



## Family law in Australia – the first step: getting help to reach agreement with the other parent

September 2013

This information is for parents who are no longer in a relationship together, or are thinking about separating. It has information for parents making decisions about the children's future. There are services that can help separated parents try to agree about the children. This is called family dispute resolution.

### What the law says about children

The law's main concern is what is best for the children. This includes:

- protecting the children from violence or harm
- helping the children have relationships with both parents.

The law does not assume where the children will live, for example either with the father or the mother. That is for you to discuss and decide together. You can get help to reach agreement or the court may decide.

The law does not make decisions about who is right or wrong, or who is to blame for the relationship breakdown.

The law looks at making arrangements for the future.

### What is family dispute resolution?

Family dispute resolution is a meeting with you and your former partner, and another person who is trained to help parents come to agreement about the children. This person is called a family dispute resolution practitioner.

A family dispute resolution practitioner is independent from you and your former partner. They are not on anyone's 'side' and do not work on behalf of either parent.

The family dispute resolution practitioner does not make the decisions. You and your former partner make the decisions, with their help. There is no judge, like in court. Family dispute resolution is low cost, and low income families may be able to get help for free.

The decisions you make are written up and signed by each parent. If you wish to, you can give this to the Family Law Courts to make into a court order.

Some services let you have a lawyer with you to speak in the meeting on your behalf. Most services let you have a support person with you but they cannot talk for you. Family Relationship Centres can help you reach agreement about the children. See 'Where to get help' on the last page of this fact sheet for information about how to contact a Family Relationship Centre.

If you cannot agree on arrangements for the children, the court may have to make the decision.

It is best if you can speak to a lawyer and get legal advice before you do family dispute resolution. Call Victoria Legal Aid or a community legal centre. See 'Where to get help' on the last page for details.

### What do we talk about in family dispute resolution?

You talk about arrangements for the children. These can include:

- where the children live
- the amounts of time the children spend with each parent
- the children's schooling and childcare
- the children's religion, diet and medical needs.

Some family dispute resolution services may only allow you to discuss the children, and not other matters such as dividing property, or getting back together as a couple.

Other services, such as Family Relationship Centres, can include property matters and help with reconciliation of your relationship. It is best to clarify with the service at the beginning, what can and cannot be discussed.

If you wish to discuss your relationship in general, on your own or with your partner there are other services that can help you do this in more detail.

See 'Where to get help' on the last page for details.



Ha and Duc are separated. Ha wants the children to live with her. Duc wants the children to live with him and his parents.

They decide to use family dispute resolution to help them work this out. Ha brings a lawyer. Duc does not use a lawyer. Duc brings his mother as a support person.

The family dispute resolution practitioner talks about what is best for the children. Together they look at how far the children have to travel from school to each parent's home, Ha and Duc's work hours and the children's relationships with important people in their life, like Duc's parents. Ha lives closer to the children's school and only works part-time.

Together they can see that it's easier for the children to spend the school week at Ha's but spend weekends, some holidays and special occasions with Duc and his parents. They write this up in an agreement, along with other important things, such as phone calls, activities and medical care.

### Is family dispute resolution private and confidential?

Yes. Family dispute resolution is confidential. What is discussed during family dispute resolution is not discussed or reported to other people or agencies, including the court.

But if information about a crime comes up during family dispute resolution, for example if a person or property is in danger – this has to be reported to the police.

### Do I have to use family dispute resolution?

No, unless you want a court order about the children, where the judge makes the decision. Otherwise, it is your choice.

Your situation may also not be suitable for family dispute resolution. The family dispute resolution service will assess this and make the decision.

### What if there is family violence?

Tell the family dispute resolution service if you:

- are worried about your or the children's safety
- feel intimidated by your former partner
- have experienced family violence in the past.

The service may only take on cases involving family violence if certain conditions are met. For example, that there are no family violence intervention orders that stop you being involved in family dispute resolution.



Some family violence intervention orders allow each person to do family dispute resolution. Other orders do not.

You may be able to do family dispute resolution in a separate room from the other parent, or over the phone.

You can also apply directly to the court to not do family dispute resolution, if:

- there has been family violence
- there has been child abuse
- the situation is urgent and you need a court order quickly.

Talk to Victoria Legal Aid or a community legal centre about this.

If you or the children feel immediately unsafe, you should call the police quickly on 000.

It is the police's role to make sure you are safe and to help you if you are unsafe.

Tell the police if you do not understand or speak English. They will get an interpreter.

You can also:

- call services that can give you support, legal help or accommodation
- apply for a family violence intervention order.

See the end of this information sheet for services that can help you.

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### Do we have to agree?

No. Going to family dispute resolution does not mean you need to agree.

You will not be forced into signing an agreement. You can still get legal help to make decisions. For example, you can get legal advice about what an agreement means before making a decision.

If you do make an agreement, you can ask the court to make it into a court order.

You should get legal advice about your agreement, before making it into an order.

### If we make an agreement, must it be followed?

Yes, if you have given your agreement to the court to make into a court order. Court orders must be followed.

If a court order is not obeyed, get legal help. A letter from a lawyer might help, or you might need to go to court.

The agreement you make at family dispute resolution is called a parenting plan. This must be in writing, dated and signed by each parent.

If the other parent does not follow the parenting plan, and you have not made it into a court order, the court cannot do anything about this. If you apply to get a court order later on, the court will look at the parenting plan when it makes a decision.

If you want to make sure the other parent obeys the agreement you reached, make it into a court order.

### What if the other parent refuses to go to family dispute resolution?

Family dispute resolution cannot work unless both parents agree.

If one person refuses to go, you may need the court to sort out arrangements.

If you are applying for an order about the children, the family dispute resolution practitioner can give you a certificate. The certificate says you have tried to do family dispute resolution but the other parent refused.

### What if we try and it does not work?

If you have tried family dispute resolution and it has not worked, you then have the option of going to court.

When a parent applies to court, the other parent is notified.

When you receive letters from the court telling you to come to court, you must go. If you cannot, you should let the court know and tell your lawyer if you have one. You can ask for an interpreter.

Talk to a lawyer about any letter you get from the court or your former partner or their lawyer. If you ignore any letters you get from a lawyer about your children, the court might make orders about them without you having any say about it.



### Where can I get family dispute resolution?

Victoria Legal Aid has a family dispute resolution service, called Roundtable Dispute Management, which you may be eligible to use. This service will give you a lawyer to help you with your meeting.

You can also get family dispute resolution at a Family Relationship Centre. They have offices throughout Melbourne and country Victoria. Some Family Relationship Centres have lawyers that can help you.

There are other places that offer family dispute resolution too.

**See** the end of this information sheet for contact details.

Some services are free. Others charge different rates depending on your financial situation.

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## Where to get help



### If you need an interpreter:

Call the Translating and Interpreting Service for an interpreter to help you speak to any of the agencies in this section. Ask the interpreter to put you through to the agency you need. This is usually free.

Tel: 131 450



### If you are deaf or have a hearing or speech impairment:

Use the National Relay Service to phone any of the agencies (including Victoria Legal Aid) in this section. This is free. For more information about the NRS visit [www.relayservice.com.au](http://www.relayservice.com.au)

**TTY users:** Call 133 677 and then ask for the phone number you need. Include the area code.

**Speak and Listen users:** Call 1300 555 727 and then ask for the phone number you need. Include the area code.

**Internet relay users:** Connect to [www.iprelay.com.au/call/index.aspx](http://www.iprelay.com.au/call/index.aspx) and then ask for the phone number you need. Include the area code.

## Victoria Legal Aid

### Legal Help

Tel: 1300 792 387

Open Monday to Friday, 8.45 am to 5.15 pm

You can get legal information and help regarding separation, divorce, children, property and residency issues.

### Roundtable Dispute Management

This service has trained dispute resolution practitioners that can help people reach agreements together about the children.

Tel: 9269 0500 or 1800 136 832 (if you live in the country).

[www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

For more information about children and dividing up property after separation, see our other Family law in Australia information sheets:

- Separation and divorce
- After you have separated: making arrangements about the children
- Dividing property after you have separated.

### For your nearest community legal centre:

Tel: 9652 1500

[www.communitylaw.org.au](http://www.communitylaw.org.au)

### Family Relationship Centres and Advice Line

Tel: 1800 050 321 for locations of Family Relationship Centres, and other services that can help you reach agreement about the children

### Family Court / Federal Magistrates Court

Tel: 1300 352 000 for information on the Family Law Courts. This number can be called 24 hours

[www.familylawcourts.gov.au](http://www.familylawcourts.gov.au)

### InTouch Multicultural Centre Against Family Violence

Tel: 8413 6800 or country callers 1800 755 988

[www.iwdvs.org.au](http://www.iwdvs.org.au)

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**Acknowledgements:** Victoria Legal Aid gratefully acknowledges the significant contribution made to the development of this publication by the Women's Legal Service of Victoria, the Islamic Women's Welfare Council of Victoria, Footscray Community Legal Centre, Wyndham Legal Service and the Chinese Community Social Services Centre Inc.

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