

Coping with Separation and Divorce

Volume | 411



Edited by Justin Healey

ISSUES
IN SOCIETY

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INTRODUCTION

Coping with Separation and Divorce is Volume 411 in the 'Issues in Society' series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC

Intimate relationships change over the years. It may be easy to think that ending a difficult long-term partnership will solve all your problems, however separation and divorce can bring up a number of challenges and is rarely a straightforward process or experience emotionally, especially if there are children and teenagers involved. Is it possible to do separation with co-operation? What happens for kids when their parents separate?

This book explores the common causes of relationship breakdown, and explains the practical and legal processes of divorce, including going to court and dividing property and finances. It also offers advice on successfully establishing and maintaining positive parenting arrangements after separation.

SOURCES OF INFORMATION

Titles in the 'Issues in Society' series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the 'Issues in Society' series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

CRITICAL EVALUATION

As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES

The 'Exploring issues' section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH

This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The 'Web links' section at the back of this book contains a list of useful websites which you can access for more reading on the topic.

THINKING SEPARATION?

THE FOLLOWING GUIDE IS PROVIDED COURTESY OF **PARENTING SA**

If you are thinking of ending your relationship, it is good to be realistic about what it might mean for everyone in the family. Children have no say in a separation but it changes their lives. It is important that they feel safe and secure.

TO STAY OR NOT TO STAY

Long-term relationships change over the years. The rosy glasses of romance come off as life settles into daily routines. You can become very busy running a household and raising children. A couple may come to see things about each other that they don't like or have different ideas about raising children.

If things become hard it can help to:

- Think about the big issues behind arguments, and deal with them
- Be realistic about what you expect of each other and the children

- Make time to really talk and have happy times together
- Not blame each other for problems
- Seek help from friends or counsellors.

Remember why you fell in love in the first place! Having children changes things but you are still the same people you were before.

IF THERE IS VIOLENCE

If there is violence in a family, separation or divorce can be a way to keep children safe and build a new life.

It is easy to think that ending a relationship will solve all your problems. If you have children, you will need to work together for a long time to raise them.





Violence in a family is never OK. You have the right to be safe. Get help if you are scared or being hurt.

BECOMING PARENTING PARTNERS

It is easy to think that ending a relationship will solve all your problems. If you have children, you will need to work together for a long time to raise them. You will change from being a couple to being parenting partners. Both parents are still responsible for their children, whether they live with them or not.

Even if you separate or divorce, as parents you still need to work together to raise your children.

CHANGES FOR CHILDREN

Separation is never easy for children. How they respond depends on their age and temperament.

Some may worry and feel sad about:

- Losing their family
- Not being with both parents every day
- Moving house or changing schools
- Losing friends and making new ones
- Changing to a single-parent home with less money
- Conflict between their parents
- A parent having a new partner.

Some children feel responsible for the break-up so it's important to tell them it's not their fault. Reassure them that you are OK, even if you don't look happy

all the time. It's important they don't feel they have to support a parent who is not coping.

For children who have lived with violence, it can mean less stress and the chance to feel safe and secure.

CHANGES FOR PARENTS

Sometimes separation can be a chance to start fresh and have a new life. There can be new opportunities and things to learn and do.

However, many parents find that:

- They miss being with their children every day
- It is hard to do everything on their own such as shopping, housework and taking children to school and activities. If they are working it can be even harder
- It takes a lot of effort to keep children in touch with the other parent, relatives and friends
- It can hurt when an ex-partner has a new relationship.

FINANCES

Separation or divorce can change your finances.

You will need to work out:

- What you will have to live on. How you will cope on a single income if you are used to two incomes. How you will manage if you are paying child support
- Where you will live and what it will cost. Will you be able to buy your own home or set up a new household?

FRIENDSHIPS

Friends can be a great source of support, but you can't always know how they will react. It can be hard for them

to stay in touch with both of you, and you may lose some friends. You will have to get used to socialising as a single person and making new friends. This can be fun but may be hard at times too.

NEW RELATIONSHIPS

It's best to sort out what went wrong in your relationship before starting a new one, or the same old problems can reappear.

Remember:

- It can take time to find someone new who meets your needs
- It's best to introduce a new partner to your children slowly. It can be hard for them to accept someone new
- A new partner may have different ideas about raising children. How will you manage this?

RESOLVING DISPUTES

If you can't agree how you will care for your children, a Family Dispute Resolution Service can help you make a parenting plan (phone the Family Relationships Advice Line on 1800 050 321).

If this doesn't work, or if there is violence, you can go to court and get a parenting order. The *Family Law Act (1975)* says that children's best interests come first.

It is important to get help if you need to. Talking with someone can help you make difficult decisions.

Government of South Australia (May 2015). *Parent Easy Guide 19: Thinking separation?* Retrieved from www.parenting.sa.gov.au on 13 October 2015.

Causes of relationship problems

When we find a partner to share our lives with, we usually have expectations that we will stay together in the long term. However, at some point every couple will experience some forms of relationship difficulties.

Many of the challenges couples face are able to be dealt with, but sometimes these challenges can leave partners feeling unable to resolve issues. This can manifest in recurring arguments, alienation and feelings of frustration. Over time, one or both partners may start to consider separation.

There are a number of common factors which can contribute to problems within a relationship which may not be resolved, resulting in eventual separation.

These factors include:

- Conflict
- Relationship/partner neglect
- Growing apart
- Wanting a change, feeling stuck
- Married/partnered too young
- Poor management of differences between partners
- Withdrawing care
- Loss of compassion
- Being torn apart, not strengthened, by times of crisis
- Communication difficulties
- Financial stress
- Lack of commitment
- Different expectations and/or values
- Loss of interest in partner
- Infidelity
- People change over time, or are ultimately not compatible in an intimate relationship

- Work pressures
- Lack of trust
- Addictions
- Violence/abuse
- Sexual issues
- Health or disability issues
- Not spending time together
- Immaturity and/or selfishness
- Lack of compromise and cooperation
- Pressures of having children, caring responsibilities
- Married/partnered for the wrong reason; or didn't really know partner
- Outside interference by family/friends.



SOURCES

Australian Psychological Society, *Understanding and Managing Relationship Problems*.

Relationships Australia (2008), *Issues and concerns that Australians have in their relationships today*.

RELATIONSHIP PROBLEMS

THE RESULTS FROM THIS RELATIONSHIPS AUSTRALIA/CUA SURVEY SHOW THE KEY FACTORS WHICH NEGATIVELY IMPACT ON PARTNER RELATIONSHIPS

The following survey results show that most respondents had experienced stress as the main factor to negatively impact on their partner relationships.

When cross-analysed by other issues, all the other factors correlate highly, suggesting that when these issues are present in a relationship, it is highly likely that the individuals involved feel stressed. This is particularly the case if there are issues with work pressures, job insecurity, loss or unemployment,

or violence or abuse.

Half of all respondents had experienced different goals or expectations, different perspectives or values, a lack of time to spend together or the problem of work pressures.

Approximately four in ten had experienced lack of trust, jealousy or insecurity, financial insecurity or difficulties or problems with having/bringing up their own children.

Three in ten had experienced addictions, illness, medical issues

or disability, sexual issues or job insecurity, loss or unemployment.

A quarter had experienced ageing parents or other caring responsibilities and one in five had experienced violence or abuse, or issues related to children from a previous relationship.

A continuing trend is shown across the 2006 and 2008 surveys identifying the three specific factors most negatively impacting on relationships – different goals or expectations, different perspectives or values and lack of time to spend together.

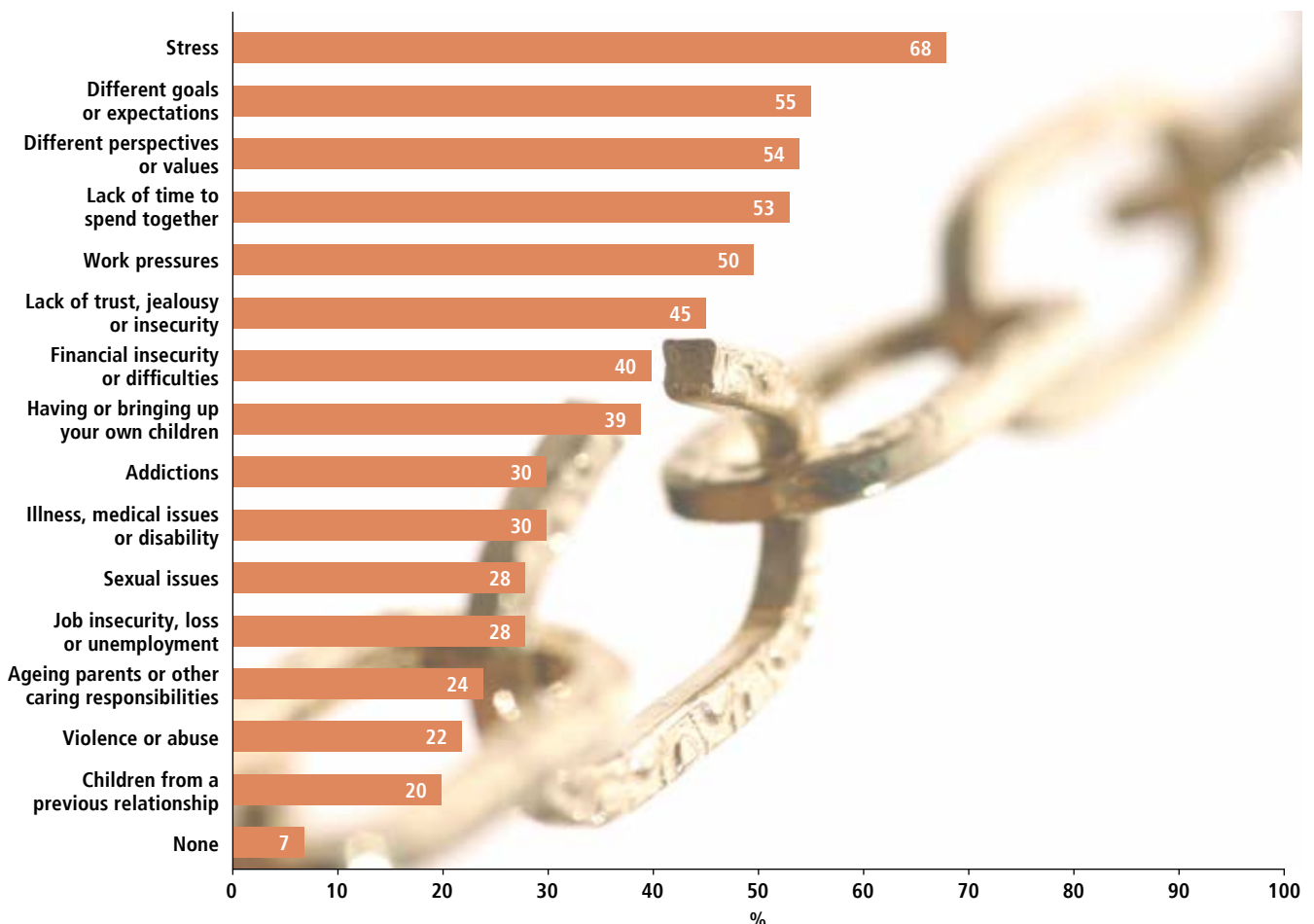
Looking at the data by marital status identifies a number of issues that seem to be central to a relationship breaking down.

These issues include:

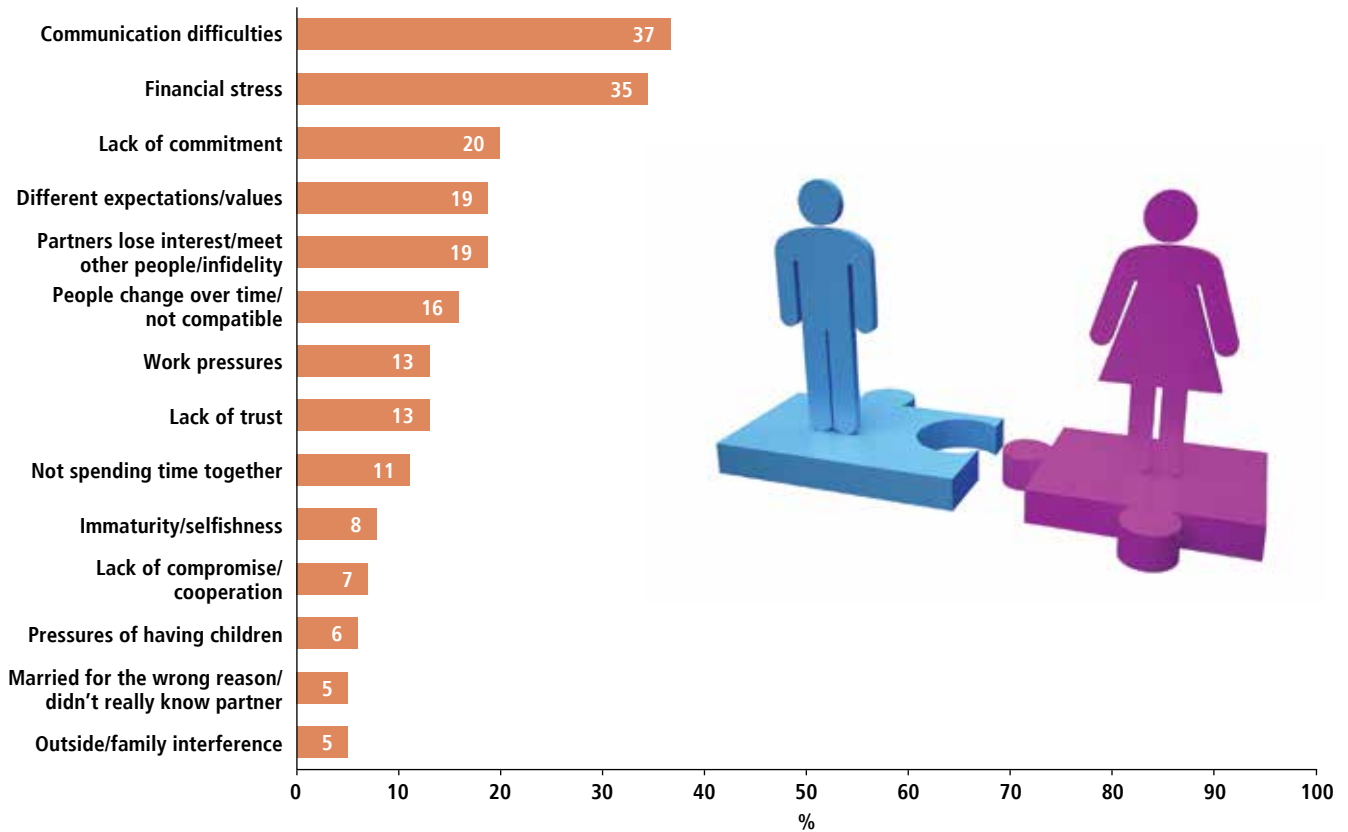
- Different perspectives or values
- Lack of trust, jealousy or

A continuing trend is shown across the 2006 and 2008 surveys identifying the three specific factors most negatively impacting on relationships – different goals or expectations, different perspectives or values and lack of time to spend together.

FACTORS NEGATIVELY IMPACTING PARTNER RELATIONSHIPS



CAUSES OF RELATIONSHIP BREAKDOWN



- insecurity
- Violence or abuse
 - Different goals/expectations
 - Addictions
 - Sexual issues.

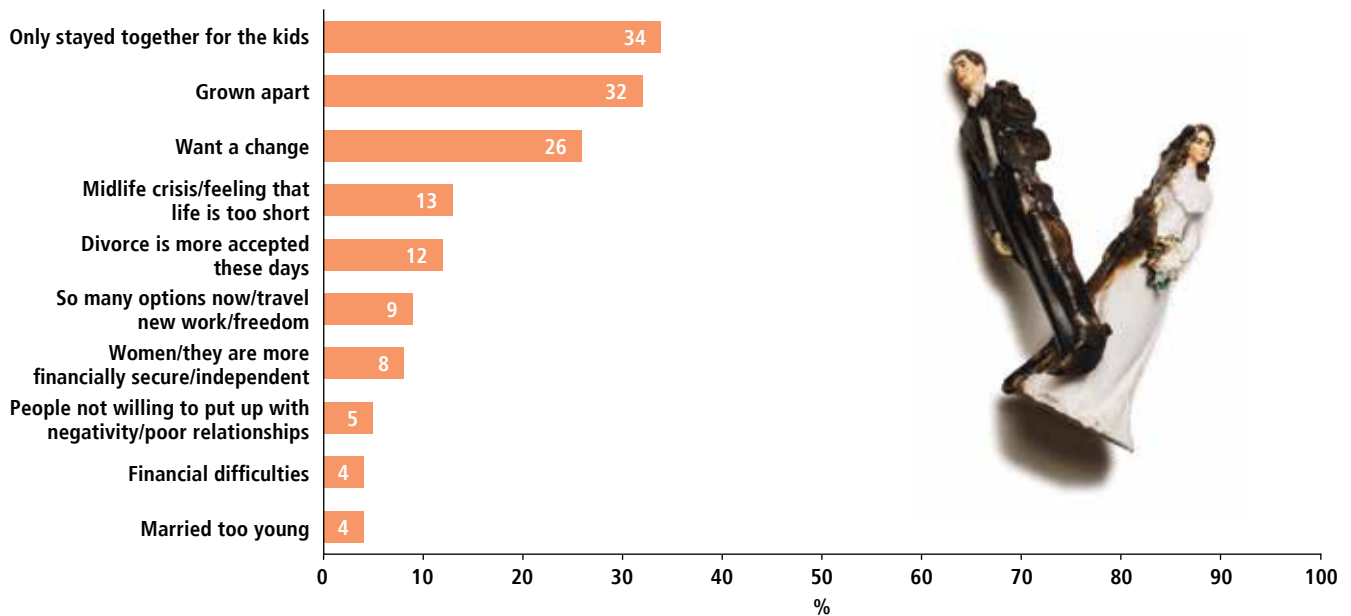
The incidence of experiencing these particular issues is much higher amongst separated or divorced respondents than those currently married or in a de facto

relationship.

There were also some differences by gender. Whilst females were more likely to report that they had experienced stress, problems having



REASONS WHY OLDER COUPLES SEPARATE



The main reasons why partner relationships break down fall into two main themes: internal issues and external influences, with the majority of responses falling into the internal category.

or bringing up children and violence or abuse, males were more likely to have experienced sexual issues.

The differences by age point to life stage having an influence on the incidence of experiencing particular issues. At the younger end of the spectrum, 18 to 24 years olds were more likely to have experienced different goals or expectations, different perspectives or values and a lack of trust, jealousy or insecurity.

Respondents in the middle segment of the age bracket, those aged 25 to 59 years, were more likely to have experienced financial insecurity or difficulties and job insecurity, loss or unemployment.

Whilst there is some overlap with the middle age segment, the older age segment (40 to 60 years) was more likely to have experienced ageing parents or other caring responsibilities (not including children) and issues with children from previous relationships.

Although the saying “money doesn’t make you happy” may have some truth, the analysis of factors impacting negatively on partner relationships data by income,

suggests otherwise.

When respondents are split into two income groups – those with an annual income of less than \$60,000 and those with an income of \$60,000 or more – there is only one factor with a higher incidence amongst the higher income group. Nearly six in ten (57%) of the higher income group had experienced work pressures, compared to just under half (46%) of the lower income group. Nonetheless, the issue is surprisingly persistent across income levels.

When respondents are split into three income groups – those with an annual income of less than \$60,000, those with an income of \$60,000 to \$80,000, and those with an income of more than \$80,000 – comparing the bottom and top segments, again there is only one factor with a higher incidence amongst the higher income group.

Nearly six in ten (57%) of the higher income group had experienced lack of time to spend together, compared to half (51%) of the lower income group – again, still a high figure. Approximately half of the lower income segment

(48%) had experienced financial insecurity or difficulties, compared to a third (35%) of the higher income segment. While clearly a key issue for lower income groups, a significant number of the higher income earners are not exempt from financial difficulties.

The lower income segment was also more likely to have experienced the following issues in a partner relationship:

- Illness, medical issues or disability
- Sexual issues
- Ageing parents or other caring responsibilities (not including children).

Causes of relationship breakdown

The main reasons why partner relationships break down fall into two main themes: internal issues and external influences, with the majority of responses falling into the internal category.

The three main internal issues were communication, commitment and expectations. With regards to the external influences, the main factors were financial stress, work pressures and lack of trust.

For separated or divorced respondents, lack of trust appears to be a key factor in relationship breakdown with almost twice as many saying this, compared to those currently in a spousal or de facto



relationship.

With regards to the external influences, financial stress was a key issue for couples. Whilst a third of all respondents cited this as a reason (35%), there was a significant difference between those currently in a couple compared to those who had never married (38% compared to 28%), which suggests that monetary concerns are negatively impacting on relationships.

The other key external influences were work pressures and lack of trust, which were both an issue for approximately one in ten (13%). However, lack of trust does appear to be a key factor in relationship breakdown with almost twice as many separated or divorced respondents saying this compared to those currently in a spousal or de facto relationship (20% compared to 12%).

There was also a sense that relationships break down because one or both of the people in it change which manifests itself in the following issues that perhaps creep into the relationship as a result of people growing apart:

- Partners lose interest/meet other people/infidelity (19%)
- People change over time/not compatible (16%)

- Not spending time together (11%)
- Lack of compromise/co-operation (7%).

Reasons why older couples separate

In response to the statement “statistics show an interesting trend for couples over 50 to separate – why do you think this might be?” the main reasons identified were:

- People only stay together for the kids
- They grow apart
- They want a change.

Females were significantly more likely to feel that the trend could be because people only stay together for the kids. In addition, females were almost twice as likely as males to refer to a midlife crisis/feeling that life is too short.

Separated or divorced respondents were more likely than those who were married or in a de facto relationship to think that couples over 50 may separate because they have grown apart or want a change.

Impact of technology on relationships

When asked their views about the impact of increased use of technology on relationships, the majority

felt that this technology has had a positive impact. Interestingly, this positive response was given by 58% of those 60 years or older. Just 9% felt that technology has had more of a negative impact on their important relationships. The main reason given was that technology is less personal.

With regards to how communications technology has had a positive impact, the main response was that it enables people to keep in touch with friends and family.

Only two in ten respondents felt that these kinds of technology had not had any impact on their important relationships.

Relationships Australia (2008). *Issues and concerns that Australians have in their relationships today*, pp. 16-21. Retrieved from www.relationships.org.au on 24 February 2016.

HOW DO I APPLY FOR A DIVORCE?

AN INTERACTIVE ONLINE GUIDE PRODUCED BY THE FAMILY COURT OF AUSTRALIA

The *Family Law Act 1975* established the principle of no-fault divorce in Australian law. When granting a divorce the court does not consider why the marriage ended and the only ground for divorce is that the marriage broke down and there is no reasonable likelihood that the parties will get back together.

The Federal Circuit Court of Australia has the jurisdiction or power to deal with dissolution of marriage (i.e. divorce) under Part VI of the *Family Law Act 1975*. The granting of a divorce does not determine issues of financial support, property distribution or arrangements for children. It simply recognises that the marriage has ended.

It is very important that you read the step-by-step guide *What you need to know* and the checklist provided in the *Application for divorce kit* before you file.

If you file the application by yourself as a sole applicant you will be required to serve the application on your spouse, once it is filed with the Court – for more information on service go to *How do I serve a divorce?*

If you file the application together with your spouse as joint applicants, you are not required to serve the documents.

Seeking legal advice

You can obtain legal advice to understand your rights

and responsibilities before applying for a divorce or other applications in relation to a divorce. A lawyer can help explain how the law applies to your case.

The Family Relationships Advice Line (FRAL) can help you with free legal advice and information about services available to assist anyone with family relationships issues, including information relating to family law proceedings. Call 1800 050 321 or if you are overseas +61 7 3423 6878. Court staff cannot provide you with legal advice.

You can apply for a divorce in Australia if either you or your spouse can answer yes to one of the following criteria:

- Are an Australian citizen by birth, descent or grant of Australian citizenship. (If you have been granted citizenship you will need to file a photocopy of your certificate), or
- Regard Australia as home and intend to live in Australia indefinitely. (You will need to provide a photocopy of a valid visa or your passport showing the date of arrival at least one year prior), or
- Ordinarily live in Australia and have done so for 12 months immediately before filing for divorce. (You will need to provide a photocopy of a valid visa or your passport showing the date of arrival at least one year prior).



If you are currently living overseas and meet the above criteria, you must provide an address for service in Australia. If you use your spouse's address as your address for service you should provide an affidavit verifying that you are separated, but your address for service is the same.

You can sign and have the application and/or affidavit witnessed before a Notary Public or the appropriate delegated officer at an Australian embassy/consulate. You will need to make your own inquiries to arrange this.

You can apply for a divorce in Australia if you have been separated for a period of at least twelve months. When you apply for a divorce you will need to show that:

- You were married by providing a photocopy of your marriage certificate. If you were married overseas and meet the criteria at Part C of the application and your marriage certificate is not in English you will need to provide the certificate translated to English and attach a photocopy of the original certificate plus the translation to an Affidavit of Translation of Marriage Certificate from the translator. The National Accreditation Authority for Translators and Interpreters Ltd (NAATI) has a directory of NAATI accredited and recognised practitioners who offer translating services.
- You have been separated for at least 12 months and one day – this information is required at question 14 of the application. You are not required to provide evidence at the time of the application. If there is a dispute about the separation date you may be required to provide evidence at a later stage.
- Your marriage has broken down and there is no reasonable likelihood that you will get back together – this information is required at question 15 of the application.

Children

If there are children of the marriage it is important to provide particulars of the arrangements in Part F of the application including housing, if not at school – care arrangements, schooling – grade and progress – care before and after school, health, contact with father/mother and if no contact, why?, financial support provided by the father/mother if not, why not?

Marriages under two years

To obtain a certificate you will need to attend counselling to discuss the possibility of reconciliation with your spouse. To arrange counselling contact FRAL on 1800 050 321.

If you are unable to attend counselling, you will need to obtain permission from the Court to apply for a divorce by filing an affidavit setting out why you and your spouse have not attended counselling.

You should file this affidavit with your application for divorce so the Court can consider the information provided by you. This could be because you cannot locate



The granting of a divorce does not determine issues of financial support, property distribution or arrangements for children. It simply recognises that the marriage has ended.

your spouse and you should include what attempts you have made to find them or they refuse to attend or there may be special circumstances e.g. family violence and it is not safe for you to attend counselling.

Separated and living under the same roof in the last 12 months

If you have been separated and living in the same house in the 12 months prior to filing your application you will need to provide extra evidence to prove that there has been a change in the marriage by preparing and filing an affidavit. See the fact sheet, *Separated but living under the one roof* for more information.

If you are filing a joint application, both parties will need to prepare and file separate affidavits. In both types of applications (sole and joint) you should also ask a third person to prepare an affidavit to corroborate your evidence.

Overseas divorce – you can apply for a divorce overseas. Australia will recognise a divorce if it was effected in accordance with the laws of that country – refer to s.104(7) of the *Family Law Act 1975*.

How do I file an application for divorce?

You can electronically file an application using the online interactive form on the Commonwealth Courts Portal in most circumstances.



Note: If you have any portal-related queries, email support@comcourts.gov.au or contact us by Live Chat.

OR by completing and posting the following forms and attachments to a family law registry for filing – you must file the application within 12 months of it being witnessed.

1. Application for divorce (original plus two photocopies) signed at part G and sworn/affirmed before an authorised witness – see information below
2. One photocopy of the marriage certificate (not required to be certified). See information above if your marriage certificate is not in English
3. Any other documents relevant to your application (e.g. citizenship certificate/copy of visa). You should provide three copies of each.

Note: If you complete the form as a sole applicant you should complete all the questions that relate to both you and your spouse. You need to answer all the questions in both columns. If you do not know an answer relating to your spouse and have made all attempts to find the answer, insert ‘not known’.

Who can witness the application?

You will need to swear or affirm the signature page of the application before an accepted witness. Accepted witnesses in all states and territories are a Justice of the Peace (JP) or a lawyer. Each state and territory, except for NSW, has legislation in relation to other accepted witnesses. For more information on other accepted witnesses you should check with the state or territory justice department. Go to *Justices of the Peace* to find a JP near you.

If you are overseas, a Notary Public, an Australian Diplomatic/Consular Officer or any person (e.g. JP/ lawyer) who is authorised to administer an oath or affirmation in that country (certified to be so qualified by an Australian diplomatic officer) can witness an application. You will need to make your own arrangements for this service.

How much will it cost to file an application for divorce?

\$865 (or \$290 if you are eligible for a reduced fee. To see if you are eligible go to *Guidelines for fee reduction*).

Note: To be eligible for a fee reduction for a joint application, both yourself and your spouse must qualify. If only one spouse qualifies, then the full fee applies. If it is a sole application for Divorce, then only the Applicant needs to qualify for the reduction.

Mode of payment:

- Payment online if you eFile
- Payment in person by EFTPOS, debit card or credit card
- Cheque or money order made payable to ‘Family Court and Federal Circuit Court’
- Credit card payment form – Visa or MasterCard.

Family Court of Australia. *How do I apply for a Divorce?*
Retrieved from www.familycourt.gov.au on 13 October 2015.

DIVORCE STATISTICS IN AUSTRALIA

The latest data on divorce trends from the **Australian Bureau of Statistics**

In 2015, there were 48,517 divorces granted in Australia, an increase of 2,019 (4.3%) from the 46,498 divorces granted in 2014.

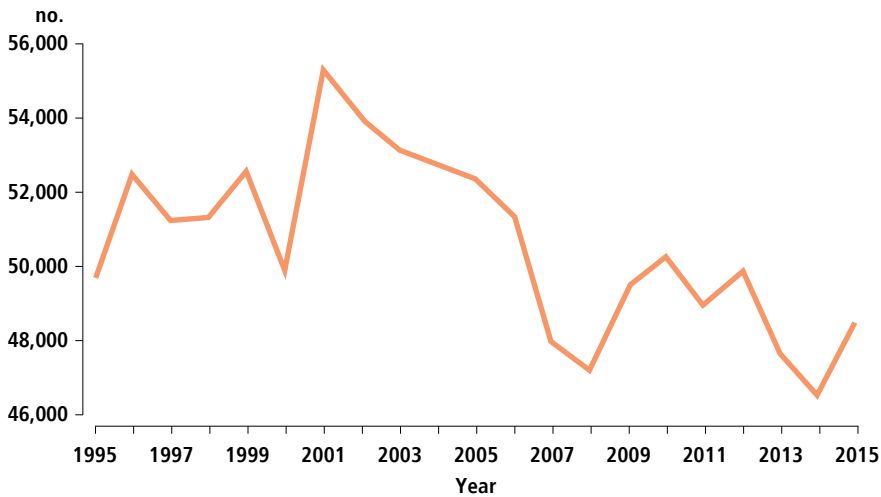
Crude divorce rate

The crude divorce rate is calculated as the number of divorces granted during a calendar year per 1,000

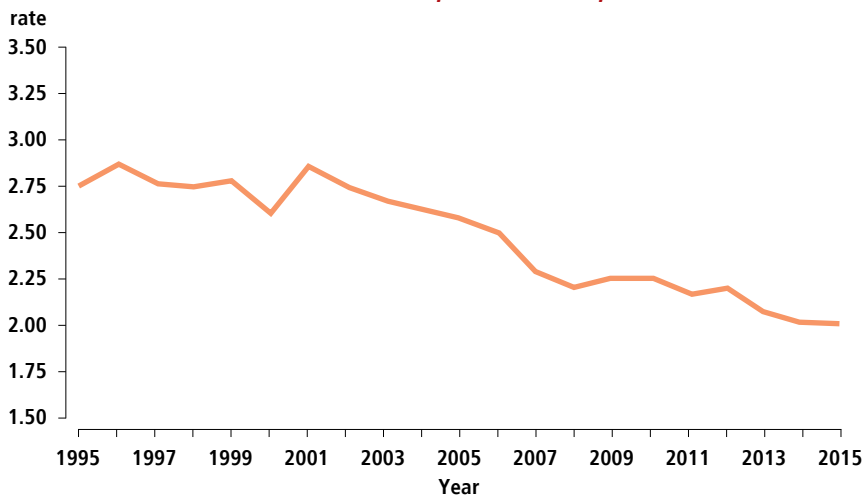
estimated resident population at 30 June of the same year.

In 2015, the crude divorce rate in Australia was 2.0 divorces granted per 1,000 estimated resident population, remaining the same as in 2014.

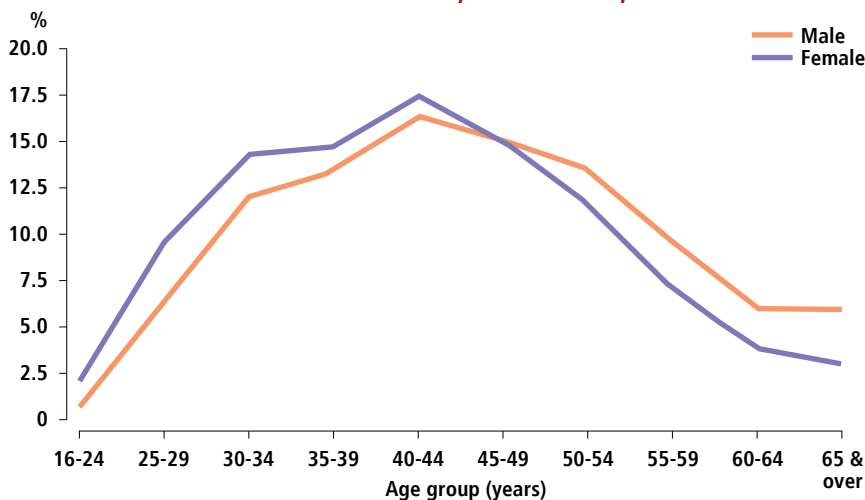
2.1 TOTAL DIVORCES GRANTED, AUSTRALIA, 1995-2015



2.2 CRUDE DIVORCE RATE, AUSTRALIA, 1995-2015



2.3 AGE AT DIVORCE, AUSTRALIA, 2015



Age at marriage, separation and divorce

Overall, males granted a divorce in 2015 tended to be older than females at marriage, separation and divorce. More than half (58.0%) of the females granted a divorce in 2015 were under 45 years of age at divorce compared with 48.8% of males.

People between 40-44 years of age had the highest percentage of divorces granted, with 16.0% of males and 16.95% of females being granted a divorce falling in that age group in 2015.

The median age at marriage for males divorcing in 2015 was 28.9 years, compared with 26.5 years for females. Median age at separation for males granted a divorce in 2015 was 41.8 years, whereas the median age for females was 39.0 years. In 2015, the median age of males at divorce was 45.3 years and 42.7 years for females.

The median age at divorce has been increasing for both males and females over the past 20 years. This trend continued from 2014 to 2015, with the median age at divorce for males increasing from 45.2 to 45.3, and that for females increasing from 42.5 to 42.7.





Age-specific divorce rates

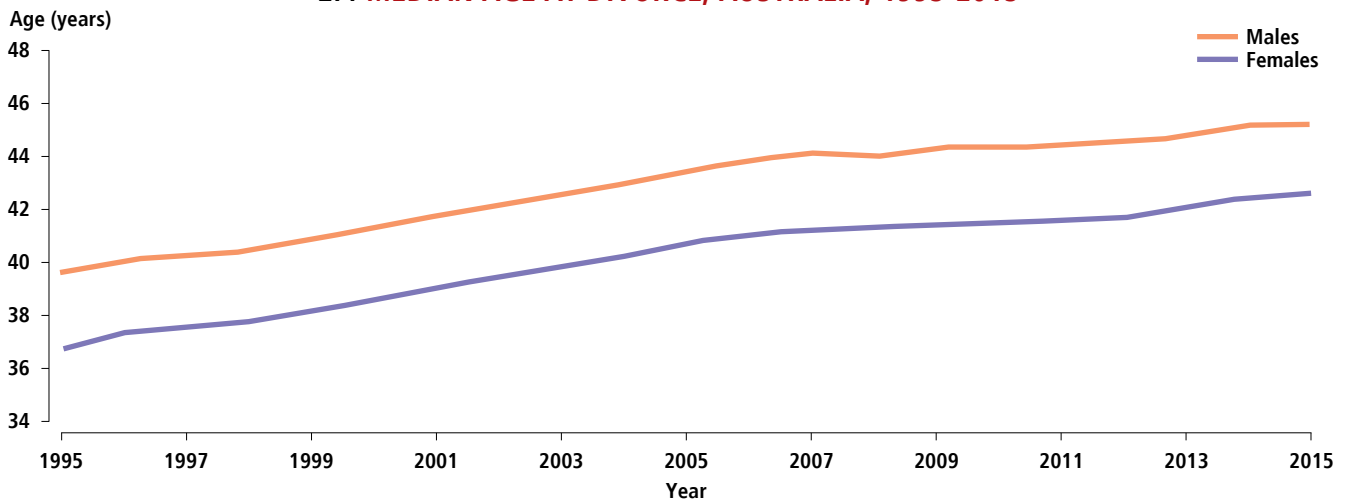
Age-specific divorce rates can provide a more detailed picture of the ages at which people are granted a divorce. These rates give an indication of the proportion of all males or females in a particular age group granted a divorce per 1,000 estimated resident population of the same age group.

In 2015, the divorce rate increased for both males and females in every age group except for people aged 16 to 24. The age-specific divorce rates were highest for males in the 45-49

years age group at 9.7 divorces per 1,000 estimated resident population, and were also high for males in the 40-44 years age group (9.5 per 1,000 estimated resident population).

The age-specific divorce rate was highest for females in the 40-44 years age group (9.8 divorces per 1,000 estimated resident population), with both the 35-39 years and 45-49 years age groups also recording higher divorce rates at 9.0 and 9.4 divorces per 1,000 estimated resident population respectively.

2.4 MEDIAN AGE AT DIVORCE, AUSTRALIA, 1995-2015

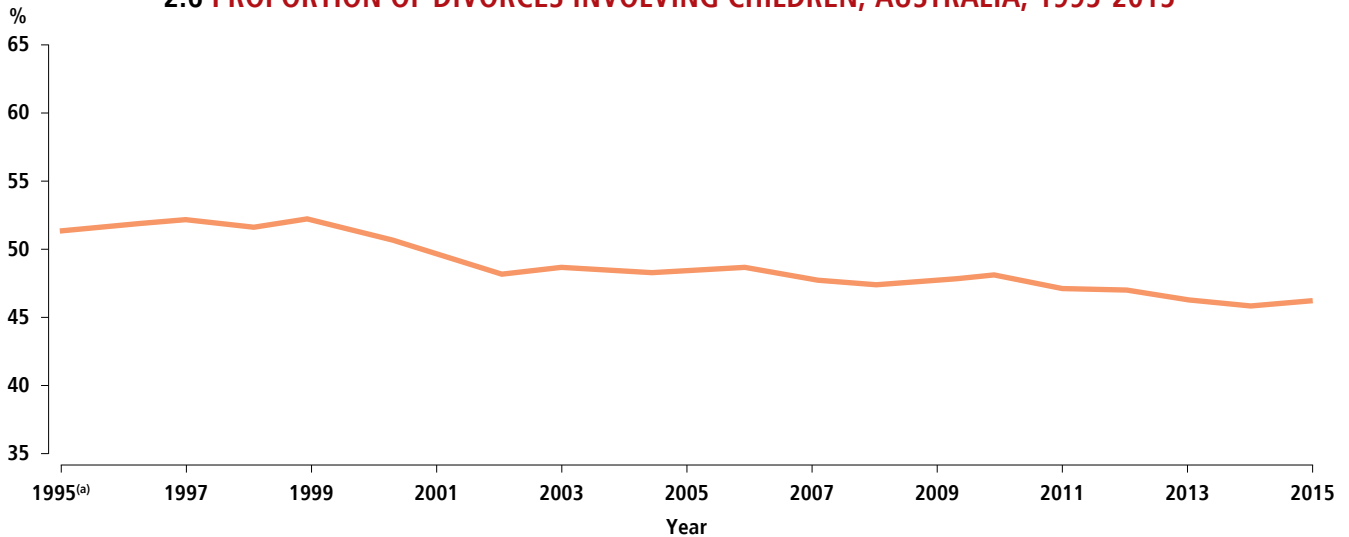


2.5 AGE-SPECIFIC DIVORCE RATES^(a), AUSTRALIA, SELECTED YEARS, 1995-2015

Age group (years)	1995	2005	2011	2012	2013	2014	2015
Males							
24 and under	0.7	0.3	0.4	0.4	0.3	0.2	0.2
25-29	7.8	4.5	3.9	3.9	3.7	3.4	3.5
30-34	12.8	9.7	7.3	7.4	6.9	6.5	6.7
35-39	13.2	11.7	9.3	9.4	8.7	8.0	8.4
40-44	12.3	12.3	10.3	10.4	9.6	9.2	9.5
45-49	11.5	11.5	9.8	10.0	9.5	9.3	9.7
50-54	8.6	9.4	8.8	8.9	8.3	8.2	8.5
55-59	5.7	7.0	6.6	6.6	6.5	6.4	6.6
60-64	3.6	4.6	4.4	4.7	4.5	4.5	4.6
65 and over	1.5	1.7	1.5	1.7	1.7	1.7	1.8
Females							
24 and under	2.0	0.9	1.0	0.9	0.8	0.7	0.7
25-29	11.8	7.3	6.0	6.1	5.7	5.2	5.3
30-34	13.9	11.7	8.7	8.8	8.3	7.9	8.2
35-39	13.0	12.8	10.1	10.3	9.3	8.8	9.0
40-44	11.8	12.0	10.5	10.7	9.9	9.7	9.8
45-49	9.6	10.2	9.5	9.5	9.3	9.0	9.4
50-54	6.6	7.7	7.2	7.5	7.1	6.9	7.2
55-59	3.8	4.9	4.6	4.9	4.7	4.6	4.8
60-64	2.1	2.9	2.8	2.9	2.8	2.8	3.0
65 and over	0.5	0.6	0.6	0.7	0.7	0.7	0.8

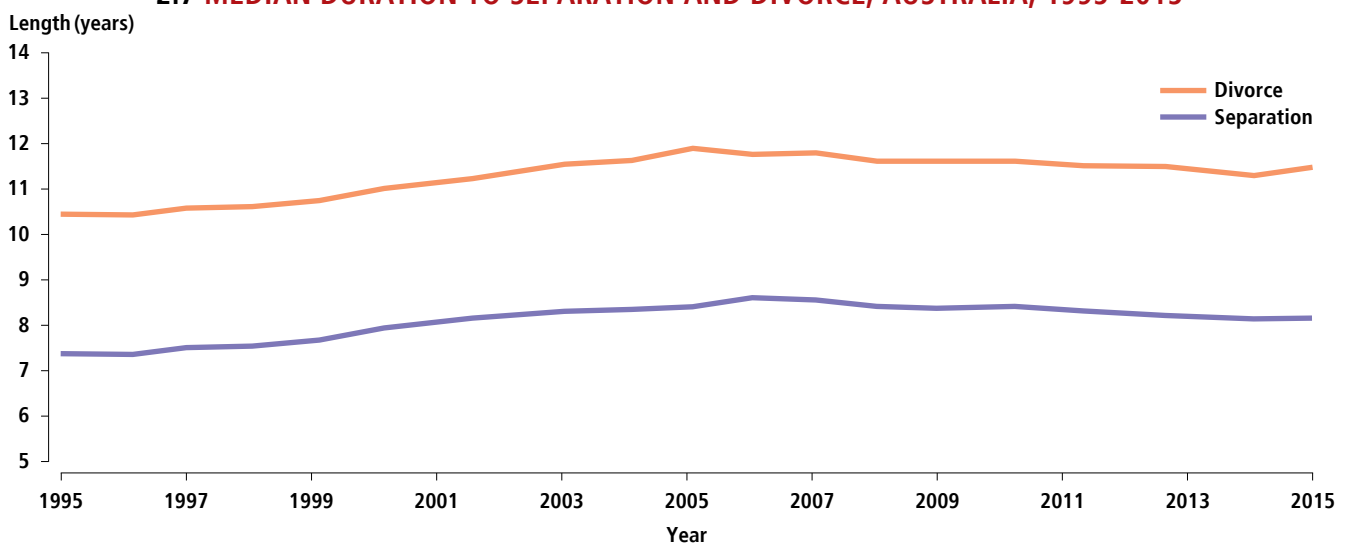
(a) Number of divorces per 1,000 estimated resident population at 30 June for each reference year respectively.

2.6 PROPORTION OF DIVORCES INVOLVING CHILDREN, AUSTRALIA, 1995-2015



(a) Proportion estimated in 1995 due to unavailability of data.

2.7 MEDIAN DURATION TO SEPARATION AND DIVORCE, AUSTRALIA, 1995-2015



Divorces involving children

In 2015, there were 23,063 divorces involving children under 18 years of age. This represents 47.5% of all divorces granted.

The number of children affected by divorce has increased from 40,152 in 2014 to 42,303 in 2015. The average number of children for divorces involving children remains at 1.8 children per divorce.

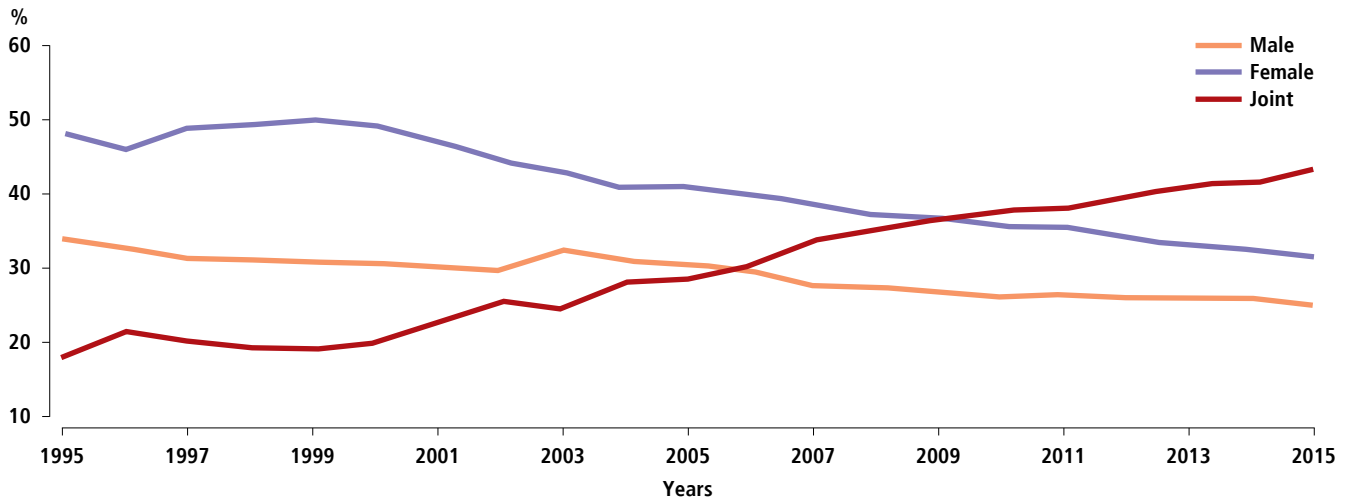
Length of marriage of divorcing couples

The median duration of marriage to divorce increased from 11 years in 1995 to a peak of 12.6 years in 2005. After slowly decreasing since 2005, the median duration of marriage to divorce increased by 0.1 to 12.1 years in 2015.

Similarly, the median duration of marriage to separation increased



2.8 TYPE OF DIVORCE APPLICANT, AUSTRALIA, 1995-2015



2.9 NUMBER OF DIVORCES, STATES AND TERRITORIES^(a), SELECTED YEARS, 1995-2015

	NSW	Vic	Qld	SA	WA	Tas	NT	ACT	Aust
1995	14,945	11,838	10,192	4,199	5,040	1,279	432	1,787	49,712
2005	15,172	12,512	12,383	3,669	5,265	1,346	470	1,582	52,399
2010	14,655	12,368	11,418	3,849	4,835	1,257	429	1,429	50,240
2011	13,917	12,271	11,393	3,506	5,020	1,096	351	1,381	48,935
2012	14,607	12,483	11,317	3,511	5,073	1,161	391	1,374	49,917
2013	13,820	11,663	10,861	3,343	5,268	972	379	1,332	47,638
2014	13,706	11,711	10,699	3,211	4,518	1,009	366	1,278	46,498
2015	14,310	12,155	10,942	3,297	4,992	1,060	397	1,364	48,517

(a) Divorces are presented by the state or territory where the court granting divorce was located, rather than the state or territory of usual residence of the applicants. The ABS advises caution in the interpretation and comparison of data at a state or territory level.

2.10 SELECTED DIVORCE INDICATORS, STATES AND TERRITORIES^(a), 2015

		NSW	Vic	Qld	SA	WA	Tas	NT	ACT ^(b)	Aust ^(c)
Divorces granted	no.	14,310	12,155	10,942	3,297	4,992	1,060	397	1,364	48,517
Crude divorce rate ^(d)		1.9	2.0	2.3	1.9	1.9	2.1	1.6	np	2.0
Divorces involving children ^(e)		6,657	5,510	5,472	1,661	2,358	537	171	697	23,063
Proportion of all divorces	%	46.5	45.3	50.0	50.4	47.2	50.7	43.1	51.1	47.5
Average number of children per divorce ^(f)	no.	1.8	1.8	1.9	1.8	1.8	1.8	1.8	1.9	1.8
Median age at divorce										
Males	years	44.8	45.0	45.7	45.8	45.7	47.4	44.3	45.6	45.3
Females	years	41.9	42.5	43.0	43.2	43.2	44.9	41.8	43.2	42.7
Median length of marriage										
To separation	years	7.8	8.2	8.8	9.3	8.8	10.5	6.8	10.1	8.5
To divorce	years	11.3	11.8	12.5	12.8	12.4	14.5	10.5	13.6	12.1
Applicant ^(g)										
Male	no.	3,650	3,071	2,697	824	1,162	311	108	355	12,178
Female	no.	4,540	3,976	3,389	1,157	1,391	423	93	368	15,337
Joint	no.	6,120	5,108	4,856	1,316	2,439	326	196	641	21,002

(a) Divorces are presented by the state/territory location of the court granting divorce rather than usual residence, and as such caution should be taken in comparing divorce numbers with the populations of each state/territory.

(b) Rates for the Australian Capital Territory are not published due to the high proportion of applicants from south-eastern New South Wales and Victoria who apply for divorce through Australian Capital Territory courts.

(c) The total may be greater than the sum of its components as it includes divorces granted where the state/territory of registration was not available.

(d) Per 1,000 estimated resident population at 30 June.

(e) Unmarried children of the marriage who were aged under 18 years at the time of application for divorce.

(f) Excludes divorces not involving children.

(g) Excludes divorces where type of applicant is not stated.

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from 7.6 years in 1995 to a peak of 8.9 years in 2006 and 2007. In 2015, the median duration of marriage to separation was 8.5 years.

Applicant for divorce

Over the last 20 years, the proportion of joint applications for divorce has been increasing, while the proportion of applications by one applicant has decreased. In 2010, the number of joint applications outnumbered male applications and female applications for the first time. In 2015, the proportion of joint applications increased again and remains the highest applicant type at 43.3% of all applications.

State and territory data

Divorce statistics in this publication are presented by the state or territory where the court granting divorce was located, rather than the state or territory of usual residence of the applicants. The ABS advises caution in the interpretation of data at a state or territory level as applicants for divorce may apply through their nearest court rather than a court in their state or territory of usual residence.

In 2015, the number of divorces granted in all states and territories

FAST FACTS

- Australian men and women are getting married later but also staying married longer. The age at which people have first married has increased by around three years.
- Grooms preparing for their first marriage are now on average 30.1 years of age, while brides are likely to be a shade younger at 28.5 years of age.
- The age of divorcees is also at a record high, now more than five years older on average than they were 20 years ago.
- Marriages that ended in 2015 lasted on average 12.1 years, compared with 11.0 years in 1995.

increased compared with 2014. The largest proportional increase occurred in Western Australia with 474 (10.5%) more divorces than in 2014.

Queensland had the highest crude divorce rate of 2.3 divorces per 1,000 estimated resident population, while the Northern Territory had the lowest divorce rate at 1.6 per 1,000 estimated resident population.

Australian Capital Territory and Tasmania reported the highest proportion of all divorces involving children, at 51.1% and 50.7% respectively. The Northern Territory (43.1%) and Victoria (45.3%) reported the lowest proportion of divorces involving children.

Tasmania had the highest median ages at divorce for males and females

in 2015. The median age at divorce for males was 47.4 years in Tasmania and for females, the median age at divorce was 44.9 years.

Median length of marriage prior to divorce was highest in Tasmania (14.5 years) followed by Australian Capital Territory (13.6 years), while the Northern Territory (at 10.5 years) had the shortest median length of marriage to divorce.

In 2015, all states and territories except Tasmania recorded more joint applications for divorce than male applications or female applications.

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Australian Bureau of Statistics (30 November 2016). 3310.0 – *Marriages and Divorces, Australia, 2015*. Retrieved from www.abs.gov.au on 30 November 2016.



a new life, home and relationship to be difficult. This is true even if the parties are amicable about the need for the separation and how they should address it.

ENDING RELATIONSHIPS WITHOUT USING VIOLENCE OR ABUSE

Ending a relationship can be a traumatic experience for all people involved, and it can also be a dangerous

As separation involves making changes to many aspects of their lives, people usually find the journey to a new life, home and relationship to be difficult. This is true even if the parties are amicable about the need for the separation and how they should address it.

time when conflict can escalate. Sometimes the use of violence or abuse can become worse during separation, as one partner takes out their anger and frustration on the other, or tries to use violence, threats or coercion to get the partner to stay.

Relationships Australia offers assistance to victims of family violence and can advise perpetrators on how to eliminate aggressive and violent behaviour and express their anger in constructive ways.

Relationships Australia (2015). *Responses to Separation & Divorce*. Retrieved from www.relationships.org.au on 20 October 2015.

Divorce: dividing property and finances

When you're going through a divorce, you have to think about how you're going to divide up your property and sort out your finances. If you can't agree, you'll have to get a court to decide for you, according to the **Raising Children Network**

Splitting property and money during divorce

When you get divorced, you and your husband or wife will have to split up all your property and money.

You can sort this out yourselves but if you can't agree, a court will need to decide for you. This is handled by either the Family Court of Australia or Federal Circuit Court of Australia for both married and de facto couples, except in Western Australia, where de facto couples need to use the Family Court of Western Australia.

What does property and finance include?

If you're going through a divorce, you must tell each other and the

court about all your property and finances.

Property and finances include:

- The family home
- Cars, household contents and other personal property
- Money in banks, building societies, credit unions and other financial institutions
- Investments in real estate
- Interests in businesses, shares in companies and life insurance policies
- Superannuation.

When you agree on how to split property and money

If you and your former partner agree on how to split your property and money, it can be a good idea

to formalise your agreement and make it legally binding. You can do this by applying for a consent order or making a binding financial agreement.

Consent orders

A consent order is when you put your agreement into a legal document and ask the appropriate court to make it official.

The court will make a consent order only if it thinks that your agreement is properly written and fair.

Financial agreements (prenuptial agreements)

You can make a binding, legally enforceable agreement about what will happen to your financial arrangements if your marriage breaks down. These agreements are often called prenuptial agreements, but the correct legal term is financial agreements.

You can make a financial agreement before, during or after a marriage. For a financial agreement

If you and your former partner agree on how to split your property and money, it can be a good idea to formalise your agreement and make it legally binding. You can do this by applying for a consent order or making a binding financial agreement.





to be legally binding, both you and your partner must get independent legal advice and you must both sign the agreement.

Financial agreements can cover financial settlement (including superannuation entitlements) and financial support (maintenance) of one spouse or the other after your relationship ends.

The court can say that your financial agreement is invalid if you didn't get independent advice or the agreement involves fraud – for example, if one of you didn't tell the other everything about your property and finances.

When you can't agree on how to split property and money

If you and your husband or wife can't agree on how to split your property and money, you have to get the appropriate court to decide for you. This is called applying for a financial order.

It's often cheaper and quicker to have matters like this dealt with by the Federal Circuit Court. The Family Court tends to handle more complex matters.

There are two types of financial orders:

- **Property order:** this deals with

If you and your husband or wife can't agree on how to split your property and money, you have to get the appropriate court to decide for you. This is called applying for a financial order.

the division of property, income and other financial resources.

- **Spousal maintenance order:** this deals with financial support of husbands, wives, former husbands and former wives.

When you apply for a financial order, you go through several steps.

Step 1: Procedural directions

This means asking the court what needs to happen next. For example, the court might say you have to hand over all your financial documents.

Step 2: Conciliation

This involves mediation, which is a discussion with a court official called a registrar. The idea is that the registrar tries to help you and your husband or wife agree.

Step 3: Further mediation

If you still can't agree, the court will set up further mediation for you.

Step 4: Court hearing

If you've been through all these steps

and you still can't agree, the court will have to decide for you. This is called a court hearing.

The court will look at the facts of your individual case when it decides. There is no formula or standard division of property and money, so different families get different decisions.

When making a decision, the court takes the following general principles into account:

- What you have and what you owe
- How much money and other financial contributions – like income or inheritances – you've each put into the marriage
- What non-financial contributions you've put in, including caring for children and looking after your home
- What you need for the future – for example, to look after children or care for your own health
- What you might earn in the future.

The court needs to agree that the financial order is fair.



Enforcement of consent orders or financial orders

You can enforce a consent order, financial order or financial agreement by using the *Family Law Act*. It's best to get legal advice. Your lawyer can write to your former partner to try to get them to abide by the order

or agreement. If that doesn't work, your lawyer can issue enforcement proceedings in court.

Spousal maintenance

Under the *Family Law Act*, you have a responsibility to financially support your husband or wife after divorce

if your husband or wife can't meet daily living expenses from their own resources and you can help meet those expenses. This is called spousal maintenance.

You don't automatically get or have to pay spousal maintenance. You and your former partner can formalise any payments that you agree on by putting the details into a consent order or financial agreement.

If a court is deciding on spousal maintenance, it looks at what you both need, as well as several other things, including:

- How old and how well you are
- How much you earn and owe, and your other financial resources
- How much you can work
- Whether the relationship has affected your ability to earn income.

You must apply for spousal maintenance within 12 months of a divorce becoming final. After this time, the court will decide whether you're allowed to apply for spousal maintenance.

Raising Children Network (2016). *Divorce: dividing property and finances*. Retrieved from <http://raisingchildren.net.au> on 7 March 2016.

DIY divorce negotiation tips

Increasingly, separating couples are people wanting to have a 'do-it-yourself divorce' settlement, in which they negotiate directly with their former partner instead of through lawyers or the courts. Here are some practical negotiation tips to consider:

- Make copies of all relevant financial information.
- Protect your mail and email from access by your former partner.
- Take detailed notes of any improper behaviour by your former partner during the divorce process, e.g. refusing access to children, violent acts or threats, etc.
- Do not rush into any interim agreements with your former partner on parenting or financial matters.
- Calculate your future costs (bills, bank statements etc) before you negotiate a settlement.
- Establish an agreement that your assets will not be disposed of/debts incurred on your behalf without your written consent.
- Seek legal advice, if only to understand your entitlements.
- Aim to negotiate directly (a 'do-it-yourself divorce'), rather than through lawyers or the court.
- Plan ahead and take considered action to take control of your life (do not act out of revenge or anger towards your former partner).
- Be kind to yourself, and try to surround yourself with supportive people.
- If children are involved, try and see things from their perspective to ensure their needs are paramount.

Source: Separation and Divorce Advisors, *DIY Divorce Negotiations – 10 Practical Tips*.

Australian divorced couples hit less hard financially than overseas counterparts

*New analysis has shown that Australian couples emerge less hard hit financially by divorce than in four other developed countries, announces the **Australian Institute of Family Studies***

Data presented to the 13th Australian Institute of Family Studies conference, confirms that only in Switzerland do couples fare better financially post-divorce than in Australia.

Despite that, the impact of separation on household income remains greater for women than men in all countries except Britain, where separation negatively affected the finances of men and women to much the same extent.

Researchers from AIFS and the Australian National University compared the financial consequences of relationship breakdown for men and women in six OECD countries – Australia, the United States, Britain, Germany, Switzerland and Korea.

AIFS Senior Research Fellow, Dr Lixia Qu, said the reasons for the different financial impacts of separation in different countries are not straightforward and are linked to a combination of factors.

“Of all six countries, Australia had the second best outcomes for separated women six years after separation, with the heaviest financial burden falling on

women in the United States,” Dr Qu said.

“Australian women’s financial viability after separation were linked to high levels of government income support; continuing workforce participation; modest levels of child support received from the other parent; and their tendency to re-partner.

“However, there is no single characteristic or set of characteristics that produces a better outcome for separated women. Improving one, or any of these factors

Only in Switzerland do couples fare better financially post-divorce than in Australia. Despite that, the impact of separation on household income remains greater for women than men in all countries except Britain, where separation negatively affected the finances of men and women to much the same extent.





“Australian women’s financial viability after separation were linked to high levels of government income support; continuing workforce participation; modest levels of child support received from the other parent; and their tendency to re-partner.”

should improve the outcomes for separated women.

“For example, the United States had the worst outcome for separated women linked to low levels of government income support; low minimum wages; and only modest rates of re-partnering.

“By contrast, Switzerland had the best outcomes for women post divorce in spite of comparatively low government expenditure.

“This was due to high levels of Swiss child support payments from the other parent; high labour force participation; high wages and high rates of re-partnering.”

Co-researcher ANU Professor Matthew Gray said the research also confirmed that Australian women continue to experience a sharp decline in their household income following divorce and separation.

The analysis showed that one year after separation, women’s household income declined sharply in Australia and across all six OECD countries, compared to men, followed by some recovery six years later.

“In Australia, one year after separation, separated women had an equalised income (adjusted for the number of household members) 21 per cent lower than comparable non-separated women,” Professor Gray said.

“Meanwhile men in that first year, had an equalised household income broadly the same as non-separated men.

“But six years after separation, the income of separated Australian women recovered somewhat so that it was 12 per cent lower than comparable non-separated women.

“The income hit experienced by separated Australian women six years after separation was less than countries such as the US where it was 37 per cent lower, Germany 23 per cent lower and Britain 17 per cent lower than comparable non-separated women.

“In Britain, US and Germany, separated men were substantially worse off than non-separated men: in Britain they were 18 per cent worse off; in Germany 13 per cent worse off; and in the USA 11 per cent worse off. In Australia the negative impact was slight – just 1 per cent. Only in Switzerland did men emerge financially better off.”

Australian Institute of Family Studies (2016). *Australian divorced couples hit less hard financially than overseas counterparts*. Retrieved from <https://aifs.gov.au> on 26 October 2015.

MARRIAGE, FAMILIES AND SEPARATION

This brochure from the **Family Court of Australia** provides information for people considering, or affected by separation or divorce

It includes information about:

- The social and legal effects of separation
- The services provided to families by the Family Court of Australia and the Federal Circuit Court of Australia and by government, community and other agencies, and
- Some of the steps involved in court proceedings.

SEPARATION

Separation can be an upsetting experience for everyone involved. It is understandable that you may be stressed at this time. It is important for you and your children that you have the appropriate support to help you through this difficult time.

When you separate, you and your former partner may need to make important decisions about the future care of your children and how to divide your property, money and belongings. Working through these issues is often difficult and emotionally challenging.

Legal advice

If you are considering separation or have separated, you should seek legal advice. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. A lawyer can also explain and help you reach an agreement with your former partner without going to court.

You can get legal advice from a:

- Legal aid office
- Community legal centre, or
- Private law firm.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

Separation is also usually a stressful time for your children. They may experience a range of emotions that are difficult for them to deal with and talk about with you. They may also behave in ways that are unusual for them.



- There are services in the community that can help:
- You and your partner work through any problems in your relationship
 - You and your children adjust to separation or divorce
 - You and your former partner reach an agreement, and
 - You and your family adjust to and comply with court orders.

To find a community service near you:

- Go to www.familyrelationships.gov.au, or
- Call 1800 050 321.

PERSONAL SAFETY

If you have any concerns about your safety while attending court, please call 1300 352 000 before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place.

By law, people must inform the Court if there is an existing or pending family violence order involving themselves or their children. More detail may be found in the fact sheet, *Do you have fears for your safety when attending court.*

NON-COURT BASED FAMILY SERVICES

People considering separation or divorce, and those affected by it, are encouraged to use services in the community to resolve issues.

Community-based services that can help you and your family include:

Family counselling – a process in which a family counsellor helps people deal with personal and interpersonal issues relating to families, relationships, marriage, separation and divorce.

Family dispute resolution – a process in which a family dispute resolution practitioner, independent of all the parties, helps people resolve some or all of their disputes with each other during and after separation and divorce.

Arbitration – a process in which parties to a dispute present arguments and evidence to an arbitrator, who makes a determination to resolve the dispute.

You can get a list of arbitrators from the Australian Institute of Family Law Arbitrators and Mediators (AIFLAM):

- Go to www.aiflam.org.au
- Or call 02 6246 3758.

If there is a history of family violence, it may not be appropriate to attend the services listed above. Speak to staff at the agency about your options and the support services that are available.

Confidentiality in non-court based family services

Generally, what is said during family counselling and

Separation can be an upsetting experience for everyone involved. It is understandable that you may be stressed at this time. It is important for you and your children that you have the appropriate support to help you through this difficult time.



Other help available

Family Relationship Centres

Family Relationship Centres:

- Provide information to help strengthen family relationships
- Help families access other services, and
- Provide confidential assistance for separating families; for instance, family dispute resolution.

For more information about Family Relationship Centres or to find a centre near you:

- www.familyrelationships.gov.au or call 1800 050 321

Department of Human Services

CHILD SUPPORT

The Department of Human Services administers the Australian Government's Child Support Scheme and helps parents take responsibility for the financial support of their children after separation.

There is a *Parents guide to child support* available on the website:

- www.humanservices.gov.au

CENTRELINK

Centrelink can help with:

- Financial assistance
- Child care costs
- Finding a job.

If you already receive a payment from Centrelink, you should contact them to advise of any changes to your circumstances to ensure you receive your correct entitlement.

Centrelink has information about *Payments for families* on the website:

- www.humanservices.gov.au or call 13 61 50

Attorney-General's Department

The Attorney-General's Department provides information for families and couples including resources to help you manage a family dispute.

Australia's family law system helps people resolve the legal aspects of family relationship issues, including family relationship breakdown. It encourages people to agree on arrangements without going to court.

Go to the Families area of the website:

- www.ag.gov.au

family dispute resolution is confidential and cannot be used in court later.

There are exceptions; for instance:

- Where there is a legal requirement to report a suspicion or risk of child abuse and violence or threats of violence, and
- The Court may order that a family counsellor or family dispute resolution practitioner give evidence of an admission or disclosure of abuse made during a session.

NOTE: Meetings, discussions or other exchanges with arbitrators are not confidential, and may be used in court.

REACHING AN AGREEMENT

What are the advantages?

Reaching an agreement with your former partner can offer many advantages, such as:

- You make your own decisions
- You greatly reduce the financial and emotional costs of legal proceedings
- Your continuing relationship as parents, if you have children, is likely to work better
- You are able to move forward and make a new life for yourself, and
- You may improve communication with your former partner and be better able to resolve disputes in the future.

Parenting plans

A parenting plan is a written agreement that sets out parenting arrangements for children. Because it is worked out and agreed jointly, you and your former partner do not need to go to court.

Unless the Court orders otherwise, you and your

former partner can agree to change a parenting order (made on or after 1 July 2006) by entering into a parenting plan. A parenting plan is not legally enforceable. It is different from a parenting order, which is made by the Court.

For more information about parenting plans and how they work, speak to staff at a community-based service and/or get legal advice.

Consent orders

A consent order is a written agreement that is approved by the Court. A consent order can cover parenting arrangements for children as well as financial arrangements such as property and spousal or de facto maintenance.

Consent orders have the same legal force as if they had been made by a judicial officer after a court hearing.

You and your former partner can apply for consent orders to be made without going to court. For more information or to get an 'Application for Consent Orders Kit':

- Go to www.familycourt.gov.au
- Live Chat on the website
- Call 1300 352 000, or
- Visit your nearest family law registry.

GOING TO COURT

If you cannot reach an agreement, you may consider applying to the Court for orders. Going to court is often a stressful time for many people. It can also be expensive and time-consuming. However, sometimes it may be the only way to deal with a dispute.

Even when a court application is filed, it is possible to reach an agreement, at any stage, without the need

for a court hearing. In fact, a judicial officer is needed to make a final decision in only a very small percentage of cases started in court.

Compulsory family dispute resolution

Before you apply to the Court for a parenting order, including those seeking changes to an existing parenting order, you need to attend family dispute resolution (FDR) and obtain a certificate from a registered FDR provider.

There are some exceptions to this requirement, such as cases involving family violence, child abuse, or urgency. For more information about these exceptions, see the fact sheet, *Compulsory Family Dispute Resolution – court procedures and requirements*.

For more information about FDR and how to locate a registered FDR provider:

- Go to www.familyrelationships.gov.au
- Or call the Family Relationship Advice Line on 1800 050 321.

NOTE: If you are required to provide a certificate and you fail to do so, the Court cannot accept your application.

Pre-action procedures – Family Court

In the Family Court, parties intending to apply for parenting and/or financial orders must follow pre-action procedures, which include attending dispute resolution, before filing an application. The aim of the pre-action procedures is to explore areas

of resolution and where a dispute cannot be resolved, to narrow the issues which require a court decision.

For more information about applying for parenting or financial orders in the Family Court see the brochures:

- *Before you file – pre-action procedure for financial cases*, and
- *Before you file – pre-action procedure for parenting cases*.

Family consultants

Family consultants are psychologists and/or social workers who specialise in child and family issues after separation and divorce.

Family consultants can help you and the Court in many ways. They can:

- Help you and the other party resolve your dispute
- Assist and advise the Court and give evidence about your case
- Write and provide a report to the Court about your family, and
- Advise the Court about the services provided to families by government, community and other agencies.

Their work with you is not confidential and may be used in court at a later date.

If appropriate, the Court may also appoint a family counsellor or FDR practitioner. Communications with

Family law registries

Both the Family Court of Australia and the Federal Circuit Court of Australia deal with family law matters. For more information about the courts:

- Go to www.familycourt.gov.au
- Go to www.federalcircuitcourt.gov.au
- Call 1300 352 000, or
- Visit a family law registry near you.

AUSTRALIAN CAPITAL TERRITORY

Canberra – Cnr University Ave and Childers St
Canberra ACT 2600

NEW SOUTH WALES

Albury – Level 1, 463 Kiewa St Albury NSW 2640

Dubbo – Cnr Macquarie and Wingewarra Sts
Dubbo NSW 2830

Lismore – Level 2, 29-31 Molesworth St
Lismore NSW 2480

Newcastle – 61 Bolton St Newcastle NSW 2300

Parramatta – 1-3 George St Parramatta NSW 2150

Sydney – 97-99 Goulburn St Sydney NSW 2000

Wollongong – Level 1, 43 Burelli St
Wollongong NSW 2500

NORTHERN TERRITORY

Alice Springs – Westpoint Building,
Cnr Railway Terrace and Stott Terrace
Alice Springs NT 0870

Darwin – Supreme Court Building,
State Square Darwin NT 0800

QUEENSLAND

Brisbane – 119 North Quay Brisbane QLD 4000

Cairns – Level 3 and 4, 104 Grafton St
Cairns QLD 4870

Rockhampton – 46 East St (Cnr Fitzroy St)
Rockhampton QLD 4700

Townsville – Level 2, Commonwealth Centre
143 Walker St Townsville QLD 4810

SOUTH AUSTRALIA

Adelaide – 3 Angas St Adelaide SA 5000

TASMANIA

Hobart – 39-41 Davey St Hobart Tas 7000

Launceston – Level 3, ANZ Building, Cnr Brisbane
and George Sts Launceston Tas 7250

VICTORIA

Dandenong – 53-55 Robinson St Dandenong Vic 3175

Melbourne – 305 William St Melbourne Vic 3000

WESTERN AUSTRALIA

Perth – Family Court of Western Australia
150 Terrace Rd Perth WA 6000

Who else can help?

LEGAL AID

AUSTRALIAN CAPITAL TERRITORY

- www.legalaid.act.gov.au
- 1300 654 314 or 02 6243 3471

NEW SOUTH WALES

- www.legalaid.nsw.gov.au
- 02 9219 5000 or 1300 888 529 (LawAccess NSW)

NORTHERN TERRITORY

- www.ntlac.nt.gov.au
- 08 8999 3000 or 1800 019 343

QUEENSLAND

- www.legalaid.qld.gov.au
- 1300 651 188 or 07 3238 3500

SOUTH AUSTRALIA

- www.lsc.sa.gov.au
- 1300 366 424 or 08 8463 3555

TASMANIA

- www.legalaid.tas.gov.au
- 1300 366 611

VICTORIA

- www.legalaid.vic.gov.au
- 03 9269 0120 or 1800 677 402

WESTERN AUSTRALIA

- www.legalaid.wa.gov.au
- 1300 650 579

LAW SOCIETIES

AUSTRALIAN CAPITAL TERRITORY

- www.lawsocact.asn.au
- 02 6247 5700

NEW SOUTH WALES

- www.lawsociety.com.au
- 02 9926 0333

NORTHERN TERRITORY

- www.lawsocnt.asn.au
- 08 8981 5104

QUEENSLAND

- www.qls.com.au
- 07 3842 5842

SOUTH AUSTRALIA

- www.lawsocietysa.asn.au
- 08 8229 0200

TASMANIA

- www.lst.org.au
- 03 6234 4133

VICTORIA (INSTITUTE)

- www.liv.asn.au
- 03 9607 9311

WESTERN AUSTRALIAN

- www.lawsocietywa.asn.au
- 08 9322 7877

COMMUNITY LEGAL CENTRES

NEW SOUTH WALES

- www.clcsw.org.au
- 02 9212 7333 (Community Legal Centres NSW)

SOUTH AUSTRALIA

- www.saccls.org.au
- 08 8342 1800 (Community Legal Centres)

VICTORIA

- www.communitylaw.org.au
- 03 9652 1500 (Federation of Community Legal Centres)

WESTERN AUSTRALIA

- www.communitylaw.net.au
- 08 9221 9322 (Community Legal Centres Association)

For referrals in all other states and territories contact the National Association of Community Legal Centres:

- www.naclc.org.au
- 02 9264 9595

ABORIGINAL AND TORRES STRAIT ISLANDER LEGAL SERVICES

AUSTRALIAN CAPITAL TERRITORY/ NEW SOUTH WALES

- Aboriginal Legal Service
- 02 8303 6699

NORTHERN TERRITORY

- Central Australian Aboriginal Legal Aid Service – Alice Springs
- 08 8950 9300 or 1800 636 079

North Australian Aboriginal Justice Agency – Darwin

- www.naaja.org.au
- 08 8982 5100 or 1800 898 251

QUEENSLAND

Aboriginal and Torres Strait Islander Legal Service – Brisbane

- 07 4721 6346 or 1800 012 255
- Aboriginal and Torres Strait Islander Community Legal Services – Townsville
- 07 4721 6346

SOUTH AUSTRALIA

- Aboriginal Legal Rights Movement
- www.alrm.org.au
- 08 8113 3777 or 1800 643 222

TASMANIA

- Tasmanian Aboriginal Centre
- 03 6234 8311

VICTORIA

- Victorian Aboriginal Legal Service
- www.vals.org.au
- 03 9419 3888 or 1800 064 865

WESTERN AUSTRALIA

- Aboriginal Legal Services of Western Australia
- www.als.org.au
- 08 9265 6666 or 1800 019 900

AUSTRALIAN INSTITUTE OF FAMILY LAW ARBITRATORS & MEDIATORS (AIFLAM)

- www.aiflam.org.au
- 02 6246 3758

a family counsellor or FDR practitioner are confidential and may not be used in court.

For more information about family consultants, see the fact sheet, *Family Consultants*.

Children at court

Generally, courts are not an appropriate place for children. You should make other arrangements for their care when you come to court.

Sometimes children will need to attend court to speak

to a family consultant or judicial officer. If this is your situation, you should check with court staff if any child care arrangements need to be made for the day.

STEPS INVOLVED IN COURT PROCEEDINGS

1. Pre-action procedures †
2. Court application filed Commonwealth Courts Portal
3. First court appointment or hearing
4. Child dispute services (see 'Family Consultants' on page four of this brochure)

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If you cannot reach an agreement, you may consider applying to the Court for orders. Going to court is often a stressful time for many people. It can also be expensive and time-consuming. However, sometimes it may be the only way to deal with a dispute.

5. Court-based dispute resolution (financial)
6. Preparation for final trial or hearing ‡
7. Final trial or hearing.
 - † only applies in the Family Court.
 - ‡ may include additional court appointments or hearings.

Agreement may be reached at any stage, with consent orders made and the case finalised.

Different steps may apply in some cases. You can get more information about particular court appointments and hearings from:

- www.familycourt.gov.au
- www.federalcircuitcourt.gov.au
- Live Chat on the website
- By calling 1300 352 000
- Or at your nearest family law registry.

COMMONWEALTH COURTS PORTAL

Applications for Divorce (and certain accompanying documents) can be electronically filed through the Commonwealth Courts Portal (www.comcourts.gov.au).

For more information see the *Commonwealth Courts Portal User Guide*, available at www.familycourt.gov.au and www.federalcircuitcourt.gov.au

COMPLIANCE WITH COURT ORDERS

When an order is made each person bound by the order must follow it. There are services in the community that can help you and your family adjust to and comply with court orders.

If the order is not complied with, you may file a court application. The Court can make an order to enforce an existing order. The Court may also make an order that discharges, varies or suspends the order or renews some or all of an earlier order, or adjourn the case to allow a person to apply for a further order that alters the existing order.

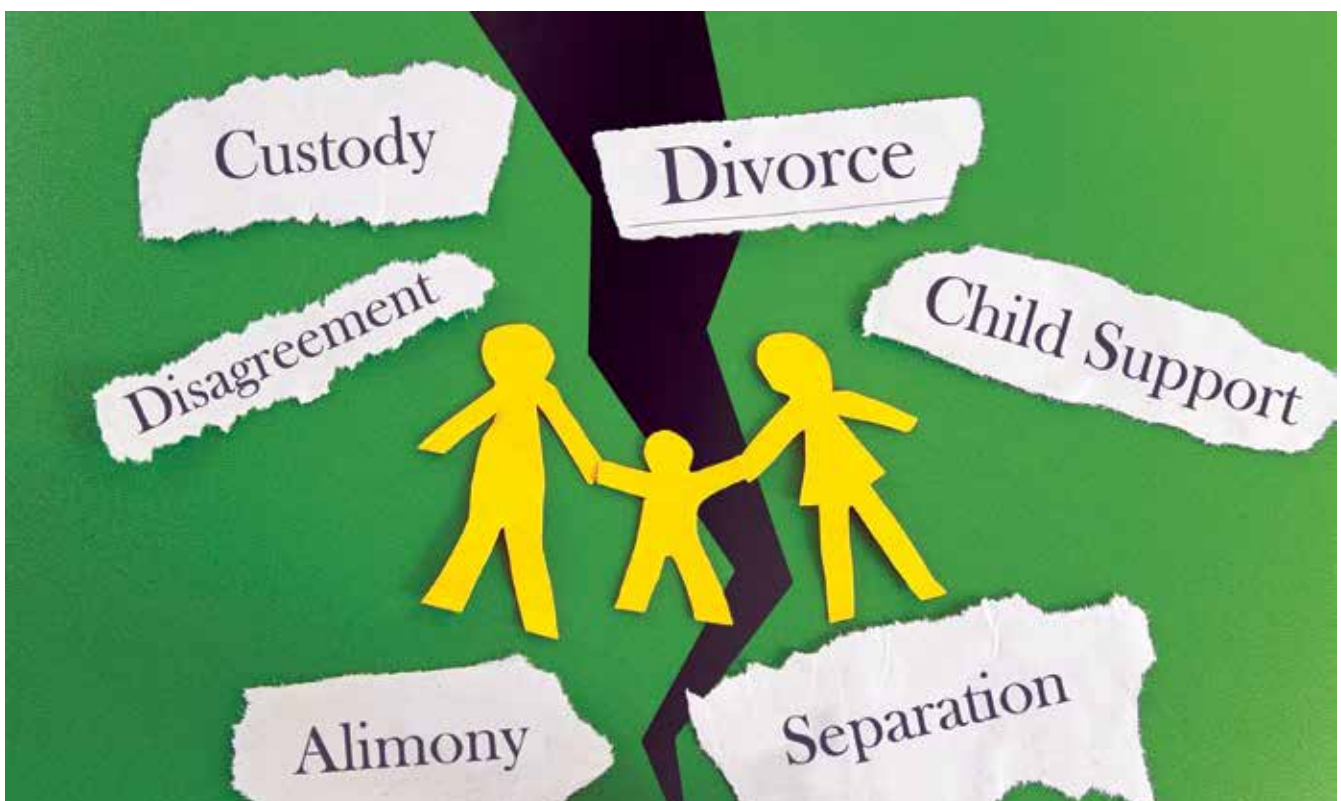
If the Court finds a person has breached (contravened) a parenting order, it may impose a range of penalties. For more information about this, see the fact sheet *Compliance with parenting orders*.

Interpreters

If you need an interpreter to assist you at court, please tell court staff at least two weeks before your court appointment or hearing. They will arrange a professional and independent interpreter to assist you free of charge.

If you need the services of a translator and need to contact the Family Court of Australia or Federal Circuit Court of Australia, call the Translating and Interpreting Service on 13 14 50. This is a free service.

Family Court of Australia (2016). *Marriage, families & separation*. Retrieved from www.familycourt.gov.au on 26 October 2015.



Separated parents and the family law system: what does the evidence say?

Most parting parents separate amicably, the data show. **Rae Kaspiew** from the Australian Institute of Family studies explains the latest findings

Talk of reforming the Family Court and family law system is back in the headlines, but agitation about the family law system has a long history.

Since the introduction of the *Family Law Act* and the establishment of the Family Court of Australia in 1976, there have been many parliamentary inquiries and numerous reforms. However, sad stories of parents who've had a tough time of the law continue to shape public and politicians' perceptions of how family law functions in Australia.

WHAT DOES THE EMPIRICAL EVIDENCE SAY?

The findings from a large research program conducted by the Australian Institute of Family Studies tells many stories. One of the main ones is a good news story: most couples separate amicably, work parenting and property out for themselves and maintain good relationships with the other parent and their children after separation. This applies to more than 70% of separated parents.

There are also more complex stories in the data. One concerns the parents who do use the family law system. Where parents don't work things out themselves, about 3% use court, 6% use lawyer-based negotiation and about 10% use family dispute resolution (FDR), which is a form of mediation. Since 2006, FDR has become much more widely used, with 10% of parents in 2014 using this mechanism, compared with 3% in 2006. At the same time, lawyers are used less (11% cf 6%) and so are courts (8% cf 3%).

The families who use the family law system are troubled. They are much more likely to have a history of family violence, concerns for their own or their children's safety as a



Most couples separate amicably, work parenting and property out for themselves and maintain good relationships with the other parent and their children after separation. This applies to more than 70% of separated parents.

result of ongoing contact with the other parent, mental ill health, substance abuse, gambling, problematic social media or pornography use.

These characteristics are particularly concentrated among parents who use courts (85% report emotional abuse and 54% report physical violence) and to a slightly lesser extent lawyers (emotional abuse: 85%, physical violence: 38%) and to a lesser extent still family dispute resolution (emotional abuse: 74%, physical violence: 27%). Up to four in ten parents who use courts have several of these issues and it is clear from this that concerns for the well-being and safety of children in these families are particularly relevant.

WHAT DO PARENTS THINK OF THE FAMILY LAW SYSTEM?

Even with these complex charac-

teristics, half or more of the parents who used the court to make parenting arrangements think it worked adequately for themselves (50%) and their children (61%). Of the three ways that parents make parenting arrangements – lawyers, courts and family dispute resolution – those who use FDR are more satisfied (73.6%) than those who use lawyers (60%) and courts.

Most satisfied of all are those who work things out for themselves (89%). The evidence does not support bald statements about the family law system, especially if you consider that when court is involved, one parent will almost invariably be a 'loser' to a greater extent than the other in an adversarial system and these are families with significant problems.

There is also clear evidence that

COMPLEX ISSUES AND FAMILY LAW PATHWAYS, 2014

Safety concern issue	FDR / mediation (%)	Lawyer (%)	Court (%)	Discussions (%)	Just happened (%)	Other (%)
Alcohol or drug use	27.5	29.5	41.6	19	27.8	32.2
Mental health	45.80	50.5	59.30	32.2	34.4	41.30
Gambling	8.70	6.80	12	4.5	9.4	9.9
Internet or social media	26.20	33.1	31.20	19.6	19.8	22.5
Pornography use	13	12.70	15.20	6.7	8.3	7
Emotional abuse	73.7	86.10	85.30	47.80	58.40	82.5
Physical violence	26.6	38.90	53.7	14.8	21.8	29.8
4+ issues	21.1	26.8	38.1	10.5	16.8	24.40
Mean no. of issues	2.2	2.6	3	1.40	1.8	2.30
Current safety concerns	25.6	33.80	46.40	11.5	18	27.3
Number of participants	453	282	145	2,778	450	111

Source: Australian Institute of Family Studies.

some things need to be improved in the way the system deals with some issues, including matters of risk and safety.

The 2012 family violence amendments were a step in the right direction in this respect: of the 653 family law system professionals surveyed in 2014, 77% agreed that the family law system needed the 2012 family violence amendments.

These changes were intended to support better identification of and responses to matters involving family violence and safety concerns. But the evidence from the evaluation of the 2012 family violence amendments shows that more needs to be done.

This is evident in many ways, perhaps most clearly in the responses of family law system professionals to two propositions. Asked if the family law system places adequate priority on supporting children to have meaningful relationships with both parents after separation, 97% said yes. It's a different story in relation

to the other proposition – does the family law system place adequate priority on protecting children from harm? – to which 69% said yes.

PROBLEM AREAS

There are several problem areas. One is screening, risk assessment and risk management. This occurs in an inconsistent and piecemeal way across the system and is recognised by family law system professionals. Asked if they thought the family law system screened adequately for family violence and child safety concerns, 46% disagreed.

About 30% of parents who used FDR, lawyers and courts in 2014 indicated that they had not been asked about family violence and safety concerns. Considering the prevalence of risk factors among such parents these findings point to a need for significant improvement.

Another issue is the legislation: legal professionals recognise that the provisions governing parenting

arrangements are complex and confusing. Since the 2012 amendments, parenting arrangements have also taken longer to resolve out of court and especially in court. For parents and children where risk is an issue, this is not good news.

Separation is generally not a trauma for parents and children. For a troubled minority, the story is much more complex. There is a clear need for improvement in some areas to provide better solutions for children where risk is an issue.

Rae Kaspiew is Senior Research Fellow, Australian Institute of Family Studies.

Disclosure statement

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THE CONVERSATION

Kaspiew, R (29 July 2016). *Separated parents and the family law system: what does the evidence say?* Retrieved from <http://theconversation.com> on 29 July 2016.

The families who use the family law system are troubled. They are much more likely to have a history of family violence, concerns for their own or their children's safety as a result of ongoing contact with the other parent, mental ill health, substance abuse, gambling, problematic social media or pornography use.

CHILDREN AND SEPARATION

Separation or divorce does not normally end your involvement and responsibility as a parent. Children need the continuing affection and support of both parents. This will require cooperation with your former partner which may not always be easy, according to this guide from [Family Relationships Online](#)

The pain of a separation can be felt in many ways. You may feel lonely, desperate, depressed or grief-stricken; you may feel a failure and lose your self-confidence; you may feel angry, jealous or guilty. Mixed up with all these emotions, you might also feel a sense of relief.

All of these feelings are normal responses to a separation. You should not be alarmed by the fact that you experience them and you should not expect to cope with everything immediately. On the other hand, if you nurse feelings such as jealousy, anger or despair for too long, they may take over and prevent you from once again leading a fulfilling life. They may also get in the way of your children's adjustment. There are many ways of coping with a separation but they can be broadly described as falling into two basic categories. One reaction is to get stuck in self-pity, living in the past, continuing the bitterness, putting the children in the middle of your conflict and turning the children against their other parent. This type of reaction always means increased difficulties for everyone, particularly the children.

The other reaction is where you try to make the best of the situation and learn through your experience. Choosing this direction gives you the chance to rebuild your life, regain your self-confidence, find new and satisfying goals and take a positive view of life again.

The way you handle the separation very much affects how your children cope with it. During this time of great difficulty you may find some of the following suggestions helpful for you and your children.

WHAT HAPPENS FOR CHILDREN WHEN THEIR PARENTS SEPARATE?

Children can react very differently to separation or divorce. The way they react depends on a number of things, but two important factors are the age of the child and the degree of conflict and animosity between the parents.

There is no doubt this is a stressful period for children, but most recover and end up leading normal healthy lives. Children from separated families can develop and flourish just as well as other children. Their adjustment is enhanced when parents remain sensitive to the children's needs.

Separation is often a surprise for children and they generally experience many of the same feelings as adults. Children can also grieve for quite a long time. They may be unaware of the problems their parents were having and they may feel shocked and confused when the separation



occurs. They are also likely to feel insecure and worry whether the remaining parent will leave them as well.

Some children may feel that they must have been to blame. Others may feel very angry with either or both of their parents and want to blame one of them. Sometimes children become unsure about whether they can still love the parent who left, and they can wonder what is happening to the absent parent. Although parents are often upset and confused themselves at this time, it is important to try to understand what your children are going through and to consider their feelings as well.

Remember, it can be far less harmful for a child to go through family breakdown than to go on living in an unhappy family where there is extreme tension and fighting in the home.

HOW DO THEY BEHAVE?

Children do not always communicate with words. Their responses to their parents' separation may be expressed in behaviour.

Some children become very withdrawn and avoid talking about the separation or the absent parent. Others (particularly if they are younger) may become very 'clingy' and not want to let the parent they are with out of their sight. These children feel they have 'lost' the departing parent and are determined not to lose their remaining parent.

Others may 'regress' in their behaviour – they may act younger than they did before the separation, talk in baby talk or fall back in their toilet training. Some may have nightmares, others may become rebellious, difficult to handle or aggressive with other children and even their parents. These are some of the ways your children might show their distress. This is their signal that they need your special attention. With time, most of these behavioural problems disappear. However, if they persist over a long period it is best to seek some help.

WHAT HAPPENS TO CHILDREN AT DIFFERENT AGES WHEN PARENTS SEPARATE?

Birth-2 years

Children in this age group are highly dependent on their parents.

If one parent has taken on primary responsibility for care of a child it is almost certain that a strong physical and emotional dependence will develop between them. Lengthy separation from this parent can be a source of intense emotional distress. A child at this age has a very different concept of time than does an adult. For very young children a few hours will often seem to be a very long time and this needs to be considered when making parenting arrangements.

In this age group, children are likely to fret for the absent parent with whom they need frequent, short periods of contact to continue their relationship.

A high level of conflict between the parents can make visits extremely stressful for a child of this age. For this very young group, it can be helpful if parents stick to a routine and, where possible, provide reminders of the other parent such as photos. It may also be useful if some special toy or blanket travels with them between households.

2.5-5 years

Children in this age group begin to be a little more independent of their parents. Separation can be a major crisis for these children and they can react with shock or depression. For instance, children in this group may show their distress by a change in sleeping habits, toilet habits or a deterioration in language skills.

In this age group also, children differ from adults in how they perceive time. They have less time distortion than do infants, but still experience a short period as being a much longer time than it is for an adult.

Pre-school children understand the world through very different thought processes than older children. They often fantasise about what they don't understand and are likely to make up things from bits of their own experience. They are also often confused by time and days. A calendar showing when they will be with either parent may be helpful. They are sensitive to criticism about either parent and may perceive this as criticism of themselves.

5-8 years

Children in this age group are beginning to be able to talk about their feelings.

They often have an intense wish to restore their parents' relationship and say and do things they hope will bring this about. They often want to stay at home to be near the parent with whom they spend most of their time.

Similarly, they may feel reluctant to leave the other parent at the end of a visit and may exhibit behavioural problems which are noticed by friends, teachers and parents. Children in this age group can have difficulty expressing their worries and tend to demonstrate them through their behaviour which can be difficult

to understand.

It may be helpful if both of you, or adult friends or relations, invite children of this age to express their emotions about the separation, particularly of their desire to get their parents back together.

You should discourage children from taking responsibility for making arrangements about contact.

8-12 years

Children in this age group are able to speak about their feelings. They experience a conflict of loyalty between each parent and, if the conflict between parents is high, they may try to cope by rejecting one parent or trying to keep both happy by saying negative things about one to the other. They are also beginning to experience the world outside their family. They have sporting and other interests and social commitments. When you make parenting arrangements you should take account of your children's interests and activities. This allows them the opportunity to join in the social and sporting activities which are an important part of their development. Where possible, it would be beneficial for children to continue their activities regardless of who is caring for them.

12-16 years

In some respects adolescents are increasingly independent of their parents, even when parents are not separated. They need to be given time and space to work out their own reactions to their parents' separation. If pressured by either parent, adolescents are likely to react with anger and rejection.

They particularly need flexibility in arrangements to allow them to participate in normal adolescent social activities and school events.

WHAT IS THE EFFECT OF CONTINUING DISAGREEMENT OVER CHILDREN?

Children are very sensitive to conflict between their parents. While disagreement is normal in any family, a continuation of conflict makes life very difficult for children. In fact, research shows that this is one of the critical factors affecting children's adjustment after separation or divorce.

It is hard for children to enjoy both parents when they continue fighting after they have separated, particularly if they put the children in the middle of the conflict. Eventually, because of the stress this causes them, children may become anxious or distressed before and after staying with or visiting the other parent, or they may start having problems at school.

Children's development can be seriously hampered by exposure to hostility and violence. Overhearing or witnessing intense conflict is harmful and places them at risk of long-term emotional and behavioural problems.

HOW PARENTS CAN MAKE THINGS DIFFICULT FOR CHILDREN FOLLOWING SEPARATION

When children are growing up their parents, or in some

cultures members of their extended family, are the most important and powerful people in their lives. It is very easy after separation for these adults to sometimes misuse their power because they feel so hurt and angry about what has happened.

Most parents sincerely love and care about their children. But in times of intense conflict in a relationship children can become weapons against the other parent. Unfortunately, these parents do not realise the harm this is doing to their children.

Sometimes parents may be quite unaware of the more subtle things they do which affect the way their children feel about each of them. These things include putting the children in a position where they feel they have to protect their parents from hurt or choose between the people they love most.

Sometimes, instead of providing support for their children, parents expect their children to look after them and keep them happy rather than the other way round.

Separation and divorce can be extremely traumatic for children – they can see the dramatic changes in their world as a loss of care and stability.

For children up to five years old, family breakdown can be difficult to understand and the child is especially vulnerable at this age.

Older children can experience a time of confusion and uncertainty even though they are more able to understand what is happening to the family.

WAYS YOU CAN HELP YOUR CHILDREN

- When you begin to accept the separation then your children will be able to do the same – it is important that you get on with your life and not dwell in the

past or hang on to any anger or bitterness.

- Ensure your children know you both still love them and that this will always be the case.
- Don't criticise the other parent in front of the children.
- Be positive about the other parent when talking to your children.
- Give your children the clear message that it is good for them to have an ongoing relationship with both of you.
- Let your children know that even though separating is upsetting, you are handling it and expect things to improve.
- Be aware that children often tell you what they think you want to hear and sometimes what they say should not be taken too literally. A young boy who says, when questioned about his time with his father: "I don't like the food my daddy gives me to eat", may just want to reassure his mother that he likes living with her.
- Talk to the other parent about your children and their interests.
- Talk to your children's teachers.
- Give your children the time to think about and express their own feelings about the other parent, even if those feelings are not the same as yours.
- Avoid conflict in front of your children.
- Keep your children out of your arguments. Avoid asking them to give messages to the other parent.
- Turn to other adults for emotional support rather than your children.
- Help your children to discuss their feelings about the separation.
- Reassure children that they are not to blame –



sometimes when parents are fighting some of the anger is directed toward the children who may then mistakenly believe that it was because they were bad or troublesome that led to their parent's separation.

MAKING DECISIONS

Sometimes parents feel that it is best for children to make up their own minds about where they want to live. Young children are not usually ready for this responsibility as they are not generally mature enough to make this important decision. Having to make such a decision places a heavy burden on them and having to choose between their parents can lead them to feel guilty about the parent they have not chosen.

Usually the best decisions about where and how the children live are those made together by the parents. However, parents should consider the feelings of their children and be willing to listen to them. Children should not be required to express a view when to do so would mean reprisal from a disappointed parent. Parents normally know their children's needs and are usually in a better position than anyone else to make decisions about their children's future. If parents are unable to make these decisions themselves because of conflict, family and child mediators and counsellors can help them to negotiate with each other.

Mediators and counsellors can be contacted through the Family Court of Australia Mediation Service and through groups such as Relationships Australia, Centacare and Anglicare. They may assist parents who wish their children to be involved in decisions and they

can help parents assess the needs of their children. If an agreement is still not possible at the talks, it then becomes necessary for the Family Court judges to make a decision.

SUGGESTIONS ABOUT MAKING ARRANGEMENTS FOR YOUR CHILDREN

- In the early stages of separation children don't need to know details about why their parents have separated, but they do need to know where they are going to live, what school they are going to attend and when they are going to be with each parent. Some parents 'forget' to mention the arrangements to their children because they feel anxious about them. Even if you have some doubts about the arrangements, give them a fair go – this is the best way to start on reasonable terms with your former partner. Changes can always be made later if things aren't working.
- You will probably need to adjust the arrangements from time to time according to each child's age, health and interests. There may be occasions when you need to change an arranged time. You should always discuss with the other parent any new arrangements. If this proves difficult, an independent family and child mediator or counsellor may be able to help you both. You may wish to set out your arrangements in a Parenting Plan, which is available as a do-it-yourself kit from the Family Court, or seek 'consent orders' from the Court. The Family Court can give you information about the ways in which you can formalise your



arrangements without going before a judge.

- One of the most difficult times is when a parent arrives to pick up or to drop off a child. Children are aware of the tension between their parents; they have already suffered the shock of one parent's departure and may feel very insecure about further conflict or tension. As well as advance notice, parents need to give children the feeling that they are in control and know what is happening.
- Keep to your arrangements and inform the other parent if you are unable to do so. Children can easily feel rejected by your unexplained failure to arrive at the expected time.
- Contact visits should be pleasant, not only for the children but for both parents. They should help children maintain a positive relationship with a parent who is no longer living with them. A breakdown of this relationship can add to the grief experienced by children. Don't attempt to discuss contentious issues at handover time or while the children are present.
- It is possible that one or both parents will find other partners at some point. This can sometimes be a difficult time for everybody. Parents should feel free to introduce the children to their new partners, but not to be too anxious for the children to approve of or like this person. Take a very gradual approach. Because adjustment to new people can be stressful for the children, the relationship should be well established before children are deeply involved with a new partner.
- Children need time to adjust – they should not be forced to adjust to changes too quickly. On the other hand, they should not be encouraged to dictate the terms on which they will see or spend time with their other parent.
- After time with the other parent, especially in the early stages, children may show distress of some kind, be irritable or withdrawn or generally behave differently when they return. The fact that they are upset does not mean they have had a bad time. Children often retain the hope that their parents will get back together and spending time with the other parent, while enjoyable in itself, can remind them that their wishes for the family to get back together are not being fulfilled. They may feel sad about having to leave one parent and go to the other even if they love both.
- Children may sometimes show distress in one form or other upon returning from seeing or staying with the other parent. The distress is usually real and a calm, sympathetic response will go along way towards helping children work out their own way of coping with their parents' separation.
- It is generally better not to move children between households too close to their bed time. Nor is it wise to start an activity or outing immediately when they arrive or return. Allow children time to settle in. Visits should never be used as a way

of parents checking on each other. Children need to be able to go between both households without being questioned about what is happening in the other. Children may want to talk about their other parent but they should never be 'pumped' for information. They should be able to feel that the love they get from each parent is unconditional and not dependent on giving right or wrong answers to one parent about the other. Children do not always fully understand why their parents needed to separate and quizzing them for information can make them feel stressed and insecure in their relationships with both parents.

- Parents do not need to provide the children with a duplicate environment with regard to discipline, rules of behaviour, etc. On the other hand, just as when both parents live together, it's important to reach broad agreement on matters of discipline so that one parent does not undermine the other's efforts. It is not uncommon even in unseparated families for there to be disagreements between parents about what is good or safe for children or other child rearing issues. Compromises on these issues frequently have to be reached. Compromise can cause anxiety for one or both parents. Give things time to settle before trying to renegotiate further changes.
- The attitudes and actions of separated parents who remain in contact through their children have a lot to do with how their children will cope with the separation and the extent to which their needs can be met. Children should not be used as the go-between.

WHAT IS THE COURT'S VIEW ON PARENTING ARRANGEMENTS?

- The Court encourages parents to make arrangements that meet the needs of the children and family.
- The Court encourages families to make their own decisions and offers a range of mediation services to help them do so.
- Contact with family members is considered to be the right of a child (not the right of a parent).
- Where children express a view and are of sufficient maturity, their views should be considered by parents. There is no set age for this as all children and families are different.
- The Court usually considers that it is in the child's best interest to maintain contact with both parents.
- Denial of contact with the other parent may have serious consequences for the child's development.
- Children need to be safe and protected from harm and the Court will make decisions based on a child's unique circumstances.

For agreements such as Parenting Plans to work, parental cooperation is essential. Without this cooperation, parenting is bound to become difficult and cause problems for both you and your children.

As parents, you are in the best position to make decisions about your children because you know them so well. Older children usually like to play a part in the decision-making as well, so it is important to listen carefully to them when they express opinions or feelings about parenting arrangements. Family and child mediators and counsellors may be able to help you and your children discuss their needs.

When parents cannot agree, the Court will make the arrangements considered to best meet the needs of the children. Judges consider carefully the circumstances of your family before making final decisions and then it is up to both parents to follow the orders made.

An important point to remember is that most children love both parents and although they may have many feelings about the separation, in most cases they miss their parents and want to keep in contact with them.

GUIDELINES FOR PARENTS

- Give yourself, your children and your former partner time to readjust.
- Try to strike a reasonable balance between time for yourself and time for your children.
- Don't feel you must overcompensate for the loss your children have suffered by giving them expensive holidays, outings, presents, etc. The best thing you can give your children at this stage is your time and yourself. Over-compensating with presents and outings is usually the result of you feeling guilty and will not help your children.
- Although it may be difficult from a practical point of view, it is better not to upset your children's routine too abruptly.
- Children need stability and having to cope with too many changes at once can be very disturbing for them. Sometimes an abrupt change of environment like moving house or school cannot be avoided and, in these circumstances, it is very important that you allow extra time for yourself and the children to be together.
- Relationship breakdown is always hard on children (as well as parents). But this should not stop you from telling them what is happening and why, in a way they can easily understand. However, limit the amount of detail that you tell your children. This will vary with the circumstances and with each child's age and understanding. Be careful you don't tell them things in order to convince them of your point of view. The point of discussing things is to reassure them and keep them informed about what is happening so that they don't worry unnecessarily.
- Remember the better parts of the relationship with your former partner and try to share them with your children.
- If your children are visibly distressed you can help them by assuring them that it's okay to cry. Sometimes they will want to talk as well as cry; at other times they may simply want to cry.

- Your children may also express a lot of anger. Anger is often an expression of hurt and one way of helping is to encourage them to talk about their feelings of hurt, loss and insecurity.
- Regularly tell your children that they are not to blame for the breakup and that they are not being rejected or abandoned. It is important to understand that children, especially younger ones, often mistakenly feel that something that they have done has caused the breakup. Small children live in a world which is part real and part fantasy, and they can easily believe that some secret wish of theirs may have caused one of their parents to leave.
- Most people going through a separation or divorce find they need a 'lifeline' during the difficult times. If so, make contact with a relationship counselling or mediation organisation, a self-help group or a friend whose opinion you trust. The Family Court can help you make contact with such services. You can also find services for single parents and families listed on the 'Community Help and Welfare Services' page at the front of your phone book; also under 'Marriage' in the *White Pages* and under 'Counselling – Marriage, Family and Personal' in the *Yellow Pages*.
- Continuing bitterness and anger between separated parents is likely to damage children much more than the separation itself. To prevent this happening, it may again be helpful to talk about your feelings with someone you trust (preferably outside the family) or with a professional from one of the services mentioned.
- Of course, you may feel angry with your former partner and these feelings may last some time. But remember, it is important for the development of children that they can respect both parents. Discourage your children from taking sides. A child should not be placed in the position of deciding which parent is the 'goodie' and which the 'baddie'.
- Separation or divorce often places financial pressure on both parents. It is important that you discourage your children from blaming the other parent for your financial circumstances.
- After your separation, it is important that you continue to be consistent in your discipline of the children. Children need to know clearly what is expected of them – they feel more secure when reasonable limits are set. Don't confuse allowing the children to express their feelings with allowing them to do whatever they like.

ALL CHILDREN HAVE A NEED AND A RIGHT TO ...

- Love and be loved by both parents.
- Be able to enjoy the love of both parents without having excessive demands placed on them by either.
- Feel proud of both parents and to be able to respect them.
- See their parents behave towards each other with at

least mutual courtesy, consideration and respect.

- Be listened to by both of their parents so that their needs are met.

REMEMBER

1. Contact with both parents is considered to be the right of the child. Continuing contact with a parent not living with the child is an important part of your child's emotional and psychological development. If anything, this contact is even more important when your child is very young. Each of you has a contribution to make to your child which the other parent cannot make up for.
2. Realise that in spite of your separation you still share common goals for your children. Both of you hope that your children will grow to be mature, well-balanced, secure, happy and successful people. These are goals which you share even though you are separated – the problems which occur on the way to achieving these goals will be your common problems. Your children will benefit greatly if, when problems arise, you are able to cooperate with each other or, at the very least, not use every problem to score points against each other.
3. Children should be able to feel that both parents are positive about their time with the other parent. The enjoyment and benefits children can receive from seeing their parents will be enhanced if they feel the arrangements have the approval and support of both of you. When collecting or returning your children try, where possible, to spend a few minutes in casual conversation with each other, perhaps over a cup of coffee. If you cannot do this then at least avoid any outward show of conflict.
4. Most children desperately want to stay friends with both parents. For many children who want nothing more than to live happily with both parents, visits may remind them that this is not happening. Emotional scenes are therefore quite common at the beginning or end of visits, but they usually happen less often once a regular routine has been established. Try to cooperate with each other to make parenting arrangements as positive and enjoyable as possible and to minimise any stress to your children.
5. Keeping in regular contact with both parents can help your children deal with the fears, fantasies, and emotional upset caused by the separation. If your children have a good relationship with both of you, they will want to involve both of you in their lives for many years to come. And there may be times when they wish to involve you both in the same event or function, such as parents' days at school, special birthdays, and watching them at sport. It will be easier for your children to maintain a close relationship with you both if you show courtesy and consideration toward each other.



THINGS TO AVOID

Children are usually very loyal and trusting so it is important to look at the ways in which you behave with them to make sure you are not abusing their loyalty and trust. Set out here are some of the subtle ways in which parents can take advantage of their children.

'Messenger'

- Using your children as messengers between the two of you teaches children that adults cannot talk honestly or directly to each other.

'I spy'

- Asking a child to report on the other parent is destructive – it is using a child for your own ends.

'Your father is a slob', 'Your mother is a fool'

- Anger between parents has a destructive effect on children.

'Disneyland daddy', 'Mummy Santa'

- When visits are used just to give the child a good time, or outings and gifts take the place of normal parenting.

'I still love him but he doesn't love me', 'I want to keep the house for the kids but she wants to sell it'

- This puts pressure on your children to take sides.

'You can go if you like ... but we are going on a picnic'

- Don't set up competing activities, it spoils children's pleasure in being with either parent.

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Family Relationships Online (31 August 2010).
Children and Separation. Retrieved from
www.familyrelationships.gov.au on 26 October 2015.

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THE IMPACTS OF DIVORCE ON TEENAGERS

This article from former youth worker and teenager expert **Chris Hudson** explains the specific effects of divorce on adolescents

Divorce is painful. It is painful for parents, for kids, and for close friends and family. We all respond to pain differently depending on who we are and our stage of life. Teenagers are not immune from the effects of divorce.

Every teenager and every family is unique. So too the reasons and dynamics of every divorce is different. Therefore it is very hard to predict or prescribe how particular teens will respond to their parents divorcing.

However there are significantly increased risk factors for teens whose parents get divorced. When compared with teenagers who do not come from divorced families, research has found teens from divorced families:

- Are more aggressive
- Are more anxious
- Have higher school dropout rates
- Are more sexually active at an earlier age

- Have higher rates of delinquency
- Have higher rates of drug and alcohol addiction.

These findings do not say that all teens from divorced families will have these issues. Such research merely suggests that teens who come from divorced families are at increased risk. The increased risk factors highlight the nature of possible problems teens face when their parents divorce.

This article will address some of the more significant effects divorce has on teenagers.

The adolescent process is interrupted

Adolescence involves teens gaining a sense of autonomy, an identity independent of their parents. This process requires teens to separate from their parents. When divorce happens teens may perceive their parents have separated from them.

Despite teenagers trying to

separate from parents during adolescence, they still require the relational safety that comes from secure and healthy relationship with their parents. Teens develop by establishing autonomy at their own pace. It is often three steps forward two steps back type progress.

During divorce parents can become very self absorbed or distracted, leading to them giving less attention to their kids. This results in teens becoming very insecure about the nature of their relationship with their parents and feeling isolated or anxious.

Teens are forced to grow up quickly

Many teenagers feel their time for growing up is shortened by the divorce.

This can be for multiple reasons including:

- Parents using the teen as a confidant, exposing the teenager to the adult world sooner.
- Teens being required to take up extra adult responsibilities around the home due to loss of a parent i.e. looking after siblings.
- Parents unable to provide previous level of support or nurture due to depression or fatigue, leaving the teen to navigate life alone.

Teens feel like it is their fault

It can be very hard for people to blame those they care about for doing something wrong or hurtful, particularly their parents. There can be a lot of pain and disappointment involved in admitting to oneself that those we know care about us have caused us pain.

For this reason many teenagers will blame themselves for their parents' behaviour because it is emotionally easier to deal with. It is common for teens to formulate



beliefs about how their behaviour is the reason their parents are divorcing.

These beliefs can result in teens being angry at themselves. While being angry at themselves the teen is also likely to be very compliant and extra helpful to one or both parents as a means of trying to make up for the mess they believe they have created.

Quality of life suffers

Divorce costs in lots of ways. When one household becomes two the cost of living increases and in most cases the standard of living decreases for all involved.

Financially parents no longer have the disposable income available they once had. In many cases the financial pressure on one or both parents also results in longer work hours, less time with kids, and increased stress levels. All of these effects result in teenagers experiencing a significant drop in their standard of living. This change can leave them feeling resentful and angry.

Reach out to peers for support

It is normal in adolescence for peers to become more influential in shaping who a teenager is, what they think, and what they do. During a divorce this influence can increase.

As the home situation changes and becomes less stable and/or less pleasant, teens can find greater comfort and security in their relationship with peers. This can offer genuine benefits such as providing a place to explore how they feel, especially if there are peers who have gone through similar experiences.

The negatives are when teens become susceptible to excessive influence from peers who actively encourage anti-social or destructive behaviour.

Teenage behaviour changes

Just as there are common impacts of divorce, there are also common behavioural traits that can emerge. Behaviours common for teenagers whose parents are going through a divorce include:



- Being angry and highly critical of their parents' decision. This anger may be expressed verbally and can be directed at one or both parents.
- Withdrawal from one parent as a form of punishment. This might coincide with taking the side of the other parent.
- Depressed or withdrawn from one or both parents. Increased time spent away from the family home or locked away in their own room.
- Increased desire to spend more time with peers. Tendency to become argumentative or aggressive if prevented from doing so.
- Better behaved. Hoping that this will save their parents' marriage or atone for what they believe was their fault.
- Decreased academic performance including more disruptive behaviour at school, loss of interest in school work, or truancy.
- Increased risk-taking behaviour such as binge drinking, illicit drug use, sexual promiscuity.

Research suggests that most adjustment problems occur within the first two years following their parent's divorce or remarriage. Behaviour problems are most common during the divorce process, but they will tend to diminish as time passes. Most young people will adapt successfully to this life transition and have no negative long-term effects.

Chris Hudson is a Youth Expert, Parenting Coach and Editor of *Understanding Teenagers*. He tries to share what wisdom he has gained about teenagers with those who need it most; parents.

Hudson, C. *The Impacts of Divorce on Teenagers*. Retrieved from <http://understandingteenagers.com.au> on 25 February 2016.

HELPING TEENAGERS ADJUST AFTER SEPARATION OR DIVORCE

The changes and feelings that come with separation or divorce can complicate normal teenage ups and downs. If you and your partner are separating, you can help your teenage child by being open about what's happening and letting your child know that you both love her, no matter what. **Raising Children Network** explains

SEPARATION AND DIVORCE: YOUR CHILD'S FEELINGS

If you and your partner are separating, your child might be feeling all kinds of things – just like you. Mixed feelings are normal.

Your child might be confused or even shocked because he didn't see it coming. He might be sad and anxious because he doesn't know what will happen next. He might also be relieved, particularly if there has been a lot of conflict or any family violence. Some teenagers might be more relaxed, happier and healthier after a separation. After all, it's a fresh start for everyone.

It's also common for teenagers to be concerned or feel guilty if they think they've added to the problems between you.

Your child might worry that she'll lose contact with one of you, even if she doesn't say so. Or she might not want contact with one of you because she feels angry and blames that parent for the separation. And your child might think he needs to support one or both of you, and feel resentful or overwhelmed by this responsibility.

On a practical level, your child might have concerns about where she'll live. For example, your child might worry that her home will be sold, and that she might have to move away from her friends and school. The possibility that she'll have two homes – one with one

parent, one with the other – might also worry her. All children will take time to adjust.

I couldn't believe it when my son said, "I suppose this is because of me?" I assured him that was not the case and we'd been having issues for a few years, and felt we would all be happier if we lived separately. He seemed relieved.

– Garry, 50, divorced father of four adult children

HELPING YOUR CHILD THROUGH SEPARATION AND DIVORCE

Explaining the situation

It can help if your child understands why you and your partner are separating. A good way to tackle this is to have a family meeting to talk about the separation with your child. If you can explain why it's happening without one parent seeming like the 'good guy' or the 'bad guy', you can avoid your child feeling that he has to choose between you. Your child needs to know that it's not her fault – it's a grown-up decision about your relationship.

And even though your relationship with your partner is changing, your child has the right to an ongoing relationship with both of you, to love you both and to be loved by you both. He might not see himself as a child anymore, but he still looks to you as a secure base.



Listening and letting your child talk

Once you've had a say, your child will need a chance to express her feelings. This could be during your family meeting or later on, when she's had a chance to think things over. Talking can help your child deal with difficult emotions and fears. Whenever your child is ready to talk, actively listening can help you work out how best to comfort her.

If your child finds it difficult to talk to you about the separation, he might be able to talk to another trusted adult – perhaps an aunt or uncle, family friend, teacher or counsellor.

Reassuring your child

Some teenagers might worry that they need to look after you or their brothers or sisters. Let your child know that she doesn't need to look after everyone else. If any other family members need help, they'll get it for themselves.

Your child doesn't need to be involved in any issues between you and your former partner. It can help to tell your child clearly that he doesn't need to be a messenger between the two of you and he won't have to answer questions from either of you about what the other is doing.

It can also help to reassure your child that you and your partner will do your best to keep her away from any conflict. If there has been any family violence, let your child know that she'll be protected.

Sticking with routines

If it's possible for your child to keep his daily routine, stay in the same house or neighbourhood, go to the same school and keep doing normal things like sport, it will make the change in your family easier for him.

Even if you and your child aren't going to be living together full time any more, you can still stay connected. You can stay interested in your child's life and keep doing the special things that you've always done – for example, kicking the footy, cooking together, watching your child play sport, seeing movies together or going shopping.

SIGNS YOUR CHILD IS FINDING IT HARD TO COPE WITH SEPARATION OR DIVORCE

During adolescence, your child is going through a lot of social and emotional changes, as well as physical changes. If you and your partner separate, the ups and downs of being a teenager can get mixed up with your child's feelings about your separation.

Your child might not be able to say she's struggling, but some signs that she is include:

- Behaviour, mood or personality changes, including getting angry, upset or tearful a lot or more than usual
- Not wanting to be around family members and not cooperating with family routines, shutting herself in her bedroom for long periods, or spending more

time online or on computer games

- Problems at school or with schoolwork
- Problems with sleep, or eating problems like binge eating or loss of appetite
- Losing interest in activities she usually enjoys or having problems with friends or peer groups
- Taking risks like challenging school rules or not letting you know where she is, and even shoplifting, graffiti, taking drugs or binge drinking.

It can be hard to know whether difficult behaviour is just because your child is being a teenager, or whether it's a sign your child is struggling with the separation. It could be a combination of both. Try not to jump to conclusions about what's causing the behaviour, but be ready to listen and help.

It's also a very good idea to let your child's school know about the separation or divorce. Your child's teachers might be able to watch out for changes in your child's behaviour, or there could be things they can do to help.

There were some positives out of all this. I believe our child learned from the way we handled the challenges of the separation. He watched us compromise and solve problems. We stayed respectful and I see those skills in him now.

– Bill, 45, divorced father of one son

EXTRA HELP FOR TEENAGERS GOING THROUGH SEPARATION AND DIVORCE

Sometimes teenagers might need extra help dealing with their parents' separation. If the conflict between parents has been particularly intense, or is still going on, or if one of the parents has been depressed or has mental illness, teenagers might find it helpful to see a counsellor.

You can see government-funded relationship counsellors at organisations like Relationships Australia and LifeWorks. Your GP can also refer your child to a psychologist or relationship counsellor.

If you or your child needs to talk to someone urgently, phone Lifeline on 131 114.

If your child needs to talk to someone other than you, he could try a confidential telephone counselling service for young people like Kids Helpline (1800 551 800) or visit the Kids Helpline website (<http://kidshelp line.com.au>).

The effects of family violence can continue after a relationship is over. Family violence can also start, or get significantly worse when parents separate. Family violence of any kind is not OK. If you or anybody you know is experiencing family violence, seek help by talking to a professional like a GP or counsellor, talk to the police or call a hotline.

Raising Children Network (2016). *Helping teenagers adjust after separation or divorce*. Retrieved from <http://raisingchildren.net.au> on 25 February 2016.

Parenting arrangements after separation

The way in which parents handle separation and divorce has an enormous effect on the way children cope with their lives, explains this fact sheet from the **Women's and Children's Health Network**

After a separation and divorce, most parents want to work out plans for how their children will live. For some this works without too much hassle, but others may need to go to the Family Court to sort out future parenting arrangements.

Sometimes parents just can't agree. They may think differently about what is best for their children or they can be caught up in their angry or hurt feelings about each other, and can't talk without arguing.

Most parents have a continuing deep love for their children and a terrible sense of loss during times when they cannot be with their children.

Sometimes parents are worried about their children's safety or care with the other parent. They need somewhere to raise their concerns and have the parenting arrangements for their children clearly spelled out. When parents are unable to come to an agreement about plans for their children the court will make the decisions.

The way in which parents handle separation and divorce has an enormous effect on the way children cope with their lives.

Note: This topic includes legal issues about divorce, separation and caring for children. The law used in this discussion is South Australian law. It is important to check what the laws are where you live and how these affect your parenting after separation.

What about the law?

The law about parenting arrangements changed a few years ago and

some of the ideas and words used now are different. One of the most important changes to the *Family Law Act* is that it strengthens children's interests. The courts will consider the child's best interest before those of the parents.

A child has a right to:

- A meaningful relationship with both parents
- Be protected from abuse, neglect or family violence
- Receive adequate and proper parenting to help them achieve their full potential
- Know and be cared for by both parents
- Spend time with and communicate with both parents and other significant people, such as grandparents and other relatives
- The support and encouragement necessary to maintain a connection with their culture.

The words 'custody' and 'access' aren't used anymore. Decisions made are about where children live (residence) and when they spend time with their other parent (contact). Sometimes decisions are also made about children spending time with other family members, like grandparents.

The law has changed about the rights and responsibilities of parents.

- The law now says children have the right to spend time with and communicate with both parents.
- It is not about parents' rights to

see their children.

- Parents are expected to share the responsibility of their children, even if the children live mostly with one parent, although this doesn't always work out.

The law expects parents to co-operate. However being involved with the legal system can be very distressing for many parents.

- It is fine when parents' feelings about the separation have been sorted out and they are enjoying their new lives.
- It's much harder when they are still feeling hurt.
- It also becomes really difficult if they are worried that the other parent can't properly care for the children or if they're concerned that their child is missing them.

It's best if both parents can work together on a plan that covers everything affecting the children.

This plan is a 'record of agreement' setting out each person's responsibilities towards their children. If you want to make the plan legally binding it should be registered with the Family Court, but many parents prefer to sort it out together and not involve the court.

REFERENCES

- *Family Law Act 1975*, latest version 1 July 2014, www.comlaw.gov.au/Details/C2014C00355
- Family Court of Australia: <http://familycourt.gov.au/>

Your feelings about court

Parents can find it difficult going to court.

The whole process can leave parents feeling bewildered and frustrated and can sometimes drive more of a wedge between them.

Most parents have a continuing deep love for their children and a terrible sense of loss during times when they cannot be with their children.

Why? Because:

- Things which were private before are now written on paper
- People may think that the most terrible untruths have been presented about them without proof
- Parents can feel upset about the things said in court or the decisions that are made.

If you're in this situation you may hear things being described in ways you don't agree with or which make you look like a bad parent. It's important to be able to cope with this. You have to be able to tell your side of the story to the judge without being so upset or angry that you can't get across what you mean.

What parents can do

- Be patient. It can take time to sort things out in court. If you are finding it stressful, find ways to look after yourself. Talk to someone.
- Remember that the other parent is likely to feel upset as well. This may mean that he or she says some hurtful things, does not tell the whole story, or 'paints a picture' which is quite different from what you believe happened.
- Make sure you have a break

Parents can find it difficult going to court. The whole process can leave parents feeling bewildered and frustrated and can sometimes drive more of a wedge between them.

from thinking about court all the time.

- Ask friends and family not to talk about it at times, even though they are just concerned for you. Find things that can distract you for a while.
- Make sure you feel comfortable with your lawyer, if you have one, and that your lawyer really understands what you want. After all, the lawyer's job is to stand up for your rights. Keep focused on what your children need.
- Let the court know, as best you can, how things are. You are going to court because you and the other parent haven't been able to sort things out. It then becomes the judge's decision and you have to find ways to come to grips with it and move on with life.
- You are there to sort out what's best for your children. Think again if you find you want to 'get even' with the other parent. Don't get caught up in 'winning'. This approach

may end up hurting everyone, especially your children.

- Find ways to feel more at ease in the court setting if it is strange and scary. Ask to have a look in a court room before the set date.

Remember: Underneath it all you both love your children – even if you show it in different ways.

Your children's feelings

The hard part for children is that unless they have been really hurt by a parent, they usually want to keep loving and seeing both parents. Sometimes even if they have been hurt by a parent they still might want to spend time or communicate with that parent.

Children:

- Can tell if their parents aren't getting on or are arguing about them
- Suffer if their parents start bringing them into their fights
- Will be emotionally abused if their parents continue





to involve them in their arguments.

Ongoing fighting between parents harms children most of all.

At times like this, parents have to be almost super-human. You have to be able to put your feelings about each other aside. After all, your children didn't separate, you and your partner did.

What parents can do

- Make the effort to sort things out together rather than going to court. Children often don't know much about court and may think it's about punishment, getting taken away or going to prison. It's important that they don't have these worries.
- Help your children accept (rather than worry about) Family Court proceedings.

When you feel confused and anxious, your children can quickly pick this up and then feel scared or uncertain. They may feel that they have to take sides. This isn't fair. Just because you and the other parent can't agree, it doesn't mean your children should feel they can't love both of you.

Things to try

- Think about whether your children have to know you are going to court.
- If you tell them, simply explain that a judge is helping you and the other parent make a decision. Don't go into details.
- Don't show your children court papers. While you may want to talk to others don't talk about court in front of your children.
- Don't let other people talk about the details in front of your children.
- Even if you think the other parent is being unreasonable, don't tell your children. Find an adult to talk to, a family member, friend (who will listen without getting too upset) or a counsellor.
- If the other parent is talking about court to your children, let him or her know this is not OK. Court is adult business. If necessary, get the court's help to make this stop.
- Make sure your children's lives are as normal as possible. Let them keep seeing their friends, play sport, visit other family members.
- Children need to be allowed to get on with their own lives without having to be troubled by adults' problems.

Court decisions about where children live

Some children live their lives between houses, for example they might live with their parents one week each. Parents need to sort out their feelings for this to work well. They have to keep in touch and up to date about their children's lives. Children can enjoy week-about residence. It lets children stay close to both parents.

Although this takes effort to arrange it can work if:

- You can communicate with the other parent (if you disagree about something, talk about it when your children aren't there).
- You don't criticise each other to your children (this confuses them and upsets them because they feel disloyal when they hear these things).
- You don't use children as messengers (it's better to speak or write notes to each other, even about the simple things).
- You don't undermine (put down) the other parent's ways of discipline or routines. If you are strongly opposed then take it up with your ex-partner or go through a third party

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if you can't talk reasonably to each other. Children can cope with differences but not undermining.

- You both are involved in children's schooling, sport, etc.
- Ideally the houses are not too far apart so children can easily see their friends and not have to travel too far for activities each house is set up for your children, so they don't have to take lots of things from one house to the other (you need to be organised).
- You remember that children's needs change with age (some adolescents decide it's easier to live in one house because of the extra time they want to spend with friends, doing schoolwork, etc).
- You keep in mind that children are different. Some children find it easy to live at two houses. Others get confused and find all the changes difficult. If your children don't seem to be coping, talk with the other parent about how to sort out the problem.

Note: Babies and very young children normally do best if they live with the parent they know best and are closest to, with just short times with the other parent at first. You need to go by how it affects your child. Even very young children and babies can show when they are happy and when they are stressed.

Court decisions about spending time with a parent

Sometimes children live most of the time with one parent and briefly with the other, for example every second weekend and part of the holidays.

- Parents and children then have to get used to seeing each other less often.
- You have to make a new family life together. This can be difficult for the parent who wants to squash lots of things into a short stay and especially when older children want to keep up with their friends and activities without their

Some children live their lives between houses, for example they might live with their parents one week each. Parents need to sort out their feelings for this to work well. They have to keep in touch and up to date about their children's lives. Children can enjoy week-about residence. It lets children stay close to both parents.

parent there.

- The weekend parent may be seen as the 'fun parent' with whom the child does fun things while the other parent spends a lot of the time 'parenting' which involves discipline, chores and the routine of life.
- It's important to realise that children usually value the 'all the time' caring even if they seem to resent and complain about the discipline and chores.

Some things which can help

- Remember that your children are living with you, not just visiting. This means there need to be routines and house rules.
- Children need relaxing times as well as fun times. It's often in the quiet times that children find it easiest to talk about their feelings.
- Stay in touch with your children when they are not with you. A quick telephone call lets them know you are thinking about them.
- Make your house a home for your children. It's important they have somewhere to put their things, and some private space. Have toys, clothes, etc in your house, so your children don't have to live out of a suitcase.
- Make new traditions for your family such as shared photo albums, favourite games and activities, and special times.
- Follow through on their appointments and activities (e.g. parties, dentist) even if you weren't the parent who made the arrangements.
- If you have a new partner make sure the children still get time alone with you. Your life is moving on, but they need

reassurance that they are just as important to you.

- Some children may not accept your partner and resent the person being around. This may show in their behaviour or they may tell you. Children are often torn between wanting you to be happy and 'feeling good' themselves. If this becomes a problem that cannot be sorted out, you need to think about the best interests of your child.
- If problems develop with your children not wanting to come on weekends, stay as involved as you can.
 - If your children have a genuine complaint it needs to be sorted out.
 - Sometimes children get caught up in problems between parents and feel it's easier to stop spending time with, or communicating with one parent. Do what you can, even if it means just writing letters and sending cards. Children need to know you will hang in there, even if it's too hard for them to see you at the moment.
- Make sure you spend time with your child when it is arranged. You need to be reliable otherwise children can feel they are not important to you. Not keeping arrangements can also lead them to distrust you.
- Your children should see you as often as possible. For some children once a fortnight is not enough. Maybe you can arrange to see them or speak to them during the week as well. For younger children sometimes a tape of a parent's voice is reassuring or a tape of you reading a story can be played at bedtime.



Your relationship with the other parent

You and the other parent will always be parents to your children even though your relationship as partners is over. Sometimes letting go of the hurt and angry feelings from the partnership is very difficult, but if the anger keeps on going your children will be very distressed. If you can't let go, seek help ... for the sake of your children.

In carrying out your shared responsibilities it can help if you:

- Keep your word (if you have to change arrangements, let the other parent know as soon as possible).
- Remember, the better your relationship with the other parent, the easier it is for your children (even if the other parent is being unreasonable, you don't have to be).
- Don't try to sort things out when you are feeling angry, tired or hurt.
- Respect the other parent's privacy (don't walk into their house without being invited, telephone at an unreasonable time or interrupt their special occasions).

- Try for your children's sake to be polite and respectful to the other parent even if you don't feel like it.

Reminders

- You are going to the Family Court because you and the other parent disagree about what is best for your children and you can't sort it out together.
- Make sure you put your children's needs first.
- Children need to feel their wishes are taken seriously even though adults make the decisions.
- Protect your children from knowing too much about the court proceedings. They need to be allowed to get on with their own lives without having to be troubled by such matters.
- If things go off the rails and you can't sort things out go back to your counsellor, lawyer or the court.
- It's the responsibility of parents to sort out things like where children live and when they spend time with each parent.
- Make sure your children know it is okay to love both parents,

even though you are not agreeing.

- Introduce new partners to your children gradually. It's important they don't take on a parenting role too quickly.
- Expecting that your children will like your new partner can lead to disappointments for all.
- Providing children are safe, they have both a need and a right to a relationship with both parents.

RESOURCES

- **Family Court of Australia:** *Step by step guide to proceedings in the Family Court* <http://familycourt.gov.au>
- **Kids Helpline** for children and young people anywhere in Australia (24 hours, 7 days) Phone: 1800 55 1800 www.kidshelp.com.au
- **Relationships Australia** Phone 1300 364 277 www.relationships.com.au
- **Department of Human Services** – *A parent's guide to child support* – *Separated parents.*

REFERENCE

- Dierenfeld G, *Children and parents adjust to separation*, www.yoursocialworker.com/s-articles/separation_adjustment.htm

The information in this article should not be used as an alternative to professional care.

If you have a particular problem, see a doctor, or ring the Parent Helpline on 1300 364 100 (local call cost from anywhere in South Australia).

This topic may use 'he' and 'she' in turn – please change to suit your child's sex.

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Women's and Children's Health Network (17 February 2015). *Parenting arrangements after separation*. Retrieved from www.cyh.com on 25 February 2016.

SINGLE PARENTING

BETTER HEALTH CHANNEL PROVIDES THE FOLLOWING ADVICE FOR SOME COMMON ISSUES CONFRONTING SINGLE-PARENT FAMILIES

Summary

- There are different reasons why a person becomes a single parent.
- Single parenting differs from dual parenting in many ways, but the most common difference is that single parents may involve their children in more decision-making.
- Children may have more duties and responsibilities around the home from an earlier age, simply because there isn't another adult around.

Single-parent families are different to families with two parents living under the same roof. There are different reasons why a person becomes a single parent. They may choose this lifestyle, they may have been in a relationship which they left, or perhaps their partner has died or left them. The challenges faced by the single parent vary according to their circumstances, but there are also common experiences that are shared by most single-parent families.

SINGLE PARENTING AND DUAL PARENTING

Single parenting differs from dual parenting in many ways, but the most common difference is the way in which the parent interacts with the child. In dual-parenting families, the mother and father usually decide together how to run the household, while in single-parent households, issues such as holidays or major family purchases may be more likely to be decided with the children.

Other common differences include:

- Children of single parents may have more duties and responsibilities around the home from an earlier age, simply because there isn't another adult around.
- The single parent may feel stressed because they try to be the perfect parent and the sole breadwinner when there are only 24 hours in every day.

CHILDREN AND SINGLE PARENTING

Some of the common problems faced by children in single-parent households include:

- The need for 'extra hands' around the house may sometimes reduce the time a child can take part in typical children's activities such as hanging out with friends or playing.
- If a child is used to having a near-equal say in the household, they may clash with teachers and other authority figures who expect unquestioning obedience.
- The child may not appreciate that their parent needs adult companionship at times.
- The child may feel torn between their two parents and feel they must 'pick sides' – this is especially the case if the parents are hostile towards one another.

The challenges faced by the single parent vary according to their circumstances, but there are also common experiences that are shared by most single-parent families.





SINGLE PARENTING PROBLEMS

Some of the common problems faced by single parents include:

- The child is more likely to misbehave for them – the day-to-day disciplinarian – than for the parent who lives outside the home.
- It can be hard work to be the only disciplinarian in the house – you may feel like you’re the ‘bad guy’ all the time.
- You may feel grieved if your child envies friends with two parents at home.
- New relationships may be difficult, particularly if your child is suspicious or jealous.
- A lonely parent may cling to their children for support and company, making it harder for the child to eventually leave home.
- The demands of income earning, child raising and housework mean the single parent may have little or no time for themselves.

CONTACT ISSUES WITH SINGLE PARENTING

Common issues facing separated or divorced families include:

- The single parent may (even if not deliberately) make the child feel guilty for having fun with their other parent.
- Some parents involve their children in their marital disputes, instead of discussing the issues in private.
- Some separated parents find it next to impossible not to fight at changeover time, which can place the child under stress.
- Some parents ask their child about what they did or who they saw during the visit (perhaps asking about their ex-partner’s new partner).
- The child may take some time – from a few hours to a few days – to settle down again after visiting their other parent.

POSITIVES FOR THE SINGLE PARENT AND CHILD

Some of the positives of a single-parent household include:

- A child from a single-parent home who is loved and supported has no more problems than a child from a two-parent home.
- Whether or not the child uses their free time constructively (for example, reading or playing sports) depends on discipline, family routine and quality time between parent and child – not whether the child has one or two parents living in the house.
- The child is typically mature and responsible.
- The parent is typically self-reliant and confident.
- The relationship between parent and child is close.
- Single fathers are more likely to use positive parenting techniques than married fathers.
- Single-parent families are less likely to rely on traditional gender-specific roles than two-parent families.
- Single parents tend to rely on positive problem-solving strategies rather than punishment or discipline when faced with difficult child behaviours.

WHERE TO GET HELP

- Parent Line, Tel. 132 289
- National Council for Single Mothers and their Children, Tel. (08) 8354 3856 or 1800 758 150
- Relationships Australia, Tel. 1300 364 277
- WIRE – Women’s Information, Tel. 1300 134 130

THINGS TO REMEMBER

- There are different reasons why a person becomes a single parent.
- Single parenting differs from dual parenting in many ways, but the most common difference is that single parents may involve their children in more decision-making.
- Children may have more duties and responsibilities around the home from an earlier age, simply because there isn’t another adult around.

This fact sheet was produced in consultation with and approved by Relationships Australia Victoria.

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Better Health Channel. *Single parenting*. Retrieved from www.betterhealth.vic.gov.au on 26 October 2015.

Sharing the care of children after separation: THINKING BEYOND 'CUSTODY AND ACCESS' OR 'RESIDENCE AND CONTACT'

Professor Lawrie Moloney writes about what works in shared parenting arrangements after separation or divorce

It was not long ago that the father's role in families was chiefly seen as being the provider of financial support. It was commonly thought that children needed to be mainly in the care of their mothers, and that the father's nurturing role was that of secondary helper to the mother.

By routinely ordering 'access' or 'contact' (primarily to fathers) after parental separation, courts also reflected this way of thinking. Though perhaps not consciously intended, these court orders reduced the status of thousands of separated fathers to that of visitors to their children.

Acceptance that fathers could be competent nurturing carers of their children in their own right began to take root in the 1970s. Increasingly, fathers (supported by many mothers) began to see themselves as parents who could genuinely share all aspects of the care of their children. Research also began to demonstrate that fathers were equally capable of fully caring for children.

Rather than using earlier legal terms like 'custody and access' or 'residence and contact', we now commonly speak of making

parenting arrangements for the children or sharing their care. Whatever language we use however, we now understand that caring for children after separation is much more than simply adding up the hours or days that they spend in each parent's care.

An increasing number of separated parents now consider arrangements for their children that permit both of them to play a more 'hands-on' role – to more genuinely share the parenting rather than have their children visit one of them. These changed ways of thinking may lead to arrangements that involve children spending substantial time with each parent – but not necessarily.

Just as important from the point of view of maintaining and developing meaningful relationships are the ways in which the time with each parent is spent. For example, rather than ordering a 'take-away' or going to a restaurant, fathers whose children spend most of their time with their mothers might arrange to cook with them. They might also structure the time they have in such a way that includes more evenings and overnights. They might arrange

more of whatever time they have with their children to 'be with' them rather than to 'do things' with them.

That said, a minority of separated parents are also committed to the idea of sharing the amount of time they spend with their children. Though the figure is somewhat arbitrary, researchers and professionals usually define shared-time parenting as situations in which children spend about a third of their time or more with both parents. Importantly, researchers have also examined the circumstances in which these sort of time arrangements appear to have the best chance of working.

When does shared parenting time appear to work well?¹

The research suggests that such substantial sharing of parenting time after separation (roughly a third of time or more with each parent) works best when parents:

- Live reasonably close to the children's other parent
- Can contain any negative feelings associated with their separation – both in the presence of the children and in the presence of the children's





- other parent
- Can resolve the inevitable disagreements and misunderstandings that crop up – for example, issues arising out of unexpected illnesses or other unplanned developments (such things occur in both ‘intact’ and separated families but are more easily misinterpreted after separation)
- Can accept (even if it is not easy) that the other parent has a right to live his or her new life and that the children have a right to a meaningful relationship with that parent
- Are neither menacing towards nor fearful of the other parent
- Know that the children are basically ‘on board’ with this form of shared parenting and can manage moving between two ‘home bases’.

The special case of infants and young children

Young children and infants have less capacity to clearly communicate their thoughts and feelings about new and changing parenting arrangements. For them, it is especially important to introduce new situations in the comforting presence of a person or persons to whom they are attached. Even then, the experience of changed surroundings, combined with the ‘loss’ (in the child’s mind) of the reassuring presence of a parent, can be distressing.

The ideal world of the infant is one that starts ‘small and predictable’ and grows gradually in size, scope

and complexity. This is because infants have limited capacity to comfort themselves when anxious or distressed. As adults, we can easily forget that we acquired this ability only gradually. For each of us, it grew from experiences largely unavailable to our conscious memory – experiences of being comforted, contained and reassured time after time by a caring adult or caring adults who were ‘tuned in’ to our needs as infants.

Long before they can speak to us, infants also display their own unique temperaments. ‘Tuning in’ to their needs and to the signals they are largely programmed to send us becomes more and more refined through repeated intense and intimate interactions. Watch any parent and infant and you will see these interactions happening over and over again.

Following a separation, both parents may feel confident that they have already developed a capacity to be closely ‘tuned in’ to their infant’s needs. In this situation, shared-time arrangements, including overnight arrangements², may work – though the principle of ‘start with small and predictable’ might also require parents to monitor this very carefully.

On the other hand, one parent – for example a parent who has spent lengthy hours working outside the home on behalf of the family – may need more time to develop this degree of sensitivity. This parent may need to spend frequent but relatively small amounts of time

with his or her child at the start. Parent and child may need to get to know each other at a level of intimacy that allows the child to continue to feel safe and secure – to become increasingly confident that the signals sent are (at least most of the time) the signals received.

Whether parents opt for ‘shared-time’ or the more common arrangement of major time with one parent, insights from developmental psychology suggest that the gaps in which the infant or young child does not see both parents should be relatively short. Whether or not the child stays overnight with each parent, the same principle of ‘short gaps’ should be considered.

NOTES

1. A more detailed but succinct summary of the research on when shared care time is more and less likely to work well can be found in Fehlberg, B, Smyth, B, Maclean, M, & Roberts, C (2011). ‘Legislating for shared time parenting after separation ... A research review’, *International Journal of Law, Policy and the Family* 25, 318-337.
2. A brief summary of what research can tell us (and what it can’t tell us at this stage) can be found in an article by Dr Jenn McIntosh.

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Moloney, L (11 September 2014). *Sharing the care of children after separation: Thinking beyond “custody and access” or “residence and contact”*, Australian Institute of Family Studies. Retrieved from <https://aifs.gov.au> on 13 October 2015.

EXPLORING ISSUES

WORKSHEETS AND ACTIVITIES

The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

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Brainstorm, individually or as a group, to find out what you know about separation and divorce.

1. What is the difference between separation and divorce?

2. What is the principle of 'no-fault divorce', and how is it legislated?

3. What is a 'consent order', and what is it used for in relation to separation and divorce?

4. What is a 'prenuptial agreement', and what is it used for?



MULTIPLE CHOICE

Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of the next page.

1. In what year did the *Family Law Act* establish the principle of no-fault divorce in Australian Law?

- a. 1901
- b. 1965
- c. 1975
- d. 1981
- e. 1995
- f. 2007
- g. 2015

2. In what year was the Family Court of Australia established?

- a. 1902
- b. 1966
- c. 1976
- d. 1982
- e. 1996
- f. 2008
- g. 2016

3. Which of the following behaviours are common for teenagers whose parents are going through a divorce?

- a. Being angry and highly critical of their parents' decision.
- b. Increased academic performance.
- c. Withdrawal from one parent as a form of punishment.
- d. Depressed or withdrawn from one or both parents.
- e. Increased self-esteem.
- f. Increased time spent away from the family home or locked away in their own room.
- g. Increased desire to spend more time with peers.
- h. Decreased academic performance including more disruptive behaviour at school.
- i. Increased risk-taking behaviour such as binge drinking, illicit drug use, sexual promiscuity.

4. How long must you be separated before you can get a divorce?

- a. At least one day
- b. At least one month
- c. At least two months
- d. At least twelve months
- e. At least two years
- f. No specified time

5. In what period of time must you apply for spousal maintenance after a divorce has become final?

- a. Within one day
- b. Within one month
- c. Within two months
- d. Within twelve months
- e. Within two years
- f. No specified time



MULTIPLE CHOICE

6. Match the relevant age grouping to the associated effect that separation can have on children of that age:

- a. 0-2 years
 - 1. Children in this age group often have an intense wish to restore their parents' relationship and say and do things they hope will bring this about. Children in this age group can have difficulty expressing their worries and tend to demonstrate them through their behaviour which can be difficult to understand.
- b. 2.5-5 years
 - 2. Children in this age group need to be given time and space to work out their own reactions to their parents' separation. If pressured by either parent, they are likely to react with anger and rejection.
- c. 5-8 years
 - 3. Children in this age group experience a conflict of loyalty between each parent and, if the conflict between parents is high, they may try to cope by rejecting one parent or trying to keep both happy by saying negative things about one to the other. Where possible, it would be beneficial for these children to continue their activities regardless of who is caring for them.
- d. 8-12 years
 - 4. For children in this age group separation can be a major crisis and they can react with shock or depression. For instance, children in this group may show their distress by a change in sleeping habits, toilet habits or a deterioration in language skills. They often fantasise about what they don't understand and are likely to make up things from bits of their own experience.
- e. 12-16 years
 - 5. If one parent has taken on primary responsibility for care of a child in this age group it is almost certain that a strong physical and emotional dependence will develop between them. Lengthy separation from this parent can be a source of intense emotional distress. For children in this age group it can be helpful if parents stick to a routine and, where possible, provide reminders of the other parent such as photos.

MULTIPLE CHOICE ANSWERS

1 = c; 2 = c; 3 = a, c, d, f, g, h, i; 4 = d; 5 = d; 6 = a; 7 = b; 8 = c; 9 = e; 10 = d; 11 = e; 12 = c.

- When granting a divorce the Court does not consider why the marriage ended and the only ground for divorce is that the marriage broke down and there is no reasonable likelihood that the parties will get back together (Family Court of Australia, *How do I apply for a Divorce?*). (p.8)
- The Federal Circuit Court of Australia has the jurisdiction or power to deal with dissolution of marriage (i.e. divorce) under Part VI of the *Family Law Act 1975*. The granting of a divorce does not determine issues of financial support, property distribution or arrangements for children. It simply recognises that the marriage has ended (*ibid*). (p.8)
- You can apply for a divorce in Australia if either you or your spouse: are an Australian citizen by birth, descent or grant of Australian citizenship; or regard Australia as home and intend to live in Australia indefinitely; or ordinarily live in Australia and have done so for 12 months immediately before filing for divorce (*ibid*). (p.8)
- You can apply for a divorce overseas. Australia will recognise a divorce if it was effected in accordance with the laws of that country (*ibid*). (p.9)
- When you get divorced, you and your husband or wife will have to split up all your property and money. You can sort this out yourselves but if you can't agree, a court will need to decide for you. This is handled by either the Family Court of Australia or Federal Circuit Court of Australia for both married and de facto couples, except in Western Australia, where de facto couples need to use the Family Court of Western Australia (Raising Children Network, *Divorce: dividing property and finances*). (p.18)
- If you and your husband or wife can't agree on how to split your property and money, you have to get the appropriate court to decide for you. This is called applying for a financial order. There are two types of financial orders: a property order – this deals with the division of property, income and other financial resources; and spousal maintenance order – this deals with financial support of husbands, wives, former husbands and former wives (*ibid*). (p.19)
- People considering separation or divorce, and those affected by it, are encouraged to use services in the community to resolve issues. Community-based services that can help include: family counselling; family dispute resolution; or arbitration (Family Court of Australia, *Marriage, families & separation*). (p.24)
- In the Family Court, parties intending to apply for parenting and/or financial orders must follow pre-action procedures, which include attending dispute resolution, before filing an application (*ibid*). (p.26)
- When a court order is made each person bound by the order must follow it. There are services in the community that can help families adjust to and comply with court orders. If the Court finds a person has breached a parenting order, it may impose a range of penalties (*ibid*). (p.28)
- The findings from a large research program conducted by the Australian Institute of Family Studies tells many stories. One of the main ones is a good news story: most couples separate amicably, work parenting and property out for themselves and maintain good relationships with the other parent and their children after separation. This applies to more than 70% of separated parents (Kaspiew, R, *Separated parents and the family law system: what does the evidence say?*). (p.29)
- Separation is often a surprise for children and they generally experience many of the same feelings as adults. Children can also grieve for quite a long time. They may be unaware of the problems their parents were having and they may feel shocked and confused when the separation occurs. They are also likely to feel insecure and worry whether the remaining parent will leave them as well (Family Relationships Online, *Children and Separation*). (p.31)
- The Court encourages parents to make arrangements that meet the needs of the children and family and encourages families to make their own decisions and offers a range of mediation services to help them do so (*ibid*). (p.35)
- Sometimes teenagers might need extra help dealing with their parents' separation. If the conflict between parents has been particularly intense, or is still going on, or if one of the parents has been depressed or has mental illness, teenagers might find it helpful to see a counsellor (Raising Children Network, *Helping teenagers adjust after separation or divorce*). (p.41)
- The law about parenting arrangements changed a few years ago and some of the ideas and words used now are different. One of the most important changes to the *Family Law Act* is that it strengthens children's interests. The courts will consider the child's best interest before those of the parents (Women's and Children's Health Network, *Parenting arrangements after separation*). (p.42)
- Acceptance that fathers could be competent nurturing carers of their children in their own right began to take root in the 1970s. Increasingly, fathers (supported by many mothers) began to see themselves as parents who could genuinely share all aspects of the care of their children. Research also began to demonstrate that fathers were equally capable of fully caring for children (Australian Institute of Family Studies, *Sharing the care of children after separation: Thinking beyond "custody and access" or "residence and contact"*). (p.49)
- Rather than using earlier legal terms like 'custody and access' or 'residence and contact', we now commonly speak of making parenting arrangements for the children or sharing their care (*ibid*). (p.49)

Annulment

Court declaration stating that a legal marriage never existed. A decree of nullity is an application for an order from the court that the marriage be declared invalid. Invalidity may result from any of the following: either partner was not of marriageable age; bigamy (either partner was already married at the time of the marriage ceremony); the people were within a prohibited relationship (e.g. marriage between blood relatives); either or both of the parties did not consent (the marriage took place through fraud, duress, mistake or mental incapacity); the ceremony was invalid (e.g. the celebrant was improperly appointed).

Child support

Money paid by one ex-spouse to another toward their child's expenses.

Common law marriage

Relationship between any two persons living together but who are not married; also known as a de facto relationship. However, the term 'common law marriage' is not used anywhere in Australia.

Consent order

Written agreement approved by the court. A consent order can cover parenting arrangements for children as well as financial arrangements such as property and spousal or de facto maintenance. Consent orders have the same legal force as if they had been made by a judicial officer after a court hearing. The court will make a consent order only if it thinks that the agreement is properly written and fair.

Custody

The old terms 'guardianship', 'custody' and 'access' have gone. Parents no longer have guardianship or custody – they now have parental responsibility for their children.

De facto relationship

Relationship between any two persons who live together although they are not legally married to each other.

Divorce

A divorce or dissolution of marriage is the ending of a marriage, which can be contrasted with an annulment which is a declaration that a marriage is void, though the effects of marriage may be recognised in such unions, such as spousal maintenance, parenting responsibilities and the distribution of property.

Divorce decree

Once the court is satisfied the twelve-month separation period has passed and proper arrangements have been made for the children, it will grant a 'decree nisi'. The decree automatically becomes absolute (final) one month later and is sent to the parties in the mail. Technically the parties are still married until the order becomes absolute, and they cannot remarry until then. The marriage is dissolved when the decree becomes absolute, and either party may marry again.

Family dispute resolution

Process whereby a family dispute resolution practitioner

assists people to resolve disputes with each other following separation and/or divorce.

Family law courts

These courts comprise the Family Court of Australia and the Federal Magistrates Court of Australia.

Maintenance

Spousal maintenance or child support payments.

Mediation

Bringing about a peaceful settlement or compromise between parties to dispute through the benevolent intervention of an impartial third party.

No-fault divorce

Divorce granted with the mutual agreement of two spouses, or when one spouse has left the marriage for a certain period of time (varies by state).

Parental responsibility

The responsibility of each parent to make decisions about the care, welfare and development of their children. These responsibilities may be varied by agreement or by a court order.

Parenting plan

Written agreement that sets out parenting arrangements for children. Because it is worked out and agreed jointly, former partners do not need to go to court. Unless the court orders otherwise, former partners can agree to change a parenting order (made on or after 1 July 2006) by entering into a parenting plan. A parenting plan is not legally enforceable. It is different from a parenting order, which is made by the court.

Preuptial agreement

Binding, legally enforceable agreement about what will happen to your financial arrangements if your marriage breaks down. However, the correct legal term is financial agreement.

Separation

When a married couple remove themselves from personal association. You can only apply for divorce in Australia after being separated for a period of at least twelve months.

Shared care

The care of a child is shared when two people care for a child substantially equally.

Spouse

A husband or wife.

Spousal maintenance

Under the *Family Law Act*, there is a responsibility to financially support a husband or wife after divorce if the husband or wife can't meet daily living expenses from their own resources and the other party can help meet those expenses.

Support

Payment due to one spouse from the other regarding housing, food, clothing, and other expenses.

Websites with further information on the topic

Australian Family Association www.family.org.au
 Australian Institute of Family Studies www.aifs.gov.au
 Child Family Community Australia www.aifs.gov.au/cfca
 Department of Human Services – Separated Parents www.humanservices.gov.au
 Department of Social Services – Families and Children www.dss.gov.au/families-and-children
 Family Court of Australia www.familycourt.gov.au
 Family Relationships Online www.familyrelationships.gov.au
 Men’s Rights Agency www.mensrights.com.au
 National Council for Single Mothers and their Children www.ncsmc.org.au
 Parenting SA www.parenting.sa.gov.au
 ParentLink www.parentlink.act.gov.au
 Parents Without Partners www.parentswithoutpartners.org
 Raising Children Network <http://raisingchildren.net.au>
 Relationships Australia www.relationships.com.au
 Shared Parenting Council of Australia www.sPCA.org.au
 Stepfamilies Australia www.stepfamily.org.au

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