

Parenting Mediation



INFORMATION PACK



Parenting Mediation at Centacare

Centacare offers a range of different mediation services, including mediation to assist separated couples (or significant people in the child's life such as grandparents) make plans in the best interests of their child/ren.

We offer this service across the New England North West region, including in our offices in Tamworth, Armidale, Glen Innes, Inverell, Moree, Narrabri and Gunnedah.

In Australia, separated couples are required to attempt mediation before applying to the court for a parenting order, unless an exemption applies. We can help you avoid the emotional and financial costs of going to court, and in a timely manner.

Staff qualifications

Your mediation will be conducted by a Family Dispute Resolution Practitioner (often called the 'mediator') who is registered with the Attorney-General's Department.

Legal advice

Whilst some of our mediators have a legal background, it is not the role of the mediator to give legal advice. Our mediators can give general legal information, but we will encourage you to get independent legal advice throughout the process. We can help by making referrals for legal advice when you access our service.

Confidentiality & inadmissibility

What you discuss in mediation is confidential, and can't be used in court, except if:

- We reasonably believe that we have to make the disclosure to comply with the law
- Something is said or done that leads us to believe that a child may be at significant risk of harm
- Someone intends to hurt themselves or someone else
- Someone intends to commit a crime or damage property
- You consent to information being disclosed
- An Independent Children's Lawyer requests relevant information

Fees

We are a government funded service and our fees are set as follows:

	Cost (no GST)
Intakes	Free
Pre-mediation session	Free
First mediation session	<ul style="list-style-type: none">• Full fee = first hour free, then \$30/hr per person• Concession* = no fees
Subsequent mediation sessions	<ul style="list-style-type: none">• Full-fee = \$100 per person• Concession* = \$70 per person
*People who earn under \$50,000/yr or who hold a concession card (evidence must be supplied)	

Complaints

Complaints and feedback can be made at any time by contacting our reception staff. They will take your complaint and refer it to the appropriate person.

If you are not satisfied with the services you have received or the response given to your concerns, and you would like to lodge a formal complaint with our organisation, you can do so by emailing complaints@centacarenenw.com.au and the Complaints Administrator will review and action your complaint.

If we're unable to resolve your complaint internally, you can use the Attorney-General's Department complaints process by contacting:

Email: flscomplaints@ag.gov.au

Phone: 02 6141 6666

Post: Family Law Services Section, Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
Barton ACT 2600

Attempting mediation before court

You must attempt mediation before you make an application to the court for a parenting order, unless an exemption applies. We encourage you to seek legal advice about whether an exemption applies in your case.

Section 60I Certificates & Court

If you want to apply to the court for a parenting order, you will need to obtain a Section 60I Certificate from a registered Family Dispute Resolution Practitioner (unless an exemption applies).

There are five reasons why we might issue a Section 60I Certificate:

1. One person refused or declined to participate in the mediation process;
2. The mediator assessed the matter as not appropriate for mediation;
3. People made a genuine effort during the mediation but could not come to an agreement;
4. One or both people did not make a genuine effort to reach agreement during the mediation; or
5. The mediation started but it was inappropriate to continue.

The court may look at the reason given on the Section 60I Certificate when they are deciding whether to make an order referring people to mediation or to award costs against someone.

Reconciliation

If you are married and considering a divorce, considering going to court about your children or your finances, and if there is a possibility of reconciliation, we will give you information about family counselling and mediation services to help with reconciliation.

Family violence or child abuse

A person does not need to attend mediation before making an application to the court about a child in a number of circumstances, including where there has been family violence, child abuse or a risk of family violence or child abuse. You will need to obtain legal advice about whether an exemption applies in your matter.

Where these circumstances exist, the court must be satisfied that the person making the application has received information from a family counsellor or a mediator about services and options (including alternatives to court action) where available.

The best interests of the child

When considering parenting arrangements, the paramount consideration must be the best interests of the child. This is also the paramount consideration of the family law court when determining parenting orders.

We encourage you to consider the best interests of your child/ren when negotiating your agreement, and the factors to consider are:

- 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 each of their parents, and other people who are significant to them (e.g.: grandparents and siblings), where it is safe to do so
- Anything else that is relevant to the particular circumstances of the child.

Also, if the child is an Aboriginal or Torres Strait Islander child, you should also consider how any parenting arrangements will help that child to experience their Aboriginal and Torres Strait Islander culture.

Parenting Plans

A parenting plan is a written agreement signed and dated by both parents that sets out parenting arrangements for children. A parenting plan covers the day-to-day responsibilities of each parent, the practical considerations of a child's daily life, as well as how parents will agree and consult on major, long-term issues, such as which school a child will attend.

The paramount consideration must be what is in the best interests of the child. Each child is different and has different needs, depending on their age and stage of development.

If you already have court orders and enter into a parenting plan after the orders are made, the terms of the parenting plan may alter the court orders (in exceptional circumstances the court may order that this cannot occur).

It is best to include information about how you will consult and resolve disputes about the plan and the process you will use for changing the plan, if needed.

We will also talk to you about the programs that are available to help people who experience difficulties in complying with parenting plans.

Parenting Plans cont.

Parenting plans can include the following matters:

- who the child will live with
- what time the child will spend with each parent
- what time the child will spend with other people, such as grandparents
- how parental responsibility will be allocated (whether the parties will have joint decision-making about major long-term issues)
- consultations that should occur if parents are to make joint decisions about major long-term issues (such as the school the child will attend)
- how the child will communicate with each parent or other people (such as by phone, email or letters)
- what process can be used to change the plan or resolve any disagreements about the plan
- maintenance of a child (in limited circumstances)
- any other issue about parental responsibility or the care, welfare and development of the child.

More specific information about Parenting Plans is in the attached brochure.

Contact us today!



02 6762 9263 or freecall 1800 372 826



familylawreferrals@centacareenw.com.au



<https://www.centacareenw.com.au/family-services/>



start the process by filling out this online form: <https://centa.care/mediationrfs>

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Parenting plans

Information for parents to consider when making a parenting plan

Separation can be challenging for everyone involved, especially children. During this difficult time, children need support from their parents and other significant people in their lives, such as grandparents and siblings. Some certainty for the future is also important for everyone.

The family law system encourages separating parents to work out arrangements for children between themselves without going to court, where it is safe to do so. Parents can set out the arrangements they want to put into place for their children by making a parenting plan.

What is best for your child is the most important thing to consider when making a parenting plan.

What is a parenting plan?

A parenting plan is a voluntary agreement that covers the time a child will spend with each parent, the practical considerations of a child's daily life, and how parents have agreed to make decisions about major long-term issues for their children.

The parenting plan can be changed at any time, as long as both parents agree.

Who can make a parenting plan?

To create a parenting plan under the *Family Law Act 1975* (the Family Law Act), the plan must be made and signed and dated by both parents of the child. However, other people, such as grandparents and step-parents, can also be included in a parenting plan.

Parenting plans and the law

A parenting plan can take any form, as long as it is in writing, and signed and dated by both parents. It must be made free from any threat, duress or coercion. This is required under the Family Law Act.

Importantly, a parenting plan is not legally enforceable and is different from a parenting order made by a court. Parents who make a parenting plan can ask the court to make an

order in the same terms as that plan. If it is agreed by both parties that the parenting plan be made into court orders, parents can ask the court to make 'consent orders'. Once made, these orders are legally binding and have the same effect as any other parenting order made by a court.

If parents go to court at a later date, the court must consider the terms of the most recent parenting plan when making parenting orders in relation to the child, if it is in the best interests of the child to do so. The court will also consider the extent to which both parents have complied with their obligations in relation to the child, which may include the terms of a parenting plan.

If there is a court order setting out parenting arrangements, parents can agree to change those arrangements through a parenting plan (unless the court order says otherwise). This makes it easier for parents to agree on changes without going back to court.

If a parenting plan does change an existing parenting order, parents may not be able to enforce those parts of an old parenting order that are inconsistent with the terms of a new parenting plan.

Best interests of the child

When parents make decisions about a child, the child's needs must come first.

The law sets out a list of factors that describe what a court must consider when determining what is best for a child when making parenting orders. It can be helpful for parents to consider these factors when making parenting plans, and deciding things such as who will make decisions for the child and who they should live with and spend time with.

Some of the relevant factors are:

- the safety of the child and people who care for the child (including whether there has been any past family violence)
- 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 each of their parents, and other people who are significant to them (for example, grandparents and siblings), and
- anything else that is relevant to the particular circumstances of the child.

If the child is an Aboriginal or Torres Strait Islander child, it is also important to consider how the parenting plan will help that child to experience their Aboriginal or Torres Strait Islander culture.

What can be included in a parenting plan?

A parenting plan will be unique to the circumstances of a family after separation. It should be practical, simple and as specific as possible.

A parenting plan can deal with any aspect of the care, welfare and development of a child.

The kinds of things that may be covered under a parenting plan include:

- who the child will live with
- how much time the child will spend with each parent (see **Time arrangements**, below)
- how much time the child will spend with other people, such as grandparents
- how parental responsibility, including decision-making on major long-term issues, will be allocated (see **Parental responsibility**, below)
- consultations that should occur about making decisions on major long-term issues affecting the child
- how the child will communicate with each parent or other people (for example, by phone, email or letters)
- what arrangements need to be made for special days, such as birthdays and holidays
- what process can be used to change the plan or resolve any disagreements about the plan
- child support for the child*
- anything else significant about parental responsibility or the care, welfare and development of the child.

* Special rules apply about including child support in your parenting plan (see **Care decisions – impacts on child support and Centrelink**, below).

Can I include other things in my parenting plan?

A parenting plan under the Family Law Act *must* address a specific aspect of the care, welfare and development of a child. Other provisions, like spousal maintenance or property, can also be included, but these are not legally enforceable. These provisions can be made legally enforceable in other ways, such as seeking consent orders if these issues are agreed. Seeking consent orders involves both parties agreeing to the terms and submitting the agreement to the court for approval.

Time arrangements

The law does not contain any presumption about how much time a child should spend with each parent. Although some people assume Australian law entitles parents to spend equal time with their children, this has never been the case.

When deciding who a child should live with and spend time with, parents may find it helpful to check through the 'best interests' factors that the court would consider if it had to decide (see **Best interests of the child**, above).

Parental responsibility

Parental responsibility means all of the duties, powers, responsibilities and authority that parents have in relation to their children.

Each parent ordinarily has parental responsibility for the child, regardless of whether they are married, in a de facto relationship, never in a relationship, or otherwise. This means that each parent can independently make decisions about the child. When the parents of a child under the age of 18 separate, parents continue to have parental responsibility, unless this is changed by a court order.

An important aspect of parental responsibility that you can cover in your parenting plan is how decisions will be made on major long-term issues for your child. Major long-term issues include the child's education, religious and cultural upbringing, health, name and significant changes to the child's living arrangements.

Australian family law encourages separated parents to consult each other when making decisions on major long-term issues for their child, where it is safe to do so. The best interests of the child are the most important consideration when making these decisions.

There is no longer a presumption in place that, if court orders are necessary, a court will make orders for parents to share decision-making on major long-term issues equally. A court will look at the specific circumstances of the case and make orders based on what is best for the child. The orders can be for joint or sole parental responsibility including decision-making on major long-term issues. The court can also make orders for joint or sole decision-making in relation to specific major long-term issues.

Other considerations when developing a parenting plan

When developing a parenting plan, parents should consider the information contained in this document, including the legal implications of making a parenting plan. Parents may find it useful to include things from the list above in a parenting plan (see **What can be included in a parenting plan**, above).

It can be useful to include arrangements for resolving any disputes about the terms of a parenting plan, or for varying the parenting plan. This can help if the needs or circumstances of a child change as they get older (for example, when the child starts primary or secondary school).

Care decisions – impacts on child support and Centrelink

The Child Support Scheme and Family Tax Benefit (FTB) Part A are closely linked to reflect the long-standing principle that parents are primarily responsible for the financial support of their children, with the Australian Government providing family assistance where needed.

The care arrangement of a child can affect a parent's child support payments, FTB and income support payments.

More information can be found on the Services Australia website:

<https://www.servicesaustralia.gov.au/learning-about-child-support>.

Difficulties complying with a parenting plan?

If either parent has difficulty complying with a parenting plan which they cannot resolve by agreement with the other parent, there are a range of services available to help, such as counselling and family dispute resolution. For example, parents may be able to change an existing agreement or make a new parenting plan with the help of a professional.

For information and advice, contact the Family Relationship Advice Line on 1800 050 321, including for referrals to services in your local area, such as a Family Relationship Centre.

Need help making a parenting plan?

Services are available to help parents reach an agreement about their children, such as counselling and family dispute resolution. These services are offered by a range of organisations, including Family Relationship Centres.

About	Support available
Making parenting plans	<p>There are multiple services that can assist you with making and complying with parenting plans:</p> <ul style="list-style-type: none">• Family Relationship Advice Line – call 1800 050 321 or visit https://www.familyrelationships.gov.au/talk-someone/advice-line.• Family Relationship Centres and other family dispute resolution services – call 1800 050 321• Family Relationships Online – visit www.familyrelationships.gov.au.• List of accredited Family Dispute Resolution Practitioners – visit https://fdrr.ag.gov.au/.
Family law advice	<p>For information about family law, including services and support, visit the Australian Attorney-General's Department website:</p> <ul style="list-style-type: none">• Family Law Services and Support fact sheet -

	<p>https://www.ag.gov.au/families-and-marriage/publications/family-law-services-and-support-fact-sheet</p> <ul style="list-style-type: none"> Overview of 2024 changes to the parenting framework for parents and parties: https://www.ag.gov.au/families-and-marriage/publications/family-law-amendment-act-2023-factsheet-parents
Parenting help	<p>The Australian Government funds a number of organisations to provide programs and support to parents:</p> <ul style="list-style-type: none"> To find the nearest organisation to support your needs, visit https://serviceproviders.dss.gov.au/. The Australian Government funds the Raising Children Network which has a range of information for parents - https://raisingchildren.net.au/grown-ups/family-life.
Child Support Scheme	<p>For information about Child Support, contact Services Australia on 13 12 72, or visit https://www.servicesaustralia.gov.au/learning-about-child-support?context=60015.</p> <ul style="list-style-type: none"> Child Support Estimators – https://www.servicesaustralia.gov.au/online-estimators?context=64107. Child Support Guide – https://www.servicesaustralia.gov.au/child-support-online-help-guides?context=64107.
Family Tax Benefit	<p>Contact Services Australia (Centrelink) on 13 16 50 or visit the Family Tax Benefit information webpage: https://www.servicesaustralia.gov.au/family-tax-benefit.</p> <ul style="list-style-type: none"> A guide to Australian Government Payments – https://www.servicesaustralia.gov.au/guide-to-australian-government-payments?context=22. Family Assistance Guide – https://guides.dss.gov.au/family-assistance-guide. Child Support interactions with FTB – https://guides.dss.gov.au/child-support-guide. Raising Kids – https://www.servicesaustralia.gov.au/raising-kids.