

How do I get a Parenting Order by Consent?

This information is based on the law as at August 2013. It is written for the use and benefit of women in the Australian Capital Territory and Region. The information is a general guide to the law and should not be relied upon as a substitute for legal advice.

When can I get a consent order?

If you can agree with the other parent or person involved about the arrangements for your child you may want to get a consent order. The order may relate to the person with whom the child lives, how often they see the other parent or person and any other aspect of parental responsibility, for example, religion, education and sport. Most women like the certainty of a Court order as something they can rely on in the future should situations change. For more information on children's orders see the Centre's fact sheet *Parenting Orders in the Family Court and Federal Circuit Court*.

You may not reach an agreement straight after separation, but if you reach an agreement at any time you can ask the Court to make it as a consent order. You can also get a consent order to change existing orders, if you both agree.

You may want to use a counselling, mediation or a Family Dispute Resolution (FDR) service (such as a Family Relationship Centre – see below) to help you reach an agreement.

What is a Family Relationship Centre (FRC)?

FRCs provide services for:

1. Referrals and information for families that need help with their relationships and/or parenting to strengthen family relationships; and
2. Services for separating couples to assist them to make child-focussed care arrangements for their children through the process of FDR.

FRCs provide information, referrals and individual sessions free of charge. FRCs also provide up to one hour of joint FDR free of charge. After that time, the FRC may charge you but this depends on your gross annual income. There is a sliding scale for fees, and you can also apply for a rebate. FRCs are committed to providing a safe environment for FDR and will screen to ensure FDR is appropriate. In some cases, due to domestic violence, child abuse or other safety issues FDR may not be appropriate.

The FRC in Canberra is in Deakin. If you live outside of Canberra, go to the Family

Relationship Centre's website at www.familyrelationships.gov.au and search under 'Family Relationship Centres' to find the FRC nearest to you.

What is a parenting plan?

Instead of getting a parenting order, you and the other parent or person can make a parenting plan. These documents are written agreements, signed by both of you, setting out in detail practical arrangements for your children.

Parenting plans may include things such as who your child lives with, spends time with and communicates with, and how you will, for example:

- communicate about issues concerning the children
- introduce new partners into your children's lives
- behave in front of your children
- resolve any future disputes

You can obtain a sample parenting plan from the Relationships Australia website at www.relationships.org.au.

It is recommended, although not legally required, that you discuss the contents of your parenting plan with a solicitor before signing it.

Parenting plans made after an order (if the order is made after 1 July 2006) may change the order. In some exceptional circumstances a subsequent order will be required to vary the order.

Parenting plans are not enforceable in the way that consent orders are.

Do I need a solicitor for a consent order?

You do not need a solicitor to file consent orders at the Court, but it is a good idea to:

- get some initial advice from a solicitor as to what the appropriate arrangements are for your child, looking at the circumstances of your particular case.
- get a solicitor to check the documents for you before they are filed.

Do I need to attend a Court hearing?

No, you do not need to attend a Court hearing to apply for consent orders, unless otherwise ordered by the Court. Consent orders will still have the same legal effect as if the order was made at a Court hearing.

What documents do I file in the Court?

You need to file the following documents at the Family Court Registry:

- Application for Consent Orders form (original plus 2 copies).
- Draft Consent Orders, sometimes referred to as Terms of Settlement (original plus 2 certified copies). These orders comprise the written agreement between yourself and the other party.
- Annexure to Draft Consent Parenting Order. This form has to be completed

by each party and must be attached to the back of the Draft Consent Orders. It certifies whether there has been, or whether there is any risk or allegations of abuse, neglect or family violence.

- Filing fee – currently \$155. Fees are subject to change, check the Family Law Courts website at www.familylawcourts.gov.au.

You must file the documents within 90 days of the date of the first Statement of Truth in the Application. Each party must sign the Draft Consent Orders and the Statement of Truth on the same day.

From the Family Court or its website at www.familylawcourts.gov.au you can get:

- A 'Do it Yourself Consent Order Kit' that explains in detail how to apply for consent orders.
- A 'Consent Orders Supplement' that is a guide to setting out the Draft Consent Orders.

You can also ask the Court to make consent orders if you reach agreement after you have filed an Initiating Application to have the Court determine a parenting matter (see the Centre's fact sheet on *How do I apply to the Federal Circuit Court for a Parenting Order*). You have to appear in Court and ask the Judge to make the consent orders, which you hand up in Court. The Court will also require the Annexure to Draft Consent Parenting Order.

What is the Court's role in making consent orders?

Even if you and the other parent or person have come to an agreement about the orders, the Court may not make them. It has to be satisfied that they are appropriate.

Sometimes the Court will reject the orders and will ask for more information in an affidavit. You may be asked to provide some additional information in which you will need to explain why the orders are in your child's best interests.

What if the other person does not comply?

A consent order is the same as any other Court order and you can apply for the Court to deal with a contravention of the order. See the Centre's fact sheet on *Parenting Orders in the Family Court and the Federal Circuit Court*.

Can I change the consent order?

If you can agree about a change to the consent order, you can lodge another set of consent order documents. If you cannot agree you need to make an application to the Court to vary the order. You will need to prove to the Court that there has been a substantial and significant change of circumstances before the Court will consider changing the current orders. See the Centre's fact sheet on *How do I apply to the Federal Circuit Court for a Parenting Order?*

Where do I go for information and advice?

Family Law Courts National Enquiry Centre	1300 352 000 www.familylawcourts.gov.au
Family Relationships Centre Family Relationship Advice Line (Weekdays 8am to 8pm, Saturdays 10am to 4pm) Canberra Family Relationship Centre (Monday to Friday, 9am to 5pm)	www.familyrelationships.gov.au 1800 050 321 6122 7190
Relationships Australia	1300 364 277 www.relationships.org.au

About the Women's Legal Centre

The Women's Legal Centre (ACT & Region) Inc. is a community legal centre for women in Canberra and the surrounding area. The Centre is run by women and aims to improve women's access to justice. The Centre offers free, confidential telephone advice Monday to Friday from 9.30am to 12.00 noon, and face to face appointments, when necessary.

The numbers for legal advice (weekdays 9.30am to 12 noon) are:

Local	6257 4499
Outside Canberra	1800 634 669

The Women's Legal Centre is funded by the Social Inclusion Division of Civil Justice and Legal Services Group, Commonwealth Attorney-General's Department.