

Children's Issues

Can my spouse refuse to allow me to see my children?

Unless there is a good reason for your spouse to stop you spending time with the children, the Family Court does not condone such behaviour.

The Family Court believes that when parents separate after a marriage or a relationship breakdown, the child has a right to live with one parent and spend time and/or communicate with the other parent. The parents have an obligation to ensure that the child exercises the right.

When can my spouse prevent me seeing or spending time with the children?

If you pose a risk to the child's well being, there is child abuse or domestic violence or there is a risk of any of the before mentioned happening, your spouse can stop the child spending time with or living with you.

Can I file an application in the Family Court in relation to children's issue if I am prevented from seeing my children?

You can make an urgent application if there is risk to the child's safety being in the care of the other parent.

If there is no safety risk, then you have to attempt mediation to resolve children's issue.

If I attempt mediation, what can be the outcome?

If you successfully mediate and reach an agreement about children's issue, you can draft up an agreement. This is a parenting plan. This can be converted to a parenting order.

If no agreement is reached, the mediation service will issue you a certificate and after obtaining this certificate, you can file application in the Family Court and seek the assistance of the Family Court to resolve the issue.

What is the difference between parenting order and a parenting plan?

A parenting plan is an agreement between the parents on the live with, communicate with and spend time arrangements for the children. This cannot be enforced in the Family Court if one of the parents fails to keep to the agreement.

You can convert the parenting plan into a parenting order by completing a form 11 and incorporating the parenting plan in the form 11 consent order application. Both parents can then file the documents in the Family Court. If one of the parents continuously breaches the order/orders without a good reason, the affected parent can file contravention proceedings in the Family Court.