

Children's Matters: A Fact Sheet

When you and your partner separate, it's understandable for you to have lots of questions about how it will impact your children. Every month Citizens Advice Bureau helps hundreds of people from all over WA access the information and advice they need when they separate. This fact sheet is designed to answer our most frequently asked questions about Children's Matters.

The mother/father of my children and I have separated. What will this mean for our children?

When you and your partner separate, you both need to make some important decisions about how your children will be cared for in the future. These include which parent your children will live with and how they'll spend time with the other parent.

What do we have to consider when making arrangements for our children?

Both parents are responsible for their children's care and welfare until they reach 18. The Family Court believes that children have a right to spend time and develop a relationship with both parents, so you need to make sure your children have the chance to do this. You need to keep in mind what is in your children's best interests. That said, your children's safety has to come first, and if you have any concerns it's best to get legal advice.

Other things you might want to consider when making arrangements for your children include your children's views about their relationship with you, the other parent, and other significant people (such as their grandparents), as well as any practical difficulties to maintaining a relationship.

Do we have to go to the Family Court to finalise arrangements for our children?

If you and the other parent agree on the arrangement, you don't have to go to the Court. You can draw up a parenting plan or a parenting order instead.

What is a parenting plan?

A parenting plan is a voluntary written agreement by both parents that sets out the parenting arrangement for your children. It covers each parent's day-to-day responsibilities, the practical circumstances of your children's everyday life, and how you as parents will decide important long-term issues about your children together. You can change it at any time, as long as you and the other parent agree on the changes. A parenting plan isn't legally enforceable.

What can be included in a parenting plan?

A parenting plan can address anything to do with your responsibilities as parents and your children's care and welfare. It can include:

- how you and the other parent will share parental responsibility and make important decisions about your children, such as which school they attend;
- who your children will live with;
- how much time your children will spend with each parent;
- the time your children will spend with other significant people such as their grandparents;
- how your children will communicate with each of their parents and other significant people, for example by phone, email, or mail;
- what arrangements will be on special days such as birthdays, holidays, and religious festivals like Christmas and Easter; and
- the process that can be used to change the plan or resolve any disagreements.

Does "equal shared parental responsibility" mean children have to spend equal time with each parent?

No, it doesn't. "Equal shared parental responsibility" just means that both parents have equal decision-making power on major long-term matters about their children, such as their schooling and healthcare. It means you need to talk to each other and try to come to an agreement on these matters. On the other hand, there's usually no need to consult on things like what your children eat or wear when they spend time with you, because these generally aren't issues of long-term importance.

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What is "substantial and significant time"?

"Substantial and significant time" is the time children spend with each parent that goes beyond alternate weekends – it involves a mix of weekends, holidays, and regular days and nights. This time means both parents can be involved in their children's daily routine, and share special events like birthdays and other significant events like weddings with them.

What is a parenting order?

A parenting order makes your parenting plan official and legally enforceable, so that each parent is bound by the order and must follow it. If one parent doesn't, the other parent can bring the matter to the Court and ask for the order to be enforced.

If you and the other parent agree on who your children will live with and how they'll spend time with both of you, then you can convert your parenting plan into a parenting order. To do this, both of you should complete the Family Court's Form 11 and file it, along with the parenting plan, in the Court. If the Court believes the orders you've applied for are in your children's best interests then it will convert your parenting plan into a parenting order.

What if we can't reach an agreement about our children?

If you and the other parent can't agree then, unless your children's safety is at risk, you have to try to resolve your disagreement in family mediation. Some agencies that can help you with this include government-assisted Family Relationship Centres as well as private agencies such as Citizens Advice Bureau, Anglicare WA, Centrecare, Legal Aid WA, and Relationships Australia WA.

If you and the other parent reach an agreement in mediation, you can either draft a parenting plan and leave it at that or have it converted into a parenting order by completing the Family Court's Form 11.

Do I have to attend mediation if there's a safety risk to my children or child abuse?

No, you don't have to in this case. Instead you can fill out a Family Dispute Resolution – Exemption Form and file it at the Family Court along with Form 1, a Case Information Affidavit, and your children's birth certificates. It's a good idea to get legal advice if this applies to you.

What happens if we've tried mediation and still can't reach an agreement about our children?

If you haven't been able to agree during mediation, you'll be issued with a certificate by the mediator. This certificate allows you to start proceedings at the Family Court by filing Form 1 – Initiating Application, together with a Case Information Affidavit and your children's birth certificates.

Need Legal Advice?

Contact Citizens Advice Bureau to make a low-cost appointment at our Perth office, or for details of how to make an appointment at your nearest branch or by telephone.

(08) 9221 5711

(Lines open Mon-Fri 9:30am-4:00pm)

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