

CHILDREN'S MATTERS

HOW DO I NAVIGATE
SEPARATION AS A
PARENT?



GOWLAND
LEGAL

Following separation, you are probably wondering how you and your former spouse are going to care for your children when you are most likely no longer living in the same house. You are also probably wondering how you can **minimise the impact of the separation on your children**. Navigating this can often be tricky, so it is important to get advice on how to best go about this with your partner as amicably as possible.

From a legal perspective, after separation, you and your former spouse have **equal shared parental responsibility** in relation to the children unless there is an agreement or court order that states otherwise. Having equal shared parental responsibility means that you and your former spouse have to consult one another in relation to decisions that affect the children such as education, health or religion.

Where you and your former spouse can agree to parenting arrangements, this can be formalised through a **Parenting Plan** or **Consent Orders** which will set out the terms and conditions of the agreement.

In granting Consent Orders, the Court will need to be satisfied that the Orders are in the

best interests of the child or children. It is

very important to formalise the agreement so there is no confusion or uncertainty

between yourself and your former spouse. Consent orders are enforceable. Parentings Plans are not.



MEDIATION

If you and your former spouse cannot agree on parenting arrangements, **mediation** can offer assistance in coming to an agreement. In most circumstances, it is required that you and your former spouse attend mediation before you make an **application to the Court for Parenting Orders**. The exceptions include in situations where there has been domestic violence or there is urgency.

GOING TO COURT

If after mediation, you and your former spouse can still **not come to an agreement** about parenting arrangements, you will need the assistance of the Court to make Orders. The Court's paramount consideration will be the **best interests of the child** or children. They will also take the following into account:

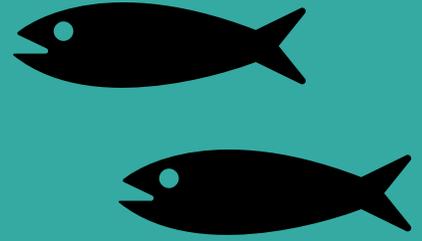
- The need to **protect** a child/children **from violence**;
- The right of a child/children to **know and be cared for** by both parents;
- The right of a child/children to **spend time and communicate** with both parents.

The Court can make orders in regard to the following matters:

1. Whether the children will live with you or your former spouse.
2. The time the children will spend with you and your former spouse.
3. How important decisions relating to the children will be made. The court will consider whether you alone or you and your former spouse jointly, are to be responsible for making the decisions in relation to long-term issues concerning the children e.g. school, health, counselling.
4. Which School the children will go to.



5. Issues regarding travel arrangements. The Court will make decisions about whether the children can travel overseas or interstate.



6. Whether you or your ex-partner will be able to relocate with the children. The court will make decisions in relation to whether the children can move with you or former spouse to another town, city or suburb, interstate or overseas.

Before making any agreements with your former spouse or initiating Court Proceedings it is important that you **get legal advice** so that you have a clear understanding of your options.

We can help, call us on (02) 9569 3000.

**GOWLAND
LEGAL**

(02) 9569 3000
3/420 New Canterbury Road
Dulwich Hill NSW 2203
contact@gowlandlegal.com.au
www.gowlandlegal.com.au

