and on non-school days at an appropriate, child-friendly public location. You can also choose to specify a certain arrangement that prevents you from coming into physical contact with the other parent at changeover (such as having an agreed third party attend changeover on behalf of you or the other parent).

Changeovers can be stressful for children, and you may wish to consider how to minimise such stress. For example, young children can sometimes benefit from taking a familiar toy or object with them.

If there is a high level of conflict between you and the other parent, you may choose to engage the service of a professional supervised changeover centre (see 'Children's Contact Services' in the **Glossary**).

See **Chapter 4**, *examples 18-22* for example orders providing for different methods for changeover.

COMMUNICATION

Parenting orders can deal with how your child will communicate with you and the other parent. This can include setting out the times your child will communicate with the parent they are not living with (including regular week-to-week communication and communication on special occasions), as well as the method of communication (e.g. by telephone, FaceTime, WhatsApp etc.).

In limited circumstances, parents or a court may decide it is in the child's best interests that one parent communicates with the child only through sending letters, cards and gifts.

See **Chapter 4**, *examples 24-25* for example communication orders.

EXCHANGE OF INFORMATION

You and the other parent may choose to include provisions in your court order about how you will communicate with each other, for example through email, text message or a parenting app, as a way to limit inappropriate communication and conflict. This could include communication about day-to-day aspects about the care of your child (such as changeover, extracurricular activities, upcoming medical appointments, parent-teacher interviews etc.) or ways of informing the other parent of a change to your address or contact details. You may also record how you and the other parent will exchange more urgent or time-sensitive information (e.g. if your child is ill or injured and needs medical treatment).

For more information about the different parenting apps that may be used, please see this information sheet from Relationships Australia Victoria
https://www.relationshipsvictoria.org.au/media/uhgd5yzt/smartphone-apps-for-separated-co-parents-information-sheet_rav_aug-2024.pdf.

When using a parenting app, it is important to understand how your personal information is used so you should consider the app's privacy notice in relation to sharing of your data.

See **Chapter 4**, *examples 27-29* for example orders providing for the exchange of information between parents.

AUTHORITIES

You may include an order which authorises various departments and organisations that have contact with your child (typically, your child's school and treating medical professionals) to release documents and information to both parents. You and the other parent may also want to include an authority for each of you to attend your child's school events and extracurricular activities.

See **Chapter 4**, *example 30* for an example order providing authorities.

SPECIFIC ISSUES

If there are specific decisions that you know are coming up in your child's life, you may choose to record any agreement reached about these issues in parenting orders. These decisions might require decisionmaking about major long-term issues (e.g. where your child will attend high school, whether your child will receive a particular medical procedure/vaccination, or what specific medical professional your child will engage with) or they may involve day-to-day decision-making (e.g. which extracurricular activities your child will enrol in or whether they should be allowed to catch public transport to school).

It is not necessary to record agreements about any or all anticipated future decisions for your child. You may choose not to include any orders about specific issues and instead make decisions (in the manner recorded in the orders) as and when they arise.

See **Chapter 4**, *examples 32-36* for example orders relating to certain categories of specific issues.

RESTRAINTS ON PARENTAL BEHAVIOUR

Sometimes parents are concerned about how the other parent might behave with the child. Parenting orders can prohibit certain behaviours by you or the other parent, or both of you, when the child is in your or the other parent's care .

Orders can only restrain behaviour of you or the other parent so far as the behaviour relates to the care of your child. This could include a restriction on consuming alcohol when the child is in your or the other parent's care, or a prohibition on physically disciplining the child, or criticising the other parent within earshot of the child. Some matters do not need to be restricted by court order because the behaviours are already illegal under state or federal law (e.g. driving over the legal blood-alcohol limit).

It is important to consider whether there is a need to include a restriction on the other parent's behaviour in legally enforceable orders. Sometimes issues like this are better resolved by negotiation, counselling, Family Dispute Resolution or a parenting plan.

See **Chapter 4**, *examples 37-38* for example orders placing restraints on parents' behaviour.

TRAVEL

The Australian Passport Office generally requires the consent of both parents before considering whether to issue the child with an Australian passport. You may want to include an order that requires both parents to do all acts and things and sign all necessary documents to obtain a passport for your child, to avoid delays or failure to obtain your child's passport. For further information, see <http://www.passports.gov.au/pages/brochure-children-and-parental-consent.aspx>.

Parenting orders can also record agreements about you or the other parent taking the child out of their home state or territory to travel interstate or internationally. You may record the time periods during which you or the other parent may travel with your child and any notice required to be given to the other parent. This may include, for example, notice of the travel destination, travel itinerary, flights, duration of travel, and contact details while travelling. You may also choose to specify which parent will keep hold of your child's passport when they are not travelling.

You may agree to place restrictions on the countries your child may travel to (such as countries that the Australian Government has recorded in a highrisk category, or countries that are not signatories to the *1980 Hague Convention on the Civil Aspects of International Child Abduction* (the Hague Convention)).

For further information in relation to the Hague Convention, see **Chapter 4, page 58** and **Appendix 2, *The Hague Convention on the Civil Aspects of International Child Abduction***.

It is important to note that once parenting proceedings are filed, or a parenting order affecting a child has been made, it is an offence to take that child out of Australia unless:

- there is a court order authorising that travel, or
- each person who is a party to ongoing parenting proceedings, or in whose favour the parenting order was made consents to the travel in writing and has that written consent witnessed by someone listed at regulation 6 of the *Statutory Declarations Regulations 2023* (Cth), and that witness writes on the document recording the consent that they are satisfied about the identity of the person signing the consent document and that the consent document was signed in the witness's presence.

There are exceptions to this restriction where a person takes or sends a child overseas because they believe that conduct is necessary to prevent family violence and the conduct is reasonable in the circumstances as that person perceives them.

If you are concerned that your child will be taken out of the country without your consent, you should seek urgent legal advice. One of the options available might be to have your child's name placed on the 'Family Law Watchlist' maintained by the Australian Federal Police which will flag your child when their passport is scanned for international departures at the airport or at a ship terminal. For more information on the Family Law Watchlist, see **Appendix 2, *Family Law Watchlist orders***.

See **Chapter 4, examples 39-40** for example orders relating to passports and travel.

PARENTING PROGRAMS

You and the other parent may agree that you need some additional support to help you minimise conflict and work together to create an environment that promotes your child's best interests. In those circumstances, you can propose including orders requiring either or both parents to engage with specific parenting courses. These could include the Parenting Orders Program, Parenting After Separation Program, Triple P Parenting Program, or Men's Behaviour Change Programs.

See **Chapter 4**, *examples 43-44* for example orders relating to parenting courses.

RESOLUTION OF DISPUTES

It is not possible for parenting orders to provide for all possible future scenarios and events that may affect your child until they reach adult age. Because of this, you may need to reconsider your parenting orders from time to time, especially as your child grows and their needs change. When decisions need to be made, or when the strict terms of your orders no longer suit your child's needs, you might need to re-negotiate arrangements and reach decisions on issues you did not foresee when the original orders were made. If your orders are unclear in their wording, this may lead to disagreements about the obligations created by a particular order.

To avoid having to bring your parenting matter back to court if there is a disagreement, you may want to include a provision for you and the other parent to attend Family Dispute Resolution in the first instance, to attempt to resolve any dispute before bringing an application for further parenting orders. This can be more cost-effective and less stressful than going to court. For further information in relation to Family Dispute Resolution, please see the **Glossary**.

See **Chapter 4**, *example 45* for an example order providing for Family Dispute Resolution for the resolution of disputes following the making of final orders.





CHAPTER 3.

Helpful tips for preparing Parenting Orders

Chapter 3

This chapter provides general advice and guidance on writing parenting orders, and **Chapter 4: *Examples of parenting orders*** provides a range of examples.

USEFUL HEADINGS FOR SETTING OUT ORDERS

A useful approach to setting out parenting orders is to start with decision-making orders, then move on to 'live with' and 'spend time with' orders, and then other topics such as 'communication' and 'changeover' orders. You should have a clear heading for each type of order.

Here are some examples of suitable headings

- Decision-making
- 'Live with' and 'spend time with'
- Changeover
- Communication
- Exchange of information
- Authorities
- Specific issues
- Restraints on parental behaviour
- Travel
- Parenting programs
- Resolution of disputes

The example orders provided in **Chapter 4** are set out under these headings, however there is no requirement for orders to be structured in this way or to use these headings. It is most important that the headings cover the main categories of orders and are easy to understand by the parents and the court.

If you have more than one child and you are going to have different arrangements for each child, you can use separate headings for each child's arrangements.

REFERRING TO CHILDREN AND FAMILY MEMBERS

It is not necessary to repeat the full names of individuals in each order. A convenient way of doing this is to use the terms 'parents', 'father', 'mother', and 'child' or 'children' (as applicable), after first defining them. For example:

[full name], born 8 June 2010 and [full name], born 22 May 2011 ('the children') are to live with [full name] ('the mother') ... The children are to spend time with [full name] ('the father') ...

It is a good idea to use the full name of your child (along with their date of birth) at the beginning. This makes it easier for law enforcement, medical officers and others who may need to read the orders, to identify your child.

In families with same-sex parents, or where this is preferred, the orders may refer to parents by their first name, instead of the term 'mother' or 'father', to avoid confusion about which parent the order applies to. For example:

[full name], born 8 June 2010 and [full name], born 22 May 2011 ('the children') are to live with Jane Lee ('Jane') ... The children are to spend time with Alice Walker ('Alice') ...

BEING CLEAR ABOUT EACH PERSON'S LEGAL OBLIGATIONS

Parenting orders create legally enforceable obligations for the parents (or other parties/caregivers). There can be consequences for people who do not comply with orders.

It is therefore important that each part of the parenting order is written clearly and includes sufficient detail.

It is also important that each parent understands who is required to do what under each part of the order. You may seek legal advice if you are unsure about whether a drafted order will achieve its intended purpose or the extent of your obligations under the orders.

USING SIMPLE LANGUAGE

Generally, there is no need to use any special legal terms. The orders should be in everyday language, avoid adding unnecessary words, or mixing multiple concepts in the same individual order (splitting these issues into multiple separate orders will generally make the orders easier to understand).

However, if you want to include restrictions about how decisions are made by parents/caregivers about major long-term issues affecting your child, such as the school they attend or medical procedures, specific legal terminology must be used. The example orders in **Chapter 4** provide guidance about how to prepare orders dealing with decision-making about major long-term issues.

Careful and specific drafting of the orders will limit the chance of any misunderstanding in the future over the meaning of each order and the obligations on each parent.

HOW MUCH DETAIL TO INCLUDE

Every family's situation is unique. Some parents may be confident that they do not need to spell out specific details of certain orders, as they believe they will be able to agree on arrangements between themselves. In these cases, it may be enough to have fairly general and simple orders that leave space for parents to agree on arrangements outside of the terms of the orders.

However, this does not suit every family. In some situations, for the parenting orders to be effective, they will need to spell things out in detail. This can help avoid conflict and provide certainty for planning into the future.

The courts often build some flexibility into parenting orders. This flexibility works best for parents that are able to make reasonable compromises and adapt to different situations. It may not be appropriate when parents are not amicable or when one parent is frightened of the other (i.e. there is a power imbalance between the parents).

An example of flexible wording in an order could be

“Changeover of [the child] from the maternal grandfather’s care to the father’s care shall occur at the library car park or such other place as the parties might agree.”

It is important to note that even if orders are very detailed, parents are able to reach an agreement between themselves about certain arrangements that are different to the terms of the orders.

For example, if the orders said that changeover will occur at 3:00pm on Friday at the library carpark, but you and the other parent later agree that your child will participate in basketball training on Friday afternoons, you can agree that changeover will occur after basketball training at 6:00pm on Friday at the basketball court instead. If you agree to change the orders, it is recommended that this agreement is recorded in writing (e.g. through text message, email or a parenting communication app).

However, if you or the other parent later withdraws their agreement to the new arrangement, the original court order will still apply. If you want to formalise the new agreement, you can enter into a parenting plan or apply for consent orders.

HOW TO DEAL WITH CHANGE

Generally, when court orders are made about a child, the court intends that those orders remain in place until that child turns 18 years old. However, circumstances can change in ways that orders, no matter how detailed, cannot predict, and one or both parents may want to vary arrangements set out in final parenting orders.

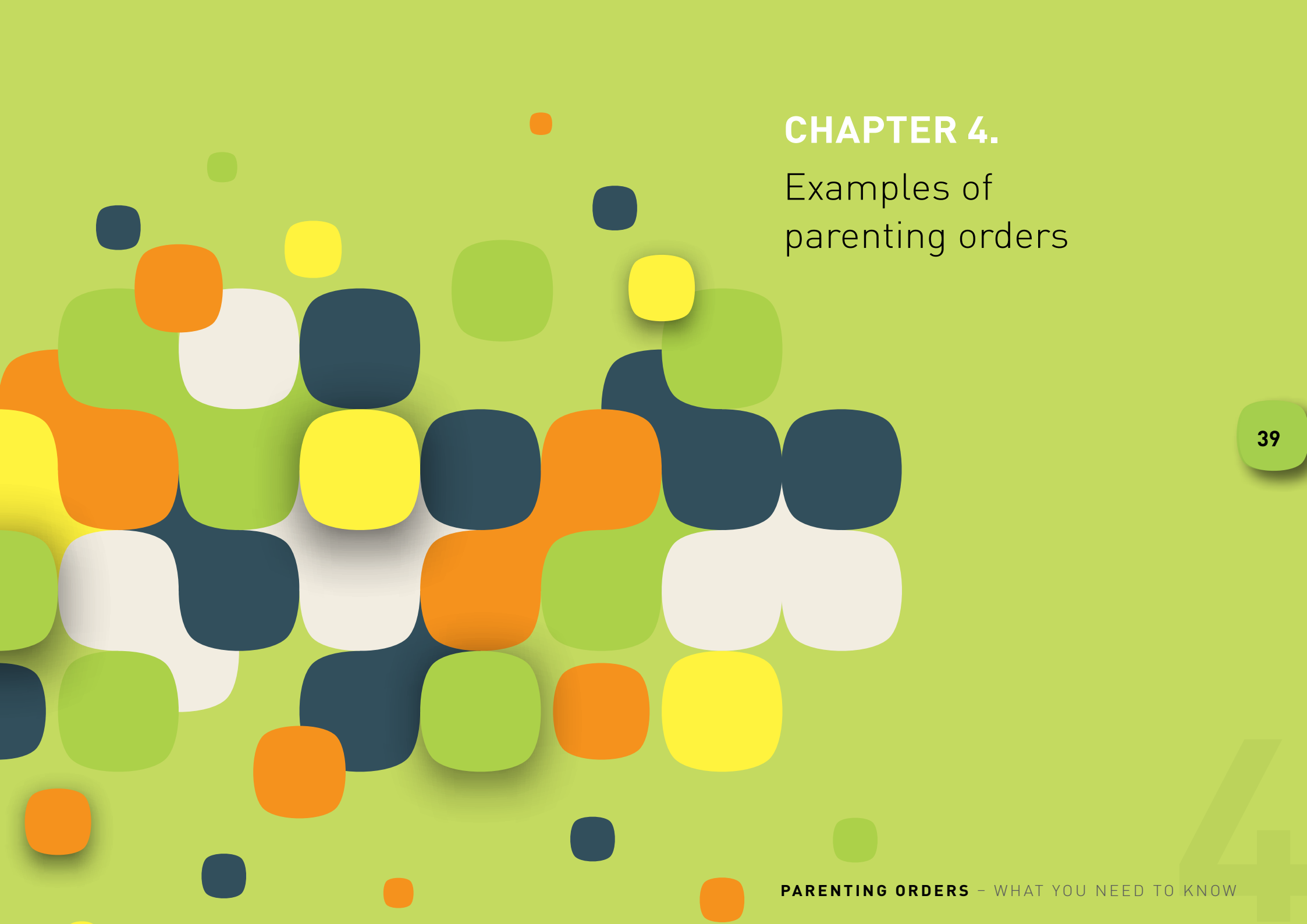
If your circumstances change significantly, you and the other parent can come together to agree upon arrangements to fit the new situation. If the relationship is good, parents may not need new orders – a parenting plan might be a better and cheaper option. Entering into a parenting plan after a final parenting order has been made will normally change how the parenting order operates, although a parent can withdraw from an agreement recorded in a parenting plan at any time (unlike a court order, which can only be changed with the agreement of all of the parties or a new court order).

If your situation requires more certainty than flexibility, you may apply for a consent order so that, even if you or the other parent change your mind later on, you will both still have an obligation to comply with the arrangements in the consent orders.

Appendix 1 outlines how to apply for a consent order.

However, if you cannot agree about a change to a parenting order, you can apply to the court for new orders after first engaging in FDR. Where a previous final parenting order is in place and there is no agreement that it should be changed, the court will only consider making new parenting orders where:

- the court has considered whether there has been a significant change of circumstances since the previous final parenting order was made, and
- the court is satisfied that it is in the best interests of the child for the final parenting order to be reconsidered.



CHAPTER 4.

Examples of parenting orders

Chapter 4

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This chapter provides some examples of parenting orders, covering a range of topics. These are intended to help you and the other parent draft orders that best fit your situation and prioritise the best interests of your child. Orders should be as specific as possible in order to be enforceable.

DECISION-MAKING

Listed below are alternative sets of orders allocating decision-making responsibility for major long-term issues for the child in different ways (joint decision-making, sole decision-making, and sole decision-making about particular issues). See **Chapter 2**, *Parental responsibility and decision-making about major long-term issues* for further information.

1. Joint decision-making

- 1) *The father and mother have joint parental responsibility including joint decision-making about major long-term issues for the child [insert child's name and date of birth].*

This order means that both parents are required to consult with each other and make a genuine effort to come to a decision about all major long-term issues in relation to the child.

2. Joint decision-making – alternative version

- 1) *The father and the mother have joint parental responsibility including joint decision-making about major long-term issues in relation to the care, welfare and development of the child, including but not limited to:*
 - a. *the child's education (both current and future)*
 - b. *the child's religious and cultural upbringing*
 - c. *the child's health*
 - d. *the child's name, and*
 - e. *changes to the child's living arrangements that would make it significantly more difficult for the child to spend time with either parent.*
- 2) *Notwithstanding order 1, the father and the mother shall be responsible for decisions relating to the day-to-day care, welfare and development of the child while the child is in each parent's respective care.*

The above example is an alternative way of setting out a joint decision-making order, by specifying the types of major long-term issues that may require decision-making. This order achieves the same result as **Example 1**.

You and the other parent are responsible for day-to-day decision-making while your child is in your respective care, regardless of whether there is an order specifically providing for this or not. Paragraph 2 of the above order can be included for clarity, but it is not essential for the order to be enforceable.

3. Sole decision-making

- 1) *The mother has sole parental responsibility including sole decision-making about major long-term issues for the child [insert child's name and date of birth].*

This order gives the mother sole parental responsibility, including sole decision-making responsibility for all major long-term issues, and removes decision-making responsibility about major long-term issues from the other parent.

4. Sole decision-making – alternative version

- 1) *The mother has sole parental responsibility including sole decision-making about major long-term issues in relation to the care, welfare and development of the child [insert child's name and date of birth], including but not limited to:*
 - a. *the child's education (both current and future)*
 - b. *the child's religious and cultural upbringing*
 - c. *the child's health*
 - d. *the child's name, and*
 - e. *changes to the child's living arrangements that would make it significantly more difficult for the child to spend time with either parent.*

The above example is an alternative way of setting out a sole decision-making order, by specifying the types of major long-term issues that may require decision-making. This order achieves the same result as **Example 3**.

5. Sole decision-making – alternative version (with optional notification requirement)

- 1) *The mother has sole parental responsibility including sole decision-making about major long-term issues for the child [insert child's name and date of birth].*
- 2) *In the exercise of sole decision-making, the mother shall for all non-urgent decisions:*
 - a. *notify the father in writing at least 14 days before any proposed decision on a major long-term issue is to be made about the child and invite the father to provide a response within 7 days*
 - b. *consider any response provided by the father and take these comments into account when making the decision, and*
 - c. *inform the father in writing of any decision made within 7 days of such a decision being made.*

Paragraph 2 of the above order creates an obligation on the person responsible for making major decisions about major long-term issues (in this case, the mother) to notify and consider the response of the father before making a decision. It does not create any obligation on the mother to make a decision in line with what the father wants.

See **Chapter 2, Allocation of parental responsibility including decision-making about major long-term issues** for further information about sole decision-making.

6. Joint decision-making about most major long-term issues and sole decision-making for one parent about a specific issue

- 1) *The father and the mother have joint parental responsibility including joint decision-making about major long-term issues in relation to the care, welfare and development of the child [insert child's name and date of birth], including but not limited to::*
 - a. *the child's education (both current and future)*
 - b. *the child's health*
 - c. *the child's name, and*
 - d. *changes to the child's living arrangements that would make it significantly more difficult for the child to spend time with either parent.*
- 2) *Notwithstanding order 1, the father has sole decision-making about major longterm issues relating to the child's religious and cultural upbringing, including issues relating to the child's Aboriginal heritage and culture.*

This order means that both parents are required to consult with each other and make a genuine effort to come to a decision about all major long-term issues in relation to the child, except for their religious and cultural upbringing. This order would give the father sole responsibility for decision-making about major long-term issues relating to the child's religious and cultural upbringing and remove the mother's responsibility for decision-making about major long-term issues relating to the child's religious and cultural upbringing.

An order like this might be useful if one of the parents is of Aboriginal or Torres Strait Islander descent and is better able to support the child's connection to their Aboriginal or Torres Strait Islander culture and heritage, where the other parent may not be able to adequately meet this need.

See **Chapter 2, Allocation of parental responsibility** including *decision-making about major long-term issues* for further information about sole decision-making for particular issues.

7. Joint decision-making about most major long-term issues and sole decision-making for one parent for a specific decision

- 1) *The mother and father have joint parental responsibility including joint decision-making about major long-term issues in relation to the child [insert child's name and date of birth].*
- 2) *Notwithstanding order 1, the father has sole decision-making about the choice of the child's school.*
- 3) *In relation to the child's school, the father must give the mother 30 days' notice of his intention to change the child's school.*

This order means that both parents would share decision-making responsibility for all major long-term issues except for the specific decision of the child's school. This is narrower in application than **Example 6** as it only gives the father sole decision-making responsibility for the specific issue of the choice of school. All other major decisions in relation to education (e.g. whether the child should participate in a language exchange or whether the child should repeat a year level) would be made by both parents.

8. Sole parental responsibility with limitations

- 1) *The maternal grandmother has sole parental responsibility including sole decision-making about major long-term issues relating to the care, welfare and development of the child [insert child's name and date of birth], including but not limited to:*
 - a. *the child's education (both current and future)*
 - b. *the child's religious and cultural upbringing*
 - c. *the child's health*
 - d. *the child's name, and*

- e. *changes to the child's living arrangements that would make it significantly more difficult for the child to spend time with either parent.*

- 2) *Notwithstanding order 1, the maternal grandmother shall not permit the child to be enrolled at [X] Soccer Club without the written consent of the father.*

This order means that the maternal grandmother will have sole decision-making responsibility for most major long-term issues, with the limitation that the child is not able to be enrolled at a certain soccer club without the father's written agreement.

9. Joint decision-making with specific decisions to be made solely by each parent

- 1) *The mother and the paternal grandfather have joint parental responsibility including joint decision-making about major long-term issues in relation to the care, welfare and development of the child [insert child's name and date of birth], including but not limited to:*
 - a. *the child's education (both current and future)*
 - b. *the child's religious and cultural upbringing*
 - c. *the child's health*
 - d. *the child's name, and*
 - e. *changes to the child's living arrangements that would make it significantly more difficult for the child to spend time with either party.*
- 2) *Notwithstanding order 1, the mother and the paternal grandfather are each solely responsible for decisions relating to the day-to-day care, welfare and development of the child while they are in each party's respective care.*
- 3) *Notwithstanding order 1, the mother has sole decision-making about the child's winter extracurricular activities.*

- 4) *Notwithstanding order 1, the paternal grandfather has sole decision-making about the child's summer extracurricular activities.*

The effect of the above order is that for most decisions, the mother and the paternal grandfather must consult with the other and make a genuine effort to come to a joint decision. However, the mother is able to choose the child's winter extracurricular activities, and the paternal grandfather is able to choose the child's summer extracurricular activities, without consulting the other party.

'LIVE WITH' AND 'SPEND TIME WITH'

During the school term

There are a variety of ways to set out 'live with' and 'spend time with' orders.

It is common to set out orders in a fortnightly cycle. This is done by specifying the days and times the child will spend time between the parents in 'Week 1' and 'Week 2' of that cycle. It is not necessary, however, to set out care arrangements across a fortnightly pattern, and you may prefer to set out a schedule on a weekly basis.

The examples below show different ways that care arrangements may be worded.

10. The children to live primarily with one parent and spend alternative weekends and one day each week with the other parent

- 1) *The children live with the father.*
- 2) *Commencing Term 1 2026, during the school term, the children spend time with the mother as agreed, but failing agreement, at the following times, on a fortnightly basis:*
 - a. *each alternate week, from Friday after school (or 3:00pm if a non-school day) to the commencement of school the following Monday (or 9:00am if a non-school day), and*

- b. *each week, from after school (or 3:00pm if a non-school day) Wednesday to the commencement of school (or 9:00am if a non-school day) Thursday.*

The above order means that during the times that the child is not spending time with the mother, they will be living with the father. It is not necessary to also specify the particular times that the child is spending with the father if the orders already contain a paragraph specifying that the child will live with the father.

The order provides “*after school (or 3:00pm if a non-school day)*” to make it clear what the changeover time will be if the child does not attend school one Friday (e.g. if there was a public holiday or non-school day).

The phrase ‘during the school term’ can be removed if the intention is for the same care arrangements to continue during the school holidays.

11. The children to live primarily with one parent and spend gradually increasing time with the other parent

You and the other parent may agree that it is in your child’s best interests for their time with one parent to gradually increase over a period of time. This may be appropriate in circumstances where your child is very young and may not be able to adjust to long periods away from their primary carer straight away or where your child has gone a long period without seeing one parent and a slow introduction to spending time with them is required.

Orders can provide for your child’s time with a parent to increase as quickly or as gradually as you and the other parent agree is in your child’s best interests. Increases in time might be structured to happen at the start of a new school term, your child turning a certain age, or simply with reference to the passing of a number of weeks or months.

The example below provides for an increase in time that coincides with the start of a new school term:

- 1) *The child live with the mother.*
- 2) *The child spend time with the father during the school term as follows:*
 - a. *from the date of these orders to the commencement of Term 2, 2026 at [insert name of child’s school]:*
 - i. *in Week 1: From after school (or 3:00pm if a non-school day) on Thursday to after school (or 3:00pm if a non-school day) on Friday, and*
 - ii. *in Week 2: From after school (or 3:00pm if a non-school day) on Friday to 4:00pm on Saturday.*
 - b. *from the commencement of Term 2, 2026 to the commencement of Term 3, 2026 at [insert name of child’s school]:*
 - i. *in Week 1: From after school (or 3:00pm if a non-school day) on Wednesday to after school (or 3:00pm if a non-school day) on Friday, and*
 - ii. *in Week 2: From after school (or 3:00pm if a non-school day) on Thursday to 4:00pm on Saturday.*
 - c. *from the commencement of Term 3, 2026 and afterwards:*
 - i. *in Week 1: From after school (or 3:00pm if a non-school day) on Wednesday to after school (or 3:00pm if a non-school day) on Friday, and*
 - ii. *in Week 2: From after school (or 3:00pm if a non-school day) on Thursday to 4:00pm on Sunday.*

Another alternative for a more gradual increase in time could be as follows:

- 1) *The child live with the mother.*
- 2) *The child spend time with the paternal grandmother as follows:*
 - a. *from the date of these orders until the child turns 4 years old:*
 - i. *each week from 2:00pm to 5:00pm on Tuesday, Thursday and Saturday.*
 - b. *from when the child turns 4 years old until the child turns 5 years old:*
 - i. *each week from after pre-school (or 3:00pm if a non-school day) to 6:00pm on Tuesday and Thursday, and from 12:00pm to 5:00pm on Saturday.*
 - c. *from when the child turns 5 years old until the child turns 6 years old:*
 - i. *In Week 1: From after school (or 3:00pm if a non-school day) to 6:00pm on Tuesday and Thursday, and*
 - ii. *In Week 2: From after school (or 3:00pm if a non-school day) on Friday to 5:00pm on Saturday.*
 - d. *From when the child turns 7 years old and afterwards:*
 - i. *in Week 1:*
 1. *from after school (or 3:00pm if a non-school day) on Tuesday to after school (or 3:00pm if a non-school day) on Wednesday, and*
 2. *from after school (or 3:00pm if a non-school day) to 7:00pm on Thursday.*

- ii. *in Week 2: From after school (or 3:00pm if a non-school day) on Friday to 5:00pm on Saturday.*

12. The children to live with or spend time equally between 2 parents – ‘week about’

- 1) *Commencing on [specify date], the children live with the mother and father on a week-about basis, as follows:*
 - a. *in Week 1, with the mother from after school (or 3:00pm if a non-school day) Friday to after school (or 3:00pm if a non-school day) Friday in the following week, and each alternate week afterwards, and*
 - b. *in Week 2, with the father from after school (or 3:00pm if a non-school day) Friday to after school (or 3:00pm if a non-school day) Friday in the following week, and each alternate week afterwards.*

This order provides for what is called a ‘week-about’ arrangement, where the children will spend a block of 7 nights with one parent and 7 nights with the other parent, in an alternating cycle.

This same order could also be set out as follows:

- 1) *The children live with the mother and father on a week-about basis, with changeover to occur each Friday after school (or 3:00pm if a non-school day), and for this purpose the children will live:*
 - a. *with the mother from 4 July 2025 to 11 July 2025, and each alternate week afterwards, and*
 - b. *with the father from 11 July 2025 to 18 July 2025, and each alternate week afterwards.*

13. The children to live with or spend time equally between 2 persons

An alternative way of structuring an arrangement where the children will spend equal time between 2 parents is with smaller block periods of time (i.e. instead of 'week-about' time), as set out in the below order:

- 1) *The children live equally between the parents, Jane and Alice, as follows:*
 - a. *with Jane:*
 - i. *from after school (or 3:00pm if a non-school day) Monday in Week 1 to after school (or 3:00pm if a non-school day) Wednesday in Week 1*
 - ii. *from after school (or 3:00pm if a non-school day) Friday in Week 1 to after school (or 3:00pm if a non-school day) Monday in Week 2, and*
 - iii. *from after school (or 3:00pm if a non-school day) Wednesday in Week 2 to after school (or 3:00pm if a non-school day) Friday in Week 2.*
 - b. *With Alice:*
 - i. *from after school (or 3:00pm if a non-school day) Wednesday in Week 1 to after school (or 3:00pm if a non-school day) Friday in Week 1*
 - ii. *from after school (or 3:00pm if a non-school day) Monday in Week 2 to after school (or 3:00pm if a non-school day) Wednesday in Week 2, and*
 - iii. *from after school (or 3:00pm if a non-school day) Friday in Week 2 to after school (or 3:00pm if a non-school day) Monday in Week 1.*

- 2) *In order 1, 'Week 1' means the week commencing on the first Monday after the date of these orders, and each alternate week afterwards and 'Week 2' means the week commencing on the second Monday after the date of these orders, and each alternate week afterwards.*

14. The children to live primarily with one parent and spend no time with the other parent

The court may order, or you and the other parent may agree, that it is in your child's best interests not to spend any time with one parent. This order would generally only be made by a court in circumstances that involve a significant risk to the safety of the child in one parent's care.

An example of an order preventing the child from spending any time with one parent is as follows:

- 1) *The child live with the mother.*
- 2) *The child spend no time with the father.*

During school holidays

Once a child is of school age, 'live with' and 'spend time with' orders will usually specify different arrangements for school term time and for school holiday periods. Though it is common for parents to agree to different care arrangements for the child during school holiday periods, this is not necessary, and some families may want the typical 'school term' arrangements to continue in the same way throughout the school holiday period.

If the orders do not provide any reference to school holidays, the 'usual' time you and the other parent have with the child during the school term will continue into the school holidays, unless you both agree on different arrangements outside of the terms of the orders.

15. School holidays – equal time

You and the other parent may agree that your child will spend half of each school holiday period with each parent, as in the following example:

- 1) *The child spend time between the mother and the father during school holiday periods as follows:*
 - a. *in even-numbered years with the mother in the first half of the school holiday period and with the father in the second half of the school holiday period, and*
 - b. *in odd-numbered years, with the father in the first half of the school holiday period and with the mother in the second half of the school holiday period.*
- 2) *For the purpose of the above order:*
 - a. *school holidays shall commence from 9.00am on the day after the last required day of school attendance for the child for that school term, and*
 - b. *school holidays shall conclude at 5.00pm on the last day prior to the first day of required school attendance for the child for the following school term.*
 - c. *changeover is to occur as agreed, and failing agreement, as follows:*
 - i. *at 5.00pm on the day that is the equal half-way point between the day the school holidays commence and the day the school holidays conclude in each school holiday period, and*
 - ii. *in the event that there are 2 consecutive days that are the equal half-way point in a school holiday period, then changeover is to occur at 5.00pm on the first of those 2 days.*

16. School holidays – more time with one parent

Alternatively, the orders may provide for arrangements other than half of school holidays. The following example provides for one parent to spend more time with the child during the mid-year school holiday periods, and for the child to spend 'week-about' time between the parents in the end of year/Christmas school holiday period:

- 1) *That the child spend time between the mother and the father during school holiday periods as follows:*
 - a. *for the Term 1, Term 2, Term 3 school holiday periods:*
 - i. *with the father each week from 4:00pm on Monday to 4:00pm on Thursday, and*
 - ii. *with the mother for the balance of time.*
 - b. *for the Term 4 school holiday period:*
 - i. *in odd-numbered years:*
 1. *with the mother from the conclusion of school on the last day of the child's school term to 4:00pm on the first Monday of the school holiday period*
 2. *with the father from 4:00pm on the first Monday of the school holiday period to 4:00pm on the following Monday, and each alternate week afterwards until the conclusion of the school holiday period, and*
 3. *with the mother from 4:00pm on the second Monday of the school holiday period to 4:00pm on the following Monday, and each alternate week afterwards until the conclusion of the school holiday period.*

ii. *In even-numbered years:*

1. *with the father from the conclusion of school on the last day of the child's school term to 4:00pm on the first Monday of the school holiday period*
 2. *with the mother from 4:00pm on the first Monday of the school holiday period to 4:00pm on the following Monday, and each alternate week afterwards until the conclusion of the school holiday period, and*
 3. *with the father from 4:00pm on the second Monday of the school holiday period to 4:00pm on the following Monday, and each alternate week afterwards until the conclusion of the school holiday period.*
- 2) *For the purpose of the above order, school holidays shall conclude at 5:00pm on the last day prior to the first day of required school attendance for the child for the following school term.*

These orders do not require a specific wording, as long as the meaning is clear. For example, the orders could refer to 'Term 4 school holidays', 'summer school holidays', 'the December/January school holidays', or 'the school holidays following the last school day of each year'.

Special occasions

For many parents, it is important they have some involvement with their child on special days, such as their child's birthday, Father's Day, Mother's Day, and religious or cultural days.

These orders should be designed to override the usual parenting arrangement. Words such as "*despite any other order...*" at the beginning of the order would indicate that these orders would override the more general orders. Alternatively, the orders could use words such as "*The usual time arrangements set out in orders [X] to [Y] shall be temporarily suspended for the purposes of the child spending time with each parent on special occasions as follows:*"

Below is an example:

17. Special days – Mother's Day, Father's Day, the child's birthday, Christmas and Easter

- 1) *Despite any other order, the child will spend time with each parent on special occasions as follows:*
 - a. *On Mother's Day, with the mother from 6:00pm on the Saturday immediately preceding Mother's Day to 5:00pm on Mother's Day.*
 - b. *On Father's Day, with the father from 6:00pm on the Saturday immediately preceding Father's Day to 5:00pm on Father's Day.*
 - c. *On the child's birthday, with the parent that the child is not ordinarily spending time with on that day, from after school to 7:00pm, if a school day, or from 2:00pm to 7:00pm, if not a school day.*
 - d. *For the Easter period:*
 - i. *In odd-numbered years:*
 1. *with the father from 9:00am on Good Friday to 9:00am on Easter Sunday, and*
 2. *with the mother from 9:00am on Easter Sunday to 9:00am on the immediately following Tuesday.*

ii. *In even-numbered years:*

1. *with the mother from 9:00am on Good Friday to 9:00am on Easter Sunday, and*
2. *with the father from 9:00am on Easter Sunday to 9:00am on the immediately following Tuesday.*

e. *For the Christmas period:*

i. *In odd-numbered years:*

1. *with the father from 3:00pm on 24 December to 3:00pm on 25 December, and*
2. *with the mother from 3:00pm on 25 December to 3:00pm on 26 December.*

ii. *In even-numbered years:*

1. *with the mother from 3:00pm on 24 December to 3:00pm on 25 December, and*
2. *with the father from 3:00pm on 25 December to 3:00pm on 26 December.*

CHANGEOVER

While the above 'spend time' orders provide details of the times the child is to change between parents' care, 'changeover' orders typically provide details about the location and method for the changeover.

If changeover occurs on school days, it is typical for the changeover location to be at the child's school, as the child would ordinarily be present at school and under supervision when one parent drops them off until the other parent picks them up.

18. Changeover – school and home

In more amicable co-parenting relationships, it may be appropriate for changeovers on nonschool days to occur at the home of either parent. Below is an example:

- 1) *For the purpose of the child spending time with John, changeovers shall occur as follows:*
 - a. *on school days, at the pick-up area of the child's school, and*
 - b. *on non-school days, Joseph shall deliver the child to John's residence at the commencement of the child's time with John, and John shall deliver the child to Joseph's residence at the conclusion of the child's time with John.*

19. Changeover – public place

Some parents may prefer for changeover to occur at a neutral, child-friendly public location with CCTV cameras, rather than at someone's home. You can also be more detailed in the orders about which parent will remain in the car, and which parent will come out of the car to collect your child if this is preferred in specific cases. Below is an example:

- 1) *Unless otherwise agreed between the parties in writing, changeovers shall occur at [venue] at [specify exact address], and for this purpose:*
 - a. *at the commencement of the child's time with the father, the mother or a mutually agreed nominee, shall deliver the child to the [venue] and shall leave immediately upon the child entering the care of the father, and*
 - b. *at the conclusion of the child's time with the father, the father, or a mutually agreed nominee, shall deliver the child to the [venue] and shall leave immediately upon the child entering the care of the mother.*

Note that the above order provides for a 'mutually agreed nominee' to attend changeover in the place of one of the parents. If other people are to be involved, it is important to ensure in advance that they are willing and able to do what is required of them. If you intend for the orders to create legal obligations on a third party (e.g. the third party will be responsible for supervising the child when one parent drops them off and the other parent collects them), it is recommended that you seek legal advice.

20. Changeover – Children's Contact Service

If you have a high conflict relationship with the other parent, it may be appropriate to engage the services of a third party supervised changeover service ('Children's Contact Service'). In these situations, it is important that the orders consider not only the parents' situation but what is workable for the Children's Contact Service. Before including any orders of this nature, you should consult with your intended Children's Contact Service to discuss their requirements and the arrangements they can accommodate. A Children's Contact Service can refuse or terminate services irrespective of a court order.

An order providing for changeover to occur at a Children's Contact Service could be worded as follows:

- 1) *In order to facilitate the child spending time with the mother:*
 - a. *changeovers shall take place at the child's school on school days and otherwise at 'Children's Contact Service' [specify exact name and location of supervision service]*
 - b. *the parties will do all things, including by signing all forms necessary to engage with and complete any necessary intake procedure with 'Children's Contact Service' [specify exact name and location of supervision service] within seven (7) days of the date of these Orders, so that the service is able to assist the family, and*

- c. *the costs associated with 'Children's Contact Service' [specify exact name and location of supervision service] are to be shared equally between the parties.*

21. Changeover – no parent contact

- 1) *The changeover of the children's care from the mother to the father is to occur as follows:*
 - a. *the mother is to bring the children to the 'Children's Contact Service' [specify exact name and location of supervision service] 15 minutes prior to the time the children are due to commence spending time with the father*
 - b. *after delivering the children to the 'Children's Contact Service' the mother is to immediately leave the venue and be no closer than 1 kilometre from the venue at the time the children are due to commence spending time with the father*
 - c. *the father shall collect the children from the 'Children's Contact Service' no earlier than the time the children are to commence spending time with the father per these orders, and*
 - d. *the father is not to approach the changeover venue or be within 1 kilometre of the venue until the time appointed for the commencement of his time with the children.*
- 2) *The changeover of the children's care from the father to the mother is to occur as follows:*
 - a. *the father is to bring the children to the 'Children's Contact Service' at the time the children are due to conclude spending time with the father*
 - b. *after delivering the children to the 'Children's Contact Service' the father is to immediately leave the venue and be no closer than 1 kilometre from the venue at 15 minutes following the conclusion of the children's time with the father*

- c. *the mother shall collect the children from the 'Children's Contact Service' no earlier than 15 minutes following the time the children were to conclude spending time with the father per these orders, and*
 - d. *the mother is not to approach the changeover venue or be within 1 kilometre of the venue until 15 minutes following the time the children were to conclude spending time with the father per these orders.*
- 3) *Notwithstanding the above orders 1 and 2, the parents shall comply with any directions of the 'Children's Contact Service' with respect to the method and timing of changeover.*

Orders can be written in a way that specifies who is to deliver and collect the child. They can also include conditions about the behaviour of the persons involved.

22. Changeover – a certain person not to attend changeover

The following order may be useful if there has been conflict between a parent and a relative or friend of the other parent.

- 1) *The mother shall ensure that [specify name of person] does not attend at the time the child is brought to [specify changeover location].*

COMMUNICATION

It is often useful to include communication orders to set out when your child can contact the parent they are not living with at the time. Communication may be by telephone or by electronic means (including FaceTime, video call etc.).

Examples of a simple and detailed communication order are set out below. A detailed order may be useful if you and the other parent find it difficult to maintain a flexible arrangement.

23. Communication – simple

- 1) *Unless otherwise agreed, the child shall communicate with the father, by telephone or other electronic means, from 5:00pm to 5:30pm (NSW time) each Tuesday, Thursday and Sunday the child is not otherwise in his care.*

24. Communication – detailed

- 1) *The child shall communicate with the mother and father as follows:*
 - a. *with the father each Tuesday, Thursday and Sunday that the child is not otherwise living with the father, with the mother to initiate the call to the father from 5:00pm to 5:30pm (NSW time)*
 - b. *on the child's birthday, with the parent with whom the child is not living with to initiate the call to the other parent from 5:00pm to 5:30pm (NSW time)*
 - c. *on Mother's Day, if the child is not living with the mother, with the father to initiate the call to the mother from 5:00pm to 5:30pm (NSW time)*
 - d. *on Father's Day, if the child is not living with the father, with the mother to initiate the call to the father from 5:00pm to 5:30pm (NSW time)*
 - e. *on Easter Sunday, with the parent with whom the child is not living with to initiate the call to the other parent from 5:00pm to 5:30pm (NSW time)*
 - f. *on Christmas Day, with the parent with whom the child is not living with to initiate the call to the other parent from 5:00pm to 5:30pm (NSW time)*
 - g. *on the child's birthday, with the parent with whom the child is not living with to initiate the call to the other parent from 5:00pm to 5:30pm (NSW time), and*
 - h. *at all reasonable times as requested by the child to contact the parent they are not living with.*

2) *For the purpose of the above order:*

- a. *the communication shall be by FaceTime or such other electronic means as agreed between the parties*
- b. *the parent with whom the child is residing will use reasonable effort to ensure the child is available and ready to receive the call at the prescribed time and that they have privacy for the duration of the call*
- c. *the parent with whom the child is living with will ensure the device placing the call is adequately charged and connected to Wi-Fi, mobile data, or telephone service*
- d. *neither parent shall record the communication between the child and the parent with whom the child is communicating, and*
- e. *in the event the child will not be available to take the call at the time prescribed in the above order, the parent with whom the child is living will notify the other parent as soon as reasonably practicable and will make a reasonable attempt to reschedule the call to an alternative time/day.*

25. Communication by mail – simple

In certain limited circumstances, generally when you and the other parent agree that it would not be in your child's best interests to spend time with or have telephone communication with one parent, you may wish to include specific orders for that parent to send gifts, cards and letters to the child.

An example order is as follows:

- 1) *The paternal grandfather may send the child age appropriate and child focused letters, cards and/or gifts for the child's birthday and Christmas to an address nominated by the mother, and the mother shall give the letters, cards and/or gifts to the child unless she considers that any particular item would be inappropriate for the child to receive.*

26. Communication by mail – detailed

An example of a more detailed order is as follows:

- 1) *The father and the paternal grandparents may send each of the children a letter, card and/or gift on four (4) occasions per year, which may include each child's birthday, and for that purpose:*
 - a. *within 14 days of this order, the mother will advise the father and the paternal grandparents in writing of an address to which they are permitted to send such letters, cards and gifts and the mother will notify the father and the paternal grandparents by email within 7 days of any change to such address*
 - b. *the letter, card and/or gift sent by the father and/or the paternal grandparents shall be age appropriate and child-focused*
 - c. *the mother shall be permitted to open any letter, card and/or gift sent by the father and/or the paternal grandparents to the children and may determine whether the letter, card and/or gift is age-appropriate and child focused, and*
 - d. *if the mother considers that the letter, card and/or gift is age-appropriate and child focused, the mother will facilitate the children receiving the letter, card and/or gift and if the child expresses a wish to respond to the father and/or the paternal grandparents in writing, the mother will facilitate the child's response.*

EXCHANGE OF INFORMATION

A parenting order can also set out the specific way that you and the other parent will be in contact about your child's care.

Where it is safe to do so, some parents prefer to communicate by email for longer communications (such as issues requiring

joint decisions), text message for shorter communications (such as notifying the other parent you are running late to changeover), and telephone calls in children's emergencies.

Some parents agree to communicate through a parenting app, as a way to limit inappropriate communication and conflict. When using a parenting app, it is important to understand how your personal information is used, so you should consider the app's privacy notice in relation to sharing of your data.

27. Exchange of information – parenting app

- 1) *All communication between the parents pursuant to these orders and with respect to issues relating to the child's care, welfare, and development shall occur through the 'Parenting App' [specify name of parenting application], and for this purpose:*
 - a. *each parent will bear their own cost of purchasing and renewing their subscription to utilise the 'Parenting App', and*
 - b. *each parent will do all such acts and things to download and register for the app within 5 days from the date of these orders.*

28. Exchange of information – email/text message

Some parents may prefer to communicate via text message or email, in which case the above order can be changed to specify 'email' or 'text message' instead of 'parenting app', as in the example below:

- 1) *The parents shall communicate via email for the purpose of exchanging information relevant to the welfare, care and development of the children and implementing these orders.*
- 2) *Notwithstanding the above order, in the event of an emergency or an issue arising which requires the immediate attention of the other parent, the parents will communicate*

by telephone call and/or text message as soon as practicable and within 2 hours.

- 3) *The parents shall keep each other informed of their respective residential address, email address, and telephone number and will advise the other parent of any change to those details as soon as practicable after such change, and within 24 hours.*

29. Exchange of information – health issues

It can be useful to include an order for the exchange of information between you and the other parent so you are both kept aware of the health issues of your child which may arise while your child is in the care of the other parent.

Such an order may be worded as follows:

- 1) *The parents shall advise each other as soon as practicable (and at most within 7 days) upon becoming aware of any of the following in relation to the children:*
 - a. *any illness or injury requiring a medical examination or medical consultation*
 - b. *any illness requiring the provision to the children of any medicine prescribed by a medical practitioner*
 - c. *any hospital attendance for examination, consultation or treatment*
 - d. *any proposed dental treatment*
 - e. *any proposed appointment with any other health professional, including all details as to the health professional and the time of the attendance or appointment, and*
 - f. *any issue of concern in relation to the child's development or wellbeing if raised with either parent by an appropriately qualified professional.*

- 2) *If the children need medical care while in the care of one parent, that parent will notify the other parent as soon as practicable, and include the following details:*
 - a. *the name and contact details of the medical professional administering the treatment*
 - b. *the medical condition for which the children, or any of them, were taken to the medical professional*
 - c. *any treatment and/or medication prescribed for or provided to the children, or any of them, and the reasons for same*
 - d. *the prognosis of the children's condition such as it is known*
 - e. *the prescribing or provision of medication and/or treatment, and*
 - f. *if the children, or any of them, is admitted to hospital, the name and contact details of that hospital.*

AUTHORITIES

Various departments and organisations require an order specifically authorising the release of documents or information about your child to both parents, before the documents or information can be released.

An order covering this situation could be worded as follows:

30. Authority – release of documents and information

- 1) *Each party is permitted to liaise directly with any doctor, hospital or other medical or allied health practitioners treating the child to obtain information about the physical and/or mental health of the child and the progress of any treatment that the child may be receiving and these orders will be sufficient authority to authorise the release of such information, including copies of any medical reports to each of the parties.*

- 2) *Each party is permitted to liaise directly with the child's school to receive information in relation to the child's progress and any newsletters, reports and order forms for the child's school photographs.*

31. Authority – attendance at school functions

You and the other parent may also choose to include an order which expressly provides for attendance at your child's school functions, activities or events. Below is an example:

- 1) *Each parent is entitled to attend all school events and extracurricular activities at which parents would normally be present, including sports days, nights, functions, meetings or parent-teacher interviews, noting that each parent may request separate interviews from the school should the school facilitate same.*

SPECIFIC ISSUES

It is not necessary to include a 'specific issues' heading. You may include this heading if you want to document an agreement that has already been reached between you and the other parent about a major long-term issue for your child. Such issues may include, for example, the school your child will attend, extracurricular activities your child will participate in, medical treatment to be received by your child (in general or with respect to a specific health decision), your child's name, or your child's religious upbringing.

If there are multiple 'specific issues' you and the other parent wish to address in the orders, it is helpful to set these out under sub-headings, as in the example below.

32. Specific issue – schooling

A parenting order can specify the school your child will attend and provide that neither you nor the other parent will change their enrolment without the other parent's written consent.

An example of this is set out below:

- 1) *Absent any other agreement between the parties in writing, the child shall attend 'High School' [specify name of school] commencing Term 1, 2026.*
- 2) *Within 48 hours of these orders, both parties shall do all acts and things necessary to:*
 - a. *provide written consent, in the form required by 'High School' [specify name of school] for the child to commence attendance at that school in accordance with these orders, and*
 - b. *do all things necessary and reasonable to facilitate the child's attendance at that school during periods the child is in their respective care.*
- 3) *Neither parent may alter the child's enrolment at 'High School' [specify name of school] other than by written agreement between the parties or court order.*

33. Specific Issue – medical and health issues

A parenting order can specifically address any agreement about health issues relating to your child. An example is as follows:

- 1) *Except for any emergency medical or dental treatment, or any referral to specialist medical treatment, the child shall attend a dentist and general practitioner agreed by the parents in writing or, failing agreement, shall attend:*
 - a. *'Dental Clinic' [specify name of dental clinic and location] for her dental health, and*
 - b. *'Medical Clinic' [specify name of medical clinic and location] for her general health.*
- 2) *Each parent will ensure the child continues to attend upon 'Psychologist' [specify name of psychologist and clinic], or such other psychologist in the employ of 'Psychology Clinic'*

[specify clinic], as may be nominated by 'Psychologist', for therapeutic counselling and psychological support for the child at such frequency and for such duration as recommended by 'Psychologist' [specify name of psychologist].

- 3) *For the purpose of the above order:*
 - a. *both parents are to share equally in the costs of the child's attendance upon 'Psychologist' [specify name of psychologist and clinic], and*
 - b. *both parents are restrained from taking the child to any other mental health practitioner unless recommended by 'Psychologist' [specify name of psychologist and clinic] or by written agreement between the parents.*

34. Specific issue – extracurricular activities

If you and the other parent have agreed to a specific arrangement in relation to extracurricular activities, it may be useful to include this agreement in the parenting orders. An example is set out below:

- 1) *Jane may enrol the child in up to two (2) winter extracurricular activities each year and will pay any cost related to the chosen winter activities and for the purpose of this order, 'winter extracurricular activity' means an activity during Term 2 and/or Term 3 each year.*
- 2) *Alice may enrol the child in up to two (2) summer extracurricular activities each year and will pay any cost related to the chosen summer activities and for the purpose of this order, 'summer extracurricular activity' means an activity during Term 1 and/or Term 4 each year.*
- 3) *Both parties shall facilitate the child attending all sports or extracurricular activities during the time they ordinarily spend with the child, irrespective of which parent organised the activity.*

35. Specific issue – language

If you or the other parent is culturally or linguistically diverse, or you feel it is in your child's best interests to learn another language, you might want to include an order for your child to attend a language school or program. An example order is as follows:

- 1) *The mother may enrol the child in the Japanese Language School [specify name of school] each school year, and for this purpose both parents shall facilitate the child attending all after-school classes during the time in which they ordinarily spend with the child.*

36. Specific issue – change of child's name

A person with parental responsibility can apply to their relevant state or territory registry of births, deaths and marriages for a name change. In some jurisdictions, a specific court order approving the name change is required and an order for sole parental responsibility including sole decision-making is not sufficient. It is recommended that you contact your relevant registry of births, deaths and marriages prior to filing an application for consent orders, to ensure the specific wording of the order will be sufficient for the registry to effect a change of name.

An order providing for a child's change of name where one parent has sole decisionmaking responsibility could be set out as follows:

- 1) *The child previously known as [specify name of child] born [specify date of birth], shall now be known as [specify new name of child].*
- 2) *The mother shall apply to the [specify name of state or territory registry of births, deaths and marriages] to register the change of the child's name, in accordance with order 1, and the mother shall do all such acts and things and sign all such documents as may be required to give effect to that registration, including providing a copy of the orders to the [specify name of state or territory registry of births, deaths and marriages].*

- 3) *That for the purpose of order 2, the mother be permitted to provide a copy of those orders to [specify name of state or territory registry of births, deaths and marriages].*

An order providing for a child's change of name where the parents have joint decision-making responsibility could be set out as follows:

- 1) *The parents do all things and sign all documents as required by the [specify name of state or territory registry of births, deaths and marriages] to change the child's name from [specify name of child] to [specify new name of child].*
- 2) *For the purpose of order 1 above:*
 - a. *the mother will provide the father with a signed application to register a change of name for the child within 14 days from the date of this order*
 - b. *the father will sign the form and return it to the mother within 14 days from receipt of same, and*
 - c. *the mother will lodge the form with the [specify name of state or territory registry of births, deaths and marriages] as soon as practicable afterwards.*
- 3) *The parents will be equally responsible for the payment of any application fees associated with changing the child's name.*
- 4) *In the event of non-compliance with order 1 above, a registrar of this court be and is appointed pursuant to section 106A of the Family Law Act 1975 (Cth) to sign the necessary documents on the behalf of the defaulting parent to give effect to orders 1 and 2.*

Please note that the above order for a registrar to sign on behalf of a party is not enough on its own. The parent requesting a registrar to sign a document pursuant to section 106A of the Family Law Act must provide specific documents to the court for consideration, including a sworn/affirmed affidavit to the court which provides the necessary evidence of the defaulting party's refusal, failure, or neglect to execute the required documents in accordance with the orders.

RESTRAINTS ON PARENTAL BEHAVIOUR

It can be common, especially in litigated cases, to include a set of 'restraints' on parents' behaviour, to the extent that it is necessary for the purpose of promoting the best interests of the child. The purpose of this restraint section is not to restrain the behaviour of you and the other parent in any way beyond the extent to which the behaviour impacts your child. You do not need to include a section containing restraints on behaviour and may choose to leave this section out entirely.

An example of a typical order providing various restraints is below. One or several of these restraints may be relevant to a particular case. The restraint may also apply to just one parent.

37. Restraint of behaviour

- 1) *The parties are hereby restrained from:*
 - a. *consuming more than two (2) standard alcoholic drinks or medication prescribed, other than in the manner and dosage prescribed, 12 hours prior to and during the time the child spends in their respective care*
 - b. *denigrating the other parent or a member of the other parent's family in the presence or hearing of the child or allowing a third party to do so*
 - c. *physically disciplining or threatening to physically discipline the child in any way or from allowing any other person to physically discipline or threaten to physically discipline the child in any way during those periods that the children are in their respective care*
 - d. *discussing details of these court proceedings with the child, or allowing a third party to do so*

- e. *exposing the child to conflict or violent behaviour (including physical and verbal abuse) during those periods that the child is in their respective care, and*
- f. *questioning the child about the personal life of the other parent or their family.*

38. Restraint – contact with a specific person

You and the other parent may agree that your child's safety or wellbeing would be at risk if they were to come into contact with a member of one parent's extended family or a person known to one parent.

In such a case, you may agree to include a restraint as follows:

- 1) *Each party is restrained from causing or permitting the child to be or remain in the physical presence of the maternal uncle, [specify name].*

TRAVEL

39. Passports

An Australian passport is generally only issued if each person who has parental responsibility for a child provides their consent to the application, or if there is an order of a court that specifically permits it. If you or the other parent want to obtain a passport for your child and/or you or the other parent intend to travel internationally with the child, it is a good idea to include a provision for this in the orders, in case one parent refuses to consent or fails or neglects to sign the documents necessary to obtain a passport.

Further, if you and the other parent have agreed for one parent to have sole parental responsibility, a sole parental responsibility or sole decision-making order alone may not be sufficient for that parent to apply for your child's passport without the consent of the other parent – a more specific order may be required.

In general, parenting orders can deal with the parents' obligations but cannot directly place obligations on other people or agencies who are not party to the orders. A parenting order cannot direct authorities to issue or not issue a passport, but it can make clear whether the consent of both parents is required for a passport to be issued.

It is also important to address who will be responsible for holding the passports.

The below is an example order requiring both parents to do all things necessary to obtain passports for the child:

- 1) *That for the purposes of facilitating either parties' travel outside the Commonwealth of Australia with the child pursuant to these orders, both parties shall do all things necessary, sign all documents, deeds and instruments, provide all necessary consents, and pay equally all such necessary fees as may be required to facilitate the issue of an Australian passport, all required travel visas and all other travel related documents for the child within seven (7) days of the one parent receiving a request and documents from the other parent.*
- 2) *In the event that the mother defaults on her obligations in order 1, that pursuant to section 11 of the Australian Passports Act 2005 (Cth), the father is permitted to apply for the child to be issued with Australian travel documents without the consent or signature of the mother.*
- 3) *In the event that the father defaults on his obligations in order 1, that pursuant to section 11 of the Australian Passports Act 2005 (Cth), the mother is permitted to apply for the child to be issued with Australian travel documents without the consent or signature of the father.*
- 4) *The child's passport be held by the mother and in the event that the child travels with the father in accordance with these orders:*

- a. *the mother must release the child's passport(s) and any other personal documents required for travel to the father no fewer than seven (7) days before the commencement of travel, and*
- b. *the father must return the child's passport(s) and all other personal documents that were required for travel to the mother immediately upon the children returning to her care after the travel and not more than seven (7) days after the child's return to Australia.*

40. Interstate and overseas travel – detailed

You and the other parent may wish to include provisions with respect to interstate and international travel, including to specify any notice to be provided to the other parent and any restrictions on travel (e.g. with respect to the time of travel, length of travel or the travel destination).

Some parents may want to include a provision preventing either parent taking a child to a country that is *not* a signatory to the Hague Convention. The Hague Convention is an international treaty between Australia and numerous other countries that establishes a legal process for a person (such as a parent), institution or other body with rights of custody in Australia seeking the return of children who have been wrongfully removed or retained overseas. The Hague Convention also assists parents to secure access to children residing overseas (for further information, see **Appendix 2, The Hague Convention on the Civil Aspects of International Child Abduction**).

If a parent removes a child to, or retains a child in a Hague Convention country, without the consent of the other parent or an order of the court, the Australian Government may be able to work with the government of that country to seek the safe return of the child to Australia. This may require overseas legal proceedings.

A full list of countries that are parties to the Hague Convention is at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>.

It is important to note the Hague Convention is not in force between all signatory countries. More information about the countries where the Hague Convention is in force with Australia can be found at <https://www.ag.gov.au/families-and-marriage/publications/australia-egypt-agreement-information-parents>.

If one parent removes a child to, or retains a child in, a non-Hague Convention country, the Australian authorities cannot assist as there is no legal framework to seek the child's return. The parent seeking the child's return should seek legal advice in the country where the child is located regarding their options for seeking a return.

If a child is removed to or retained in either Egypt or Lebanon, the Australian authorities may be able to engage with the governments of those countries on cooperating to protect the welfare of children under the Australia-Egypt Agreement and the Australia-Lebanon Agreement. Information about bilateral agreements can be found at <https://www.ag.gov.au/families-and-marriage/publications/australia-egypt-agreement-information-parents>.

If you do not consider there is a risk of international child abduction by the other parent, you may choose not to restrict travel to Hague Convention countries, as this would limit the destinations you and the other parent may travel to with your child on holidays. However, if you are concerned, an order could be included as per paragraph 3(a) in the below example:

- 1) *The parents are each at liberty to travel interstate with the children during the children's time with that parent pursuant to these orders, unless otherwise agreed between the parents in writing, and for this purpose:*

- a. *the parent taking the children interstate shall*

provide to the other parent no later than fourteen (14) days prior to travel details of the address of any accommodation where the children will stay and the contact telephone number for the children.

- 2) *The parents are each at liberty to take the children out of the Commonwealth of Australia for the purpose of holiday travel provided that:*
 - a. *such time will take place during that parent's usual school holiday time or at such other times as agreed between the parents in writing*
 - b. *the parent who intends to take the children on the holiday ('the travelling parent') will provide the non-travelling parent with at least 60 days' (or such other time as agreed) notice in writing of their intention to travel with the children, along with an itinerary with the proposed travel destinations, dates of proposed travel including departure date, return date and travel dates between destinations*
 - c. *at least two (2) weeks immediately prior to the departure date, the travelling parent will supply:*
 - i. *a detailed itinerary with the date of the departure together with, though not limited to, the relevant flight numbers and destinations and return tickets including air tickets*
 - ii. *a contact telephone number and address at which the children can be contacted in each country or destination.*

3) *The travelling parent will be responsible for all of the children's costs associated with such travel including airfares, petrol, transportation, insurances, living expenses, health care, food, mobile phone costs and accommodation. In respect of international travel for the children, unless otherwise agreed between the parents in writing, the following applies:*

- a. *neither parent shall take the children to a country that is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction ('Hague Convention'), and in relation to which the Hague Convention is in force between Australia and that country, and*
- b. *neither parent shall take the children to a destination which is subject to one of the following categories of risk of travel advice provided by the Commonwealth Government's Department of Foreign Affairs and Trade (presently available on the website <https://www.smartraveller.gov.au>) at the time of travel:*
 - i. *Level 3 ("reconsider your need to travel"); and*
 - ii. *Level 4 ("do not travel").*

41. Interstate and overseas travel – simple

A less detailed example of a restriction on travel is as follows:

- 1) *Neither parent shall permit the child to travel outside Australia without the prior written consent of the other parent.*

42. Interstate and overseas travel – connection to culture

If your child has Aboriginal or Torres Strait Islander heritage, it may be appropriate for you to include an order allowing interstate or regional travel for the purpose of enabling your child to maintain a relationship with their extended family and connection to their heritage. Such an order can be set out as follows:

- 1) *The mother be at liberty to travel with the child to 'Region, in State' [specify name of Region and State] for the purpose of visiting the child's extended maternal relatives and maintaining the child's connection to her Aboriginal heritage, twice per year as follows:*
 - a. *for up to 7 nights during the summer school holidays*
 - b. *for up to 3 nights during the winter school holidays, and*
 - c. *at such other times as agreed by the parties.*
- 2) *For the purpose of the above order, the mother shall provide the father with 14 days' notice of the intended travel.*

PARENTING PROGRAMS

You and the other parent may agree to undertake a post-separation parenting course to help you work through challenges with post-separation parenting and decision-making and/or to help you learn skills and strategies to support your child's development. These courses can be helpful for families to support children dealing with separation, even if there is no conflict between you and your former partner.

An example of such an order is below:

43. Post-separation parenting course

- 1) *Within 7 days of the date of these orders or by no later than 4pm on [specify date], both parties shall take all steps necessary to enrol in and undertake to completion a Parenting Orders Program and Triple P Parenting Program, and provide to the other parent a copy of their certificate of completion within 14 days of completing the course.*

44. Behaviour change course

If family violence has been an issue in your relationship, you and the other parent may agree for one parent to enrol in an anger-management or 'Men's Behaviour Change' program. Such an order can be set out as follows:

- 1) *Within 14 days of the date of these orders, the father shall take all steps necessary to enrol in a Men's Behaviour Change Program (or an equivalent program) and afterwards engage in and complete the course and provide the mother with a certificate of completion within 14 days of completing the course.*

Please note that you can still choose to attend a post-separation parenting course or behaviour change course without this being included in your parenting orders.

RESOLUTION OF DISPUTES

Though you and the other parent might have made your best effort to draft parenting orders with simplicity, clarity and specificity, it is possible that after the orders are made there will be a question about how an order should work in practice. You may want to specify a way that you will attempt to resolve disagreements about the meaning and effect of certain orders, such as by attending Family Dispute Resolution.

An example of such an order is set out below:

45. Family Dispute Resolution

- 1) *In the event of any dispute as to the interpretation or implementation of these orders, the parties shall first attend Family Dispute Resolution with a Family Dispute Resolution practitioner jointly appointed by the parties and make a genuine attempt to resolve the dispute. Failing agreement as to the appointment of the Family Dispute Resolution practitioner, the party raising the dispute shall nominate three (3) Family Dispute Resolution services, one of whom shall be chosen by the other party within fourteen (14) days with the cost's incidental to the appointment of the Family Dispute Resolution practitioner to be shared equally between the parties.*

As discussed earlier in this handbook, even if you do not include an order for FDR, the Family Law Act still requires parents to participate in FDR before a matter returns to court, unless an exception applies.



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APPENDICES.

Appendix 1

How to apply for consent orders

If you and the other parent agree on the arrangements for your children, you can ask the court to turn your agreement into consent orders. Consent orders make your agreement legally enforceable without needing to go through a full court hearing.

JOINT APPLICATION: AGREEMENT WHEN NO COURT PROCEEDINGS HAVE STARTED

You can apply directly to the Federal Circuit and Family Court of Australia or the Family Court of Western Australia for consent orders by using that court's consent orders kit. You usually don't need to go to court, but there is a filing fee. Current fees are on the courts' websites:

- <https://www.fcfcoa.gov.au/fl/fees/fl-fees>
- <https://www.familycourt.wa.gov.au/F/fees.aspx>

The court registrar will review the proposed orders and make them if they are satisfied the orders are in your child's best interests. They may ask for more information or request changes before the orders can be made.

You may get legal advice to help you complete the forms, or you can do them yourself.

In some cases, the registrar may decide not to make a specific order that is included in the proposed consent parenting orders (e.g. if an order relates to child support or property division, as discussed at **Appendix 2**, *Financial matters and parenting orders*).

Relevant documents and instructions can be obtained from registries of the Federal Circuit and Family Court of Australia or Family Court of Western Australia or downloaded from the courts' websites.

For the Federal Circuit and Family Court of Australia, these resources can be accessed here:

- *Application for consent orders (do it yourself kit)* <https://www.fcfcoa.gov.au/fl/forms/app-consent-kit>
- *Application for consent orders proposed orders template* <https://www.fcfcoa.gov.au/fl/forms/app-consent-orders-template>

If you are seeking consent orders from the Federal Circuit and Family Court of Australia, you and the other parent will need to complete and file:

- an *Application for consent orders* form
- a separate document that sets out the orders you are asking the court to make called a 'minute of proposed consent orders' (the *Application for consent orders proposed orders template* is a guide to help with this task, setting out sample cover sheets and displaying the format of consent orders), and
- a *Notice of child abuse, family violence or risk* form completed by the Applicant.

Information about applying for consent orders in the Family Court of Western Australia can be found at https://www.familycourt.wa.gov.au/A/application_consent_orders.aspx.

Please note, the documents listed may change. Access the Federal Circuit and Family Court of Australia or the Family Court of Western Australia websites for the most up-to-date documents and information.

CONTESTED PROCEEDINGS: AGREEMENT AFTER COURT PROCEEDINGS HAVE STARTED

Even if court proceedings have begun, you and the other parent can reach an agreement at any time before the judge makes a final decision.

To finalise your agreement:

- prepare a minute of proposed consent orders (signed by both parents)
- complete an *Annexure to proposed consent parenting orders (current case)*, if your matter is in the FCFCOA and a *Notice of child abuse, family violence or risk*
- give these documents to the court, either during a hearing or by email before your next court date.

The court will only make the orders if they are satisfied the arrangements are safe and in your child's best interests (see **Chapter 1, Best interests of the child**).

If needed, the court may:

- ask questions
- require changes
- request an explanation of how the orders will work for your child.

This is especially important if there have been allegations of family violence, neglect or other risks, to assure a register that the proposed arrangements will be safe for your child.

If you reach agreement on the day of a hearing

Sometimes parents reach agreement at court. It can be helpful to finalise the wording while everyone is present, but rushing can lead to mistakes.

If needed, you can ask the court for more time to prepare the consent orders carefully before submitting them.

Appendix 2

The legal background

The law about children is detailed and can feel overwhelming. This appendix gives general information only.

If you need advice about your situation, it is important to speak to a family lawyer. **Chapter 1** has more information about where to get legal help with your parenting arrangements.

THE COURTS INVOLVED IN FAMILY LAW

There are 3 courts in Australia that are called 'family law courts'. These include the Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2), and the Family Court of Western Australia.

Most parenting cases in Australia are dealt with by the Federal Circuit and Family Court of Australia, which has 2 divisions:

- Division 2 is where most family law applications start
- Division 1 is for the most complex family law cases and appeals.

There are court registries around Australia (except in Western Australia).

In Western Australia, parenting cases are dealt with in the Family Court of Western Australia. WA has slightly different laws and court structures, but the rules about children's best interests and parenting arrangements are now effectively the same as in the rest of Australia, including for children of married and unmarried parents.

In some situations (outside WA), state and territory magistrates courts can also deal with family law issues and make family violence orders. The magistrates courts' power to make family violence orders has an effect on family law matters (see 'Family violence orders' below at *page 68*).

COURT PERSONNEL

There are various court personnel who have a role in relation to parenting orders.

Judges and magistrates make decisions about children and can make parenting orders of all kinds, including orders by consent.

Registrars are important officials of the court. Registrars:

- play an important role in managing court cases
- can make some types of orders, including consent orders
- may run conferences or mediations about parenting or financial issues.

Senior judicial registrars can also make temporary (interim) decisions about parenting.

More information about registrars in the Federal Circuit and Family Court of Australia can be found at <https://www.fcfcoa.gov.au/judges/fl/registrars>.

Court Child Experts/ Family Consultants are specialist professionals employed by the court to help with children's matters. They may:

- meet with you and your child
- write a report for the court about your child's situation and needs
- take part in mediation or conferences at court.

Court Child Experts can be asked questions in court about their report. Their work is not confidential – what they see, hear and report is usually shared with the parents and the court.

Details about the different aspects of the role of Court Child Experts can be found at www.fcfcoa.gov.au/fl/children/ccs.

PROFESSIONALS INVOLVED IN FAMILY LAW

There are other professionals outside the family law courts who are often involved in family law proceedings.

Legal practitioners (lawyers) represent many of the parties in family law cases and can give you advice, prepare documents on your behalf, and represent you in court.

Litigants in family law, as in other areas of law, are entitled to be represented by a legal practitioner if they choose.

In some states and territories, lawyers can practice as either a solicitor or a barrister, while in others, lawyers can practice as both. Solicitors are typically involved in meeting with clients and taking their instructions, writing to the other person or their lawyers, giving advice, and preparing court documents, and will often represent their clients at court events. Barristers specialise in courtroom advocacy and will represent clients at a range of court events, particularly at the interim hearing or final hearing court events. In addition, some lawyers undergo an advanced assessment program to become accredited family law specialists.

Family counsellors usually work in community or private organisations (not the court). They provide confidential counselling and support to help parents manage conflict and consider children's needs.

Further details about the role of family counsellors can be found at <https://www.ag.gov.au/families-and-marriage/publications/authorised-family-counsellors-family-law-system>.



Family Dispute Resolution practitioners (FDRPs) are accredited and specially qualified mediators who help parents reach agreements focused on children's best interests. Like family counsellors, registered FDRPs operate in a confidential setting. They are employed in a range of organisations, including Family Relationship Centres, Legal Aid Commissions and in private practice. FDRPs often have a background in law, social work, or psychology. In most cases, before you can ask the court to make parenting orders, you must try Family Dispute Resolution and obtain a certificate from a registered FDRP (unless an exemption applies).

Further details about the role of Family Dispute Resolution practitioners can be found at <https://www.ag.gov.au/families-and-marriage/families/family-dispute-resolution>.

Independent Children's Lawyers (ICLs) are appointed by the court in some complex or high-risk cases. They are funded through the legal aid system. Their role is to act independently and help the court decide what is in the child's best interests.

Although their job is to advance the child's best interests, ICLs do not act on instructions from the child like an adult's lawyer would. ICLs are independent and must exercise their judgement about what is best for the child. They might ask the court to make some or all of the orders sought by one parent or propose their own set of orders. In some situations, they may ask the court to make orders that they believe are in the child's best interests, even if those orders are not what the child wants.

The work of ICLs generally includes:

- gathering important evidence (e.g. records from the child's school or doctor)
- arranging for independent experts to prepare reports (e.g. a family report, child impact report, or psychological assessment)

- meeting with the child and giving them the opportunity to express their views (unless the child is very young or other exceptional circumstances apply)
- participating in negotiations with the parents about the arrangements that would be in the child's best interests
- making submissions to the court about what orders would be best for the child.

Depending on the parents' financial circumstances and whether they are legally aided, Legal Aid may request parents to make a financial contribution towards the cost of the ICL, or the ICL may ask the court for an order requiring the parents to contribute toward their costs.

FAMILY VIOLENCE ORDERS AND PARENTING ORDERS

Keeping children and their carers safe is a key part of family law. When making parenting decisions, the court must consider what arrangements would promote the safety of:

- the child (including safety from family violence, abuse, neglect, or other harm), and
- each person who has care of the child (whether or not a person has parental responsibility for the child).

The court is also required to consider any family violence orders (that applies or has applied to a child or a member of a child's family) and any past family violence, abuse and neglect.

Under the Family Law Act, family violence includes any violent, threatening or other behaviour by a person that coerces or controls a family member, or causes a family member to be fearful. For examples of behaviour that would be considered family violence, see 'family violence' in the **Glossary** or section 4AB of the Family Law Act. Family violence is a serious problem

that can happen before, during or after separation and can affect everyone in a family, including children.

Applications for family violence orders are made in and progressed through the relevant court in each state or territory (such as the magistrates court or the local court). Often, families may be involved in family violence proceedings in a magistrates court at the same time as parenting proceedings in a family law court.

Some aspects of the law are outlined below, though it is important to get legal advice for information about your personal rights and remedies if you are experiencing, or are accused of perpetrating, family violence.

If you are experiencing family violence (or are worried you might be) you can contact 1800RESPECT for confidential and professional counselling, information and referral support that is available 24 hours a day, 7 days a week.

Family violence orders

State and territory magistrates courts can make 'family violence orders' to protect people from violence. Police can apply on someone's behalf, or a person can apply themselves.

While the details of the law vary from one state or territory to another, in general, the magistrates court can make a family violence order if it is satisfied that family violence has occurred and an order is necessary to protect a person from the risk of future family violence.

A family violence order will specify the duration it will be in force.

Family violence orders can:

- limit contact
- restrict someone from coming near a home, workplace, school or other location
- set out other conditions to keep people safe.

Children may or may not be named as persons on the order. A breach of a family violence order is usually a criminal offence and can lead to serious penalties, including imprisonment.

A family violence order may be made on a temporary or a final basis. Temporary orders are made to protect the affected family member or members in the period before the court decides whether to make a final order.

Prior to a final family violence order being made, both parties will have the opportunity to file court material setting out their version of events and file any necessary subpoenas or witness material which they say supports their version of events. After the parties have filed their material, there will then be a trial in front of a magistrate or judge who will determine whether or not to make a final family violence order.

A party may agree to enter into a final family violence order on a 'without admissions' basis – which means without either parent admitting to having committed an act of family violence (and without any findings being made by a court). The consequences for breaching a final family violence order are the same, whether the order was made by the magistrate or judge after a trial or by agreement between the parents.

Informing family law courts about family violence orders and risks to children

If you start parenting proceedings (including for consent orders), you must:

- tell the court about any family violence orders that relate to your child or family, and
- file a *Notice of child abuse, family violence or risk* if there are concerns about family violence, child abuse or other serious risks.

The court must deal with these issues as quickly as possible and can request information from child protection agencies or police.

The Federal Circuit and Family Court of Australia also has:

- the Evatt List – for parenting cases involving serious risk (including family violence), with closer case management and support
- the Magellan List – for parenting cases involving notifications or allegations of sexual abuse of a child, with intensive case management and multi-disciplinary support
- the Lighthouse Program – a process to screen for risk and direct high-risk matters into more intensive support and case management.

After parents have made an application to the court for parenting orders (other than consent orders), the court will contact each parent individually via their nominated email address to invite each parent to complete a risk screen questionnaire, which is voluntary. The answers are confidential and inadmissible in court except in certain circumstances relating to child abuse. Matters with the highest levels of risk are referred to be considered for placement onto the Evatt List. A judicial registrar may place a matter to the Evatt List at any stage in proceedings provided the risk screen questionnaire has been completed by at least one party to the proceedings and the case has been reviewed by a Triage Counsellor. Further detailed information about the Evatt list can be found at <https://www.fcfcoa.gov.au/fl/pubs/guide-parties-evatt-list>.

Lighthouse is also an innovative approach taken by the courts to screen for and manage risk, with a primary focus on improving outcomes for families involved in the family law system. Further detailed information about the Lighthouse program can be found at www.fcfcoa.gov.au/fl/fv/lighthouse.

The relationship between family violence orders and family law orders

The court must try to make parenting orders that:

- keep children and carers safe, and
- are consistent with any existing family violence orders (or at least do not increase the risk of family violence).

The court must consider any history of family violence, abuse or neglect involving the child or a person caring for the child, and any current or past family violence orders.

Where orders conflict, the order that was made most recently usually takes priority. For example:

- if a new parenting order is made after a family violence order, it may allow time with a parent that would otherwise be restricted under the earlier family violence order
- if a new family violence order is made after parenting orders, it may limit or change what is allowed under the earlier parenting orders.

If the terms of a family violence order are not consistent with the terms of a parenting order, you must comply with whichever order was made later.

Issues about the relationship between parenting orders and family violence orders are dealt with in detail in Part VII, Division 11 of the Family Law Act (sections 68N-68T). If you are unsure which order applies, get urgent legal advice.

If a family law parenting order is made *after* a family violence order was made, the parenting order will override the family violence order. For example, if a family violence order says one parent (Parent A) must stay 50 metres away from the other parent (Parent B) and the children, but a later parenting order says the children should spend 3 hours with Parent A every Saturday, Parent A can spend 3 hours with the children on Saturday and will not be breaching the family violence order.

However, if a family violence order is made *after* a family law parenting order was made, the family violence order will override the parenting order only in the parts where the 2 orders say different things. For example, if the parenting order allows Parent A to pick up the children from Parent B's house, but the later family violence order says Parent A cannot go within 50 metres of Parent B's house, then Parent A must follow the family violence order and cannot go to the house to pick the children up. The rest of the parenting order still applies as long as it does not conflict with the family violence order.

FINANCIAL MATTERS AND PARENTING ORDERS

Orders about financial matters are separate from parenting orders. Depending on the matter, they might be orders about spousal maintenance, property settlement or child support.

However, in some situations, parenting orders may touch on financial matters where they relate to an aspect of the care, welfare or development of the child. For example, parenting orders may deal with the parents' financial responsibility for the following:

- the cost of a child's travel to spend time with the other parent
- the cost of a parenting app used by the parents to communicate about the child's care arrangements
- medical, therapy or school costs
- the costs for supervised contact by a Children's Contact Service.

Larger or ongoing money issues (like dividing property or regular child support payments) are usually not included in parenting orders. If you are unsure, you should seek legal advice.

The term 'child maintenance order' was used before the child support system was created in the 1980s. It is still possible for the court to make orders relating to child maintenance, but only in very limited circumstances. For example, in the unusual circumstances where a parent might be ordered to financially support a child after the age of 18, or where a stepparent might be ordered to pay child maintenance for their stepchild. Apart from such cases, the financial support of children by parents now falls under the separate child support legislation, managed by Services Australia. Orders on this subject are not parenting orders and should not be included in an application to the court for parenting orders.

OTHER PARENTING ORDERS

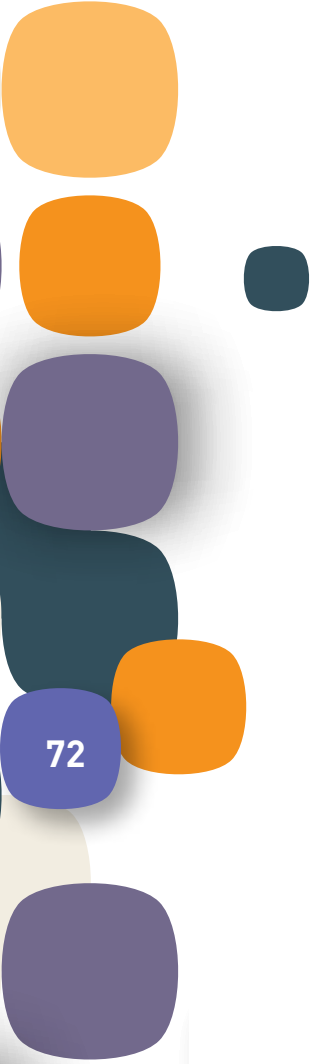
Though **Chapter 4** of this handbook provides examples of provisions which are typically included in parenting orders, depending on a family's particular challenges and needs, other specific provisions may be sought by parents or ordered by the court. Some examples are outlined below.

Location orders and recovery orders

If a child has been taken or not returned and their whereabouts are unknown, the court can make:

- a **location order** to require agencies or people to share information to help locate the child
- a **recovery order** to authorise police to locate and return the child to the person they are meant to live or spend time with under existing orders.

Location orders cannot be used to locate the other parent.



Recovery orders typically require the involvement of federal and state police in recovering the child from the parent or person who removed the child and returning them to the care of the other parent. Recovery orders remain in place for 12 months from the date the order is made, so the police have the power to recover the child on multiple occasions, if this is necessary.

A court may make location and recovery orders at the same time. These orders are serious and are generally used where a parent has not followed court-ordered arrangements.

For more information on recovery orders, refer to <https://www.fcfa.gov.au/fl/children/recovery-orders>.

Family Law Watchlist orders and passport delivery orders

If there is a real risk a child will be taken overseas without permission, the court can:

- make a Family Law Watchlist order, which asks the Australian Federal Police to put the child's name on an airport/port watchlist so they cannot leave Australia
- make a passport delivery order, requiring a child's passport (Australian or foreign) to be handed in to the court for safekeeping.

A request can be lodged with the Australian Federal Police to place the child's name on the Family Law Watchlist as soon as a parent has filed an application in a family law court to limit or prevent a child's overseas travel. The child's name will remain on the Watchlist from the time the request is lodged until the time the application is decided by the court, to make sure the child is not removed from the country before the court can make an order for the child's name to be placed on the Family Law Watchlist.

If a child is on the Family Law Watchlist, they will be flagged at immigration (i.e. at an international airport or ship terminal), and the child will be prevented from travelling. If a child is placed on the Family Law Watchlist, they will remain on the Watchlist until there is a subsequent court order removing them or until the child is 18 years of age. This is unless the original court order placing the child on the Watchlist was specified to expire after a certain time period. If the child is on the Family Law Watchlist, they may still travel outside of Australia only if:

- the court makes a separate order specifically allowing travel or removing the child from the Watchlist
- the order prohibiting travel allows travel under certain conditions and evidence of those conditions being met has been provided to the AFP within the necessary notice period, or
- if the person sending the child to a place outside Australia believes the conduct is necessary to prevent family violence.

Taking a child out of Australia while parenting proceedings are ongoing, or against court orders, can be a criminal offence. If you are worried about this, seek urgent legal advice.

For more information on the Family Law Watchlist, refer to <https://www.afp.gov.au/our-services/national-policing-services/family-law-watchlist>.

International Social Service (ISS) Australia provides a range of free legal and social support services to those affected by international family disputes. For more information on ISS, refer to: <https://www.iss.org.au>.

If a court makes a passport delivery order, the court will hold the child's passport or travel documents for a period of time that it determines to be appropriate.

CONTRAVENTION AND ENFORCEMENT OF PARENTING ORDERS

Parenting orders are legal orders. Each person who is bound by the orders must:

- do what the orders say, and
- take reasonable steps to encourage the child to follow the arrangements set out in the orders (e.g. encouraging the child to go to spend time with the other parent, if that is what the order says).

Part VII, Division 13A of the Family Law Act has detailed provisions relating to contraventions and the enforcement of parenting and other children's orders. A summary is outlined below.

How to enforce parenting orders

Normally if a person breaches (or 'contravenes') an order, this will only be dealt with by the court if the other parent takes steps to have the order enforced. To enforce a parenting order, a parent would need to make a fresh application to a family law court. The court can deal with the alleged contravention and can also make certain orders without first needing to determine whether there has been a contravention.

Contravening (disobeying) a parenting order

A person contravenes a parenting order when that person is bound by an order and they intentionally disobey it, or do not make a reasonable attempt to comply with it (section 70NAC). For example, if an order requires a parent to bring the child to spend time with the other parent at a particular time and place, that parent would contravene the order if they intentionally failed to bring the child to the specified location at the specified time, or disregarded the order and acted as if it did not exist.

There is a positive obligation on parents to encourage and facilitate a child spending time with the other parent if provided for in a court order. A parent may contravene an order by telling the child that spending time with the other parent is 'optional' or that it is the child's decision. If a child refuses to spend time with the other parent, a parent may contravene the orders if they do not make genuine attempts to encourage the child to spend time with the other parent.

There may be some circumstances, however, where a child's attitude or behaviour against spending time with the other parent is so strong that a parent's reasonable attempts to encourage the child may not be successful and it would not be reasonable to force the child to spend time with that parent. These matters depend very much on the particular circumstances. If a parent has a *reasonable excuse* (discussed below) for refusing to send the child, it will be up to that parent to satisfy the court of this if the matter goes to court.

Reasonable excuse

There are situations where a parent may have a good reason for not complying with an order. The Family Law Act provides for situations where a person has a 'reasonable excuse' for disobeying parenting orders (section 70NAD). The Family Law Act gives 2 examples of what may be a reasonable excuse.

Reasonable excuses include:

- not understanding the order (in very limited circumstances)
- acting to protect someone's health or safety (e.g. not sending a child to spend time with the other parent because the child is seriously unwell, or there is an urgent safety risk), where the reasonable excuse would only exist for the period necessary to protect the health or safety of the person.

There would only be a reasonable excuse for the contravention for the period necessary to protect the health or safety of the person who did not comply with the order, the child or another person.

Who has to prove the contravention or reasonable excuse

The person who is alleging that a parenting order was disobeyed has the responsibility (or 'burden') of proving that the other person did not comply with (or 'contravened') the orders.

If the person who did not comply with the orders tries to argue that they had a reasonable excuse for not complying, they will have the responsibility for proving a reasonable excuse existed.

Orders that can be made without proving a person has contravened an order

If you believe the other parent has not followed the orders, you can apply to the court to have the orders enforced. The Family Law Act sets out several types of orders that can be made in contravention proceedings without the court needing to decide whether a contravention of the orders has actually occurred.

Orders for make-up time

If a child does not spend time with a person as required by an order, the court may make a parenting order that the child spends 'make-up' time with the person (section 70NBB). The amount of make-up time ordered may be different from the amount of time the child missed out on.

Orders changing (varying or suspending) a parenting order

Sometimes arguments about a parent not complying with an order can be resolved by modifying the parenting orders. The court can vary or temporarily suspend the parenting order (section 70NBC) to deal with the problem, without necessarily finding that anyone had contravened the order.

For example, if a parenting order required the child to visit a grandparent every other Saturday afternoon, but the grandparent has become so ill that this is now impossible, the court could vary this order.

The court's power to change parenting orders when dealing with a contravention application means that there is no need for parents to file a separate parenting application asking the court to vary final orders.

Orders requiring the parents to attend a post-separation parenting program

Without needing to decide whether any person contravened an order, the court may, at any stage of the proceedings, make an order requiring one or more of the parents to attend a post-separation parenting program or other specified program (section 70NBD). If such an order is made, the court must advise the relevant service provider.

Orders that can be made when a person has contravened an order without a reasonable excuse

If the court finds that a person (the respondent) has contravened a child-related order, on the balance of probabilities, without having a reasonable excuse, the court may make an order (section 70NBF):

- requiring the person who contravened the order to enter into a bond (and impose a fine if a bond is broken)
- compensating a person for expenses incurred because of the contravention.

If the court is satisfied that the respondent has contravened a child-related order beyond reasonable doubt, without having a reasonable excuse, it is also open to the court to order:

- a fine
- a term of imprisonment.

In the most extreme cases a person who contravenes an order could also be dealt with for contempt of court, which is a criminal offence and can carry severe penalties. This applies only when the contravention involves 'a flagrant challenge to the authority of the court'.

Further information about enforcement

Information about aspects of enforcement can be found at <https://www.fccoa.gov.au/fl/children/compliance-enforcement>.

THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

International parental child abduction occurs when one parent or guardian takes their child from their country of habitual residence without the permission of the other parent or guardian, or without the authorisation of a court.

Australia is a party to the Hague Convention which is an international treaty that provides a lawful procedure for seeking the return of children to their country of habitual residence, when it is safe and appropriate to do so. A list of countries that are a party to the Hague Convention can be found at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>.

As mentioned above, it is important to note that the Hague Convention is not in force between all signatory countries. More information about the countries where the Hague Convention is in force with Australia can be found at <https://www.ag.gov.au/families-and-marriage/families/international-family-law-and-children/hague-convention-civil-aspects-international-child-abduction>.

Hague Convention matters are different from parenting proceedings. The purpose of the proceedings is not to determine what parenting arrangements should be made for the child. The proceedings are to decide which country should make those decisions and, if appropriate, to return the child as quickly as possible to their country of habitual residence. In Hague Convention matters, the court does not determine who the child should live with, and there is a different list of factors that the court considers.

A court is required to order the return of a child, where:

- the child was under 16
- the child was habitually resident in a Hague Convention country immediately before they were removed to, or retained in, another Hague Convention country
- the applicant seeking the return of the child has 'rights of custody' in relation to the child
- the child's removal from, or retention from, their country of habitual residence is in breach of those rights of custody,
- at the time the child was removed from Australia (or their country of habitual residence), the parent with rights of custody for the child was actually exercising those rights of custody (either alone or jointly with the other parent) or would have exercised those rights of custody if the child had not been removed, and
- the application is filed within 12 months of the child being wrongfully removed or retained, or if it is filed after 12 months has lapsed, where the court finds the child is not settled in their new environment.



It is worth noting that even if an application meets all the other Hague Convention criteria for return, there are various exceptions that allow the court to refuse to make an order requiring the return of the child. These exceptions include the following:

- the requesting parent was not exercising custody rights at the time of removal. For example, where the parent made no attempts to contact the child prior to their removal or retention
- the parent consented to the child's removal or retention
- the parent subsequently agreed to or did not take action against the removal or retention. This might be found to have occurred where the parent participated in domestic parenting proceedings or agreed to the child remaining in the country of removal/retention
- there is a grave risk a return would expose the child to physical or psychological harm or otherwise place them in an intolerable situation. This may include considerations of family violence either directed towards the child or the returning parent, or the risk of separation from primary caregivers or siblings
- the child objects to the return and has attained an age and degree of maturity at which it is appropriate to take account of their views.

Once a child has been returned to their country of habitual residence, or permitted to stay in the other country, further orders regarding the long-term care and custody of the child can be sought from the appropriate court.

Children removed to or retained in Australia

If a parent has removed a child to, or retained a child in, Australia from another country where the Hague Convention has entered into force with Australia, the overseas parent may apply under the Hague Convention for the return of the child. The matter will be heard in an Australian family law court – either the Federal Circuit and Family Court of Australia (Division 1) or the Family Court of Western Australia.

The overseas parent seeking the return (the requesting parent) will usually apply for the return of the child through the Central Authority in the country where they are claiming the child is habitually resident (contact details for Central Authorities may be found at <https://www.hcch.net/en/instruments/conventions/authorities1/?cid=24>). The requesting parent may also file private proceedings directly with the relevant court in Australia, without the involvement of the Central Authorities. The requesting parent in private proceedings would be responsible for any associated legal fees and costs.

If the requesting parent makes an application via their Central Authority, and their Central Authority considers the application meets the requirements under the Hague Convention, it will then be sent to the Australian Central Authority in the Attorney-General's Department for further assessment. If the application is accepted by the Australian Central Authority, they will request the Central Authority of the relevant Australian state or territory to seek an order from the relevant Australian court for the child's return to their country of habitual residence under the Family Law (Child Abduction Convention) Regulations 1986 (Regulations). There is no cost involved for the requesting parent for applications made via the Central Authorities.

A parent who is responding to a return application (the responding parent), that is filed either privately or with the assistance of the Central Authorities in an Australian court, may be eligible for legal financial assistance under the International Child Abduction Respondents Scheme (ICARS). ICARS applications can be made for proceedings filed under the Regulations on or after 1 January 2024. For more information, including how to apply, visit <https://www.ag.gov.au/legal-system/legal-assistance-services/commonwealth-legal-financial-assistance>.

Children removed from Australia or retained overseas

If a child has been removed to, or retained in, a country where the Hague Convention has entered into force with Australia, the parent in Australia may apply to the Australian Central Authority in the Attorney-General's Department seeking the return of the child. If the application meets the requirements of the Hague Convention, and is accepted by the Australian Central Authority, the request will be transmitted to the relevant Central Authority overseas. The matter will be dealt with in an overseas court and in accordance with that country's processes.

The Attorney-General's Department funds an organisation called International Social Service Australia (ISS), to assist parents in Australia to prepare applications seeking a child's return or seeking access to a child overseas. ISS also provides free advice and support for families affected by international family disputes, including for non-Hague Convention countries. ISS can be contacted via email at legal@iss.org.au or by calling 1300 657 843 (toll free number). More information can be found online at www.iss.org.au.

STATE AND TERRITORY CHILD PROTECTION SYSTEMS

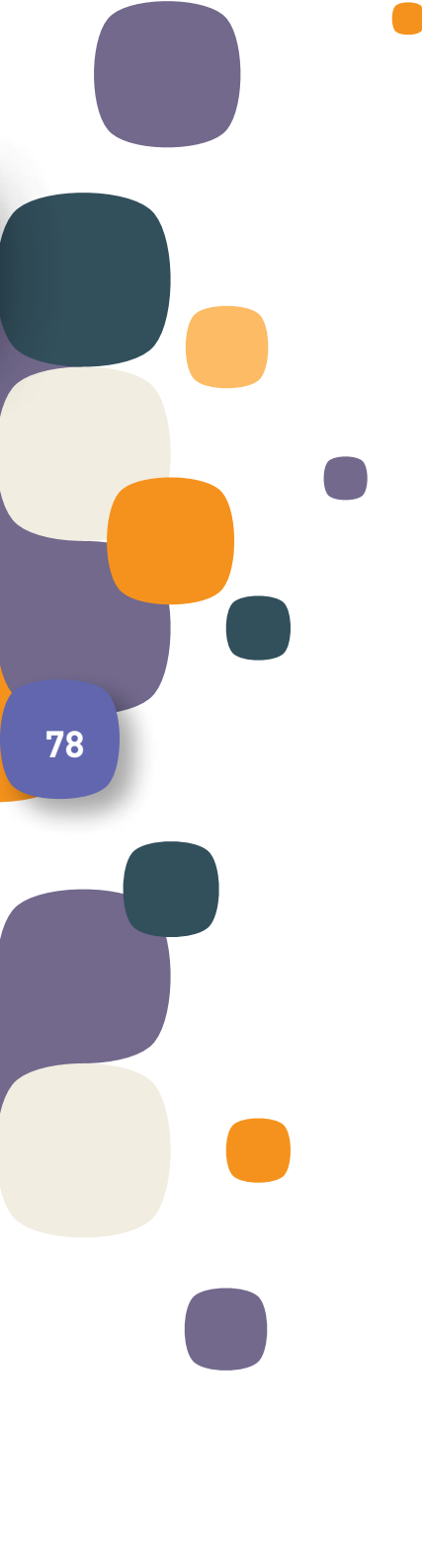
Although in general the law leaves it to parents to make decisions about the care of their children (or a family law court where parents cannot agree), authorities may intervene in family settings if there is an allegation of harm or a significant risk of harm to a child.

All states and territories have a child protection department (the names of these departments vary from one jurisdiction to another), which has responsibility for operating child protection services aimed at protecting children from neglect and abuse.

Though the child protection legislation is different in each state and territory, it operates under similar guiding principles, including:

- best interests of the child
- early intervention and support for families
- culturally appropriate care
- participation of children and young people in decision-making processes.

Child protection laws of each state and territory all contain similar 'mandatory reporting' laws, which require people from a range of occupations (such as medical practitioners, teachers and religious ministers) to report if they have reasonable grounds for believing a child has suffered, or is at risk of suffering, abuse or neglect.



When a child protection department becomes involved, it can help families who are having difficulty looking after their children, sometimes in combination with community-based agencies. In cases where the child protection department believes it is necessary, it can apply to a state or territory children's court for an order to protect the child. For example, the order might provide that the child is to be removed from the care of the parents and placed into the care of the child protection department.

The child protection system has 2 essential components – the government department and the state or territory children's court. Child protection departments have responsibility for investigating cases where children might be at risk and deciding what measures should be taken, including support for families. These departments also support and regulate non-government agencies working in child protection and family support. The children's court has the power to authorise the removal of children from parents or take other measures it considers necessary to protect children.

By contrast, while family law courts are mandated under the Family Law Act to report suspected or alleged child abuse to the relevant child welfare authority for assessment, they do not investigate child sexual abuse or child abuse allegations and rely on state and territory child protection authorities and police to investigate, intervene, provide information and prosecute criminal offending. However, the family law courts are empowered to make orders requesting relevant information held by child protection and police agencies to inform its decisions to protect a child from risk, neglect and abuse, including in relation to investigations conducted into suspected child abuse.

Overlap between the family law system and the child protection system

There are some situations where a family will be involved with both the family law system and the child protection system. For example, if a family has final family law parenting orders in place but since the time the orders were made the child protection department has been notified of allegations of serious abuse or neglect in relation to the child.

With this overlap of the 2 systems, there is the potential that the 2 systems might reach different conclusions. The Family Law Act sets out that when there is an inconsistency between parenting orders made by a family law court and child protection orders made by a children's court, the child protection order will override any family law orders (section 69ZK).

If a child protection order has already been made before the parents start family law proceedings, the family law court cannot make a parenting order in relation to the child unless the order comes into effect after the child protection order ends or the child protection department consents to the family law proceedings. It is for this reason that if a family law court becomes aware that there are child protection proceedings occurring at the same time, it will typically pause (or 'adjourn') family law proceedings until the child protection proceedings have finished.

Best interest factors

The 6 best interest factors set out in the Family Law Act include:

- the safety of the child and people who care for the child (including any history of family violence and family violence orders)
- the child's views
- the developmental, psychological, emotional and cultural needs of the child
- the capacity of each person who will be responsible for the child to provide for the child's developmental, psychological, emotional and cultural needs
- the benefit to the child of having a relationship with their parents, and other people who are significant to them, where it is safe to do so
- anything else that is relevant to the particular circumstances of the child.

There is also an additional factor to consider if the child has Aboriginal or Torres Strait Islander heritage, which is:

- the child's right to enjoy their culture, by having the support, opportunity and encouragement necessary:
 - to connect with, and maintain their connection with, members of their family and with their community, culture, country and language
 - to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views
 - to develop a positive appreciation of that culture, and
- the likely impact any proposed parenting order will have on that right.

When determining what is in the best interests of your child you may like to consider some of the following questions.

Factor	Potential questions to ask
The safety of the child and people who care for the child (including any history of family violence and family violence orders)	1) Is your child safe in the care of each parent? 2) Are there any issues in your or the other parent's care that may affect the safety of your child? Is there a way to take away or minimise this risk? For example, by requiring the child's time with a parent to be supervised or restraining one parent from consuming alcohol. 3) Has your child been exposed to family violence in either parent's care (i.e. overhearing threats, seeing or hearing an assault of a member of their family)? 4) Are there any temporary or final family violence orders that are currently in place or that have previously been in place? Are there any alleged breaches or pending charges arising from the family violence order? 5) Would direct contact between your child, yourself or any other person who cares for the child, and the other parent (e.g. through text/email communication or at changeover) have the potential to create an unsafe situation/expose your child to family violence? Is there a way to take away or minimise this risk? For example, with an order for: changeover at a Children's Contact Service or a public place, a requirement for one parent to stay in their vehicle at changeover, or communication through a parenting app. 6) Has your child expressed that they would run away or cause harm to themselves if placed in the care of one parent? Would it be appropriate to get psychological support for your child or your family and, if so, consider the recommendations of any treating health professional about future parenting arrangements? 7) Has there been family violence between you and the other parent or another caregiver? Is there a way for the people involved not to come into contact with each other? Is limitation of time with one person needed if family violence can't be mitigated? 8) If family violence has occurred, will having contact with the other parent affect your capacity to parent? 9) Is there other information relevant to safety such as a criminal history or previous family violence history?
The child's views	1) Has your child expressed a preference for how they would like to spend time with you or the other parent? 2) Has your child reached an age and stage of maturity for you to feel confident that the views they are expressing are their own? 3) Would there be a benefit to participating in child-inclusive Family Dispute Resolution, getting a family report or engaging a child expert to meet with your child to get a greater understanding of their views? 4) Have your child's views been improperly influenced?

The developmental, psychological, emotional and cultural needs of the child	1) Does your child have any health-related, psychological or developmental challenges that may require professional or medical intervention? Do you and the other parent agree on the approach to take? Have you sought and obtained a medical or therapeutic opinion from an expert/s? 2) Does your child have a particular cultural heritage that may be shared by you and/or the other parent? How can you and the other parent best support the child to maintain and strengthen their connection to their culture? For example, is there a particular cultural ceremony or practice your child would benefit from attending/participating in? Does your child have extended family relatives who could support the child in exploring their cultural background? 3) What is your child's age? What periods of time would best support and develop their important relationships in each household? Would they benefit from an arrangement that slowly progressed to spending more overnight time with one parent as they age? 4) If your child is an infant, are they currently being breastfed? Are they old enough to spend longer lengths of time with each parent without this impacting their feeding routine? 5) Does your child adapt well to different environments? Is there a way you and the other parent could work together to create some consistency in the child's routine in both households?
The capacity of each person who will be responsible for the child to provide for the child's developmental, psychological, emotional and cultural needs	1) Do you and the other parent have the capacity to meet your child's needs? 2) Do both you and the other parent engage with your child's medical professionals? 3) Do you and the other parent have the ability to provide a safe and consistent home environment for your child? 4) Are you and the other parent able to support your child's connection with their cultural background? For example, does one of you identify with and have a greater knowledge and lived experience of a specific cultural background?
The benefit to the child of having a relationship with their parents, and other people who are significant to them, where it is safe to do so	1) Does your child have a close relationship with both you and the other parent? 2) Have both you and the other parent been consistently involved in your child's life from when they were born? 3) Have you or the other parent, through your comments or actions, criticised the other parent or attempted to damage your child's relationship with your opinion of the other parent? 4) Do you and the other parent both support and facilitate your child spending time with members of both sides of your child's extended family? 5) Are there other people that are important to your child and who your child would benefit from having a relationship with?

Anything else that is relevant to the particular circumstances of the child.

- 1) In the past, have you and the other parent both taken the opportunity to participate in making decisions about major long-term issues for your child, or taken the opportunity to spend time with or communicate with them?
- 2) How have you and the other parent supported your child's needs in the past? For example, has one parent tended to organise medical appointments/administer medication while the other parent has not been as involved in your child's medical care? Has one parent been more emotionally available to your child than the other parent? Has one parent been more involved in assisting them with homework and communicating with the school about their progress and any learning challenges?
- 3) How do you think changing your child's arrangements would affect them (e.g. if they change into the main care of the other parent or spend more time with one parent than they have in the past)? Does your child have any siblings, stepsiblings or extended family who they have a close relationship with, that might be impacted if their living situation was changed?
- 4) Would there be any practical difficulties with your child spending time with one parent (e.g. is one parent's house very far from your child's school? Do you and the other parent live far apart? Would your child have to catch a plane to spend time with one parent? Is your child old enough to catch a plane as an unaccompanied minor or will one parent need to travel with them?)

The child's right to enjoy their Aboriginal or Torres Strait Islander culture

- 1) Does your child have extended family that share the same Aboriginal or Torres Strait Islander heritage? Do they have regular contact or communication with these extended family members, and is this contact or communication supported and facilitated by both you and the other parent? If the extended family live a considerable distance from your child, would your child benefit from travelling to visit their extended family?
- 2) What will help support your child's cultural identity being a part of their day-to-day life?
- 3) Are there any cultural practices, ceremonies, or community events that your child could participate in to strengthen their connection to their culture? Do both you and the other parent support the child attending these events when you each have the child in your care?
- 4) If only you or the other parent shares the child's Aboriginal or Torres Strait Islander heritage, would the parenting arrangements being negotiated have an impact on your child's ability to learn about their culture from the parent who shares the same culture?



GLOSSARY.

Glossary

Term	Definition
Access	A term previously used in the Family Law Act for the time a child spends with the parent they do not live with (see also 'custody'). The term 'contact' replaced 'access' in 1995. 'Contact' was removed by the <i>Family Law Reform Act 2006</i> . The Family Law Act now refers to children 'spending time with' and 'communicating with' parents or other persons.
Child	The Family Law Act does not define 'child', except to include an adopted and a stillborn child. When a child turns 18, parental responsibility ceases. Parenting orders cease to have effect when a child turns 18, or marries, or enters a de facto relationship.
Child abuse	Abuse in relation to a child means: • An assault, including a sexual assault of the child • A person involving the child in a sexual activity in which the child is used, directly or indirectly, as a sexual object and where there is an unequal power in the relationship between the child and the person • Causing the child to suffer serious psychological harm, including when that harm is caused by the child being subjected or exposed to family violence, or • Serious neglect of the child.
Child support	Financial support for a child paid by a parent in accordance with the <i>Child Support (Assessment) Act 1989</i> .
'Communicate with' order	A form of parenting order, dealing with the communication a child is to have with a person.
Consent orders	Written orders made by a court based on the agreement of the parents. Consent orders are different to orders made after a contested or undefended hearing. A court will consider whether the child's best interests will be served by putting into effect what the parents have agreed upon before making orders by consent. Consent orders have the same legal force as orders made after a court hearing.
Contact	A term previously used in the Family Law Act (introduced in 1996 to replace 'access' in the Family Law Act) to refer to time spent with a parent the child does not live with. 'Contact' was removed by the <i>Family Law Reform Act 2006</i> . The Family Law Act now refers to children 'spending time with' and 'communicating with' parents or other persons.

Term	Definition
Children's Contact Services	Specialist service providers that provide a venue for parents and others significant to the child to spend time with children in a secure and supervised environment. See the Australian Children's Contact Services Association website at accsa.org.au .
Custody	A term that was previously used in the Family Law Act to refer to an order for a child to live with one parent (see also 'access'). 'Custody' is no longer used under the Family Law Act. See 'parenting order'. The Family Law Act now provides that parenting orders include orders about children 'spending time with' and 'communicating with' parents or other persons.
Family law courts	Refers to the courts that mainly exercise jurisdiction under the Family Law Act: the Federal Circuit and Family Court of Australia (Division 1 and Division 2) and the Family Court of Western Australia. Magistrates Courts operating under state and territory laws other than in Western Australia also exercise limited jurisdiction under the Family Law Act but are not generally referred to as family law courts.
Federal Circuit and Family Court of Australia	See Appendix 2 , <i>The courts involved in family law</i> .
Family Court of Western Australia	See Appendix 2 , <i>The courts involved in family law</i> .
Family Dispute Resolution	A process intended to assist parents to resolve family disputes with the assistance of an independent Family Dispute Resolution practitioner. May also be referred to as 'mediation'.
Family Dispute Resolution practitioner	A person who is accredited or authorised under the Family Law Act to assist in Family Dispute Resolution. See https://fdrr.ag.gov.au for a list of accredited Family Dispute Resolution practitioners.
Family Law Act	The <i>Family Law Act 1975</i> (Cth) is a federal law that applies to parenting proceedings and other proceedings in the family law courts, such as divorce and division of property upon relationship breakdown.
Family Relationship Centre	An Australian Government funded centre providing information and mediation services in family matters, see http://www.familyrelationships.gov.au .

Term	Definition
Family violence	Family violence is defined in section 4AB of the Family Law Act: Violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the <i>family member</i>), or causes the family member to be fearful. Examples of behaviour that may constitute family violence include (but are not limited to): • assault • sexual assault or other sexually abusive behaviour • stalking • repeated derogatory taunts • intentionally damaging or destroying property • intentionally causing death or injury to an animal • unreasonably denying the family member financial autonomy • unreasonably withholding financial support • preventing the family member from making or keeping connections with family, friends or culture • unlawfully depriving the family member, or any member of the family member's family, of his or her liberty. Examples of situations of a child being exposed to family violence include (but are not limited to): • overhearing threats of death or personal injury by a family member towards another family member • seeing or hearing an assault of a family member by another family member • comforting or providing assistance to a family member who has been assaulted by another family member • cleaning up after a family member has intentionally damaged property • being present when police or ambulance officers attend an incident involving the assault of a family member by another family member.
Family violence order	An order made by a magistrates court under state or territory laws, designed to protect a person from family violence. These may be known as an intervention order, domestic violence order, protection order, or apprehended domestic violence order in different state or territory jurisdictions.
Final orders	Court orders made by consent, or after a hearing, that tell the parents what must be done and conclude the proceedings. If final parenting orders have been made, the parents cannot re-litigate the issues unless the court has considered whether there has been a significant change of circumstances and it is in the best interests of the child for the final order to be reconsidered, or the parents' consent to the orders being reconsidered (see section 65DAAA).

Term	Definition
Guardianship	A term that was previously used in the Family Law Act for decision-making responsibility in relation to a child. The term 'guardianship' was removed from the Family Law Act in 2006 and replaced with the term 'parental responsibility'.
Hague Convention	An international treaty that provides a lawful procedure between signatory countries where the Convention is in force to facilitate the prompt return of children who are wrongfully removed from their country of habitual residence. The Convention has been made part of Australian family law by the Family Law (Child Abduction Convention) Regulations 1986. See also Appendix 2, <i>The Hague Convention on the Civil Aspects of International Child Abduction</i> .
Independent Children's Lawyer	A legal practitioner appointed to help the court form a view on the child's best interests. See also Appendix 2, <i>Professionals involved in family law</i> .
Injunction	A court order that requires a person to do something, or refrain from doing something.
Interim orders	Temporary court orders that apply for a limited period – typically, until the court has the opportunity to make final orders after a full hearing. Interim orders may be made in situations of urgency, often without the testing of evidence through cross-examination.
Joint decision-making	Both parents share decision-making responsibility for all or specified decisions about major long-term issues for the child. A court order for joint decision-making requires the parties to the order to consult each other about all relevant decisions about major long-term issues for the child, and to make a genuine effort to come to a joint decision. See also Chapter 2, <i>Parental responsibility and decision-making about major long-term issues</i> .
'Live with' order	A court order providing that a child should live with a particular person. Previously known as a 'residence' order (pre-2006), or 'custody' order (pre-1995).
Location order	A court order authorising public agencies (i.e. police) to take steps to locate a child.
Magistrates Court	Refers to the Magistrates Courts of Queensland, Victoria, South Australia, Western Australia, Tasmania, the Australian Capital Territory and Northern Territory. The equivalent court in New South Wales is the Local Court of New South Wales.

Term	Definition
Mediation	A process in which a neutral third party helps parents resolve a dispute.
Parent	A biological or adoptive parent. Where a child is born as a result of an artificial conception procedure, then the birth mother, and her partner if she has one, is generally considered to be a parent. In the Family Law Act 'parent' does not include a person who merely acts in the role of a parent (<i>in loco parentis</i>), even if that person is treated as a parent by the community with which the person identifies.
Parental responsibility	A term used to refer to the responsibilities and powers parents have in relation to their children. Formerly known as 'guardianship'. See also Chapter 2 , <i>Parental responsibility</i> .
Parenting plan	A signed and dated written agreement between parents relating to the care of children, which has limited legal consequences. See also Chapter 1 , <i>Parenting plans</i> .
Parenting order	A court order dealing with the care of children, including matters such as decision-making responsibility about major long-term issues for the child, who the child will live with and who the child will spend time with, creating certain legal consequences.
Recovery order	A court order providing for a child who has been wrongfully removed from their parent to be returned.
Registrar	An officer of the court who has authority to exercise certain delegated judicial functions. For example, in the Federal Circuit and Family Court of Australia, registrars have authority to make parenting orders by consent and certain procedural orders.
Sole decision-making	One parent alone has decision-making responsibility for all or specified major long-term decisions about the child (to the exclusion of the other parent). See also Chapter 2 , <i>Parental responsibility and decision-making about major long-term issues</i> .
'Spend time with' order	A provision of a parenting order that sets out who a child is to spend time with. Formerly known as a 'contact' or 'access' order.



