

PARENTING ARRANGEMENTS AND COVID-19

What rights do my children have?

Under the Family Law Act, children have a right to a significant and meaningful relationship with each of their parents. What this means for you and your children will depend on the circumstances of your family and your relationships. It is the responsibility of parents to act in the child's best interest. This means also that any parenting arrangements must focus on the child including ensuring they are protected from any harm.

Hamida has court orders that say that her two children live with her and go to stay with their father for a week every school holidays. As the father lives in Tasmania, it currently is not possible for the children to travel there due to COVID-19 restrictions.

Hamida and the father agree by email that the school holiday time in Tasmania will be suspended while travel restrictions are in place, and that this time will be made up when it is possible and safe for the children to travel to Tasmania again. In the meantime, they agree that the children will have more regular phone calls with their father.

If I have family law court orders, do I have to follow them?

You must comply with your court orders unless you have a reasonable excuse not to. If you do not follow your court orders, then the other parent or caregiver may take the matter back to court. The court will then decide whether your excuse is reasonable or not.

If the court decides that your excuse for not following your court orders was not reasonable, then the court may:

- require that the children's lost time with the other parent or caregiver be made up;
- make new orders in your matter; or
- there may be more serious consequences, such as having to pay for the other parent or caregiver's legal costs, being given a fine, or even charged with a criminal offence.

If it is not reasonable to comply with your family court orders due to COVID-19 restrictions, you may be able to negotiate a variation. See 'How can I negotiate a variation?' on the next page.

If there is an arrangement for the child or children to live with both parents should I still comply with this even though people are only allowed to leave their home for; shopping for essential supplies, medical care, exercise and to work and study?

All shared living with arrangements, whether informal or court-ordered can continue as normal.

You are permitted to leave the house to take children from one parent's home to the other parent's home.

Surjit and his ex-partner have an informal agreement that their child alternates living with each of them on a weekly basis. Changeover normally happens at the child's school, but their child is now doing school remotely from home. They agree via text message that they will change handover to be at the McDonald's car park roughly halfway between their homes at an agreed weekly time.

What if I don't have family court orders?

If you don't have family law orders about children, you might have an existing parenting arrangement, which could be a verbal or written agreement with the other parent or caregiver. You should follow any existing agreement, unless you have a reasonable excuse not to.

If it is not reasonable to comply with an existing arrangement, you may be able to negotiate a variation. See 'How can I negotiate a variation?' below.

You should seek urgent legal advice if you are concerned that you cannot follow your family law court orders or parenting arrangements.

Can we change handover arrangements?

If the handover of your children happens at a location that is no longer suitable or practical (for example, at school or day care), then it might be appropriate to find a new handover location. If it is safe to do so, you may be able to negotiate a variation for a new handover location.

How can I negotiate a variation to parenting arrangements?

If it safe for you to do so, you may be able to negotiate a variation to your existing parenting arrangements directly with the other parent or caregiver.

If you are able to come to an agreement, you should put it in writing (it could be over text message or email), as this may protect you in any future court proceedings.

You should try and negotiate an agreement that you believe is in the best interests of the children.



What if we can't agree on a variation, or if isn't safe for me to contact the other parent?

If you are not able to come to an agreement with the other parent or caregiver, or if it isn't safe for you to contact them, you could try to reach an agreement by mediation through a Family Dispute Resolution Service, such as a Family Relationship Centre.

You should seek legal advice if you are unable to come to an agreement with the other parent or caregiver.

If it isn't safe for you to do mediation, or if you cannot come to an agreement through mediation, you may be able to apply to court for them to make a decision, however courts are expensive, stressful, and unnecessary in many cases.

Azra's kids live with her all of the time, and they see their father when he is in town, as he travels a lot for work. Azra is concerned that his proposed arrangements for time with the children is not in their best interests due to the increased risk of COVID-19, however she doesn't feel safe to refuse what he is asking for.

She should seek legal advice about her options, which potentially could include going through mediation at the Family Relationship Centre with appropriate safety measures in place.

Where can I get further information?

Northern Community Legal Centre:

northernclc.org.au/covid-19-facts-and-info

Victoria Legal Aid: legalaid.vic.gov.au/find-legal-answers/covid-19-coronavirus/parenting-issues

Family Relationship Centre:

familyrelationships.gov.au/covid-19

Federal Circuit Court of Australia:

federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/about/news/covid-info-parents

Where can I get further support?

Family Relationship Centre: 1800 050 321

Broadmeadows Family Relationship Centre: 9351 3700.

familyrelationships.gov.au/talk-someone/centres

1800RESPECT (family violence advice and information) 1800 737 732

1800respect.org.au

Get Free Legal Advice:

Northern Community Legal Centre
(03) 9310 4376

admin@northernclc.org.au

Victoria Legal Aid – 1300 792 387 /

Arabic: (03) 9269 0127

This document is not legal advice. This information is accurate as of 20 April 2020, however things are changing very quickly during this period, so you should seek legal advice before acting on the basis of this information.