

Arrangements for children after separation

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

When a relationship ends there are laws to follow about arrangements for any child under 18.

What's most important for my children?

When a relationship ends, the law ensures that the needs of children are prioritised.

You and your ex are encouraged to make an agreement together on how you will continue to care for your children. Many people find family dispute resolution (FDR) helpful to discuss options and come to an agreement, however if you and your ex cannot agree after FDR, a Court can make decisions about your what arrangements should be made for your children. A Court will look at what is best for your children given their individual circumstances. Each parent shares responsibility for children and the law presumes that this responsibility will be shared equally.

How can my ex and I agree on how to parent our children now we are separated?

There are different ways you and your ex can make a plan to meet your children's needs – these include FDR and going to court which is explained more below. The first thing to remember is that the children do not belong to you. They are entitled to know and have a relationship with both of their parents provided they are safe, and it is in their best interests.

What is Family Dispute Resolution (FDR)?

Family Dispute Resolution (FDR) is a type of mediation for helping separating families to come to their own agreements. It is a requirement that you try mediation before applying to Court. The person or people running the FDR will not take anyone's side but help you and your ex talk in a safe environment. If you have concerns about how safe mediation may be for you, especially if you have experienced violence, then you should talk to a lawyer to help decide what is the best approach to make arrangements for your children.

If you and your partner can agree, there are two ways you can make arrangements for your children:

Parenting plans

A parenting plan is a written agreement between you and your ex-partner which details how you will continue to care for your children. A parenting plan can be registered with the Family Court and contains details such as where your children will live, the days and times that they will see you, how you will help pay for their living expenses, and how you will continue to make decisions about parenting together with your ex. To make a parenting plan you will either need to meet with a family and child counsellor, or you and your ex-partner will need to each talk with a lawyer. The [Federal Circuit and Family Court of Australia](#) provides you with a kit if you wish to prepare these orders

yourself, otherwise a lawyer can help you.

Consent orders

Consent orders are similar to parenting plans, except you are asking the Court to assess whether the agreement you have made is in the best interests of your children. To make consent orders you and your ex don't have to meet with a family and child counsellor or speak with a lawyer, however we still recommend seeking legal advice before signing consent orders.

Consent orders are made by a Court and so can be enforced if you or your ex do not follow them.

What if I can't agree about what's best for my children?

If you and your ex are not able to agree about parenting your children, you may ask a Court to make arrangements for you.

A Court will consider a number of things before it makes decisions about your children.

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

You should speak with a lawyer first if you think you may need the Court to make a decision about your children.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.