

How do I get a Parenting Order by Consent ?

This information is based on the law as at July 2010. It is written for the use and benefit of women who contact the Women's Legal Centre (ACT) and is to be read in conjunction with the specific advice given to those women when they contact the Centre.

When can I get a consent order?

If you can agree with the other parent or person involved about the arrangements for your child (for example, where your child lives, how often they see the other parent or person) you may want to get a consent order. Most women like the "protection" of a Court order as something they can rely on in the future should "things turn nasty". For more information on children's orders see the Centre's tip sheet *Parenting Orders in the Family Court and Federal Magistrates 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. See the Centre's tip sheet on *Family Dispute Resolution* for further information.

What is a Family Relationship Centre (FRC)?

FRCs provide services for:

1. families that are not separating with help with their relationships and parenting through appropriate information and referral; and
2. separating families to achieve workable parenting arrangements (outside the Court system) through information, support referral and dispute resolution services. The Centres will screen for domestic violence, child abuse or other issues which may make FDR inappropriate.

At the Centre you will get free dispute resolution joint sessions for up to three hours. After that time you will have to either pay, or apply for an exemption. If you can't get an exemption or afford to pay, the FRC will refer you to another service. If the FRC, after intake screening, expects that FDR will take more than three hours, it may refer you before you begin.

The Family Relationships Centre in Canberra is in Woden. If you live outside of Canberra, go to the Attorney General's website at www.familyrelationships.gov.au 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 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 web-site at www.relationships.com.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 lodge 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

What documents do I file in the Court?

If the order is to be a consent order, then you will need to file the following documents in the Registry:

- the written agreement in the form of the consent orders themselves
- an application for consent orders form
- a good photocopy of your marriage certificate, or if you have not been married to the other party, a copy of the child or children's birth certificate(s)
- filing fee – currently \$80

You can get a *Do It Yourself Consent Order Kit* from the Family Court or its website www.familylawcourts.gov.au

You will need to lodge the original and two copies of your application for consent orders along with the original and two certified copies of the draft consent orders. You must lodge the documents within 90 days of the applicant signing the affidavit

on the application.

You can also ask the Court to make consent orders after you have filed an application (see the Centre's tip sheet on *How do I apply to the Federal Magistrates Court for a Parenting Order*). You have to appear in Court and ask the Magistrate to make the consent orders, which you hand up in Court.

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

Even if you and the other 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 maybe 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 tip sheet on *Parenting Orders in the Family Court and the Federal Magistrates 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 apply 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 tip sheet on *How do I apply to the Federal Magistrates Court for a Parenting Order?*

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 Indigenous Justice and Legal Assistance Division, Commonwealth Attorney-General's Department.