

# FAMILY LAW: PARENTAL RESPONSIBILITY

This fact sheet has information about parental responsibility (also known as decision-making power) and what orders the Family Court can make about parental responsibility.

## What is parental responsibility?

Parental responsibility is the legal term used in family law to describe the responsibility parents have to care for their child and the power parents have to make decisions about major long-term issues for their child. This is why it is often called the 'decision-making power'.

## Who has parental responsibility (or decision-making power)?

Parents have parental responsibility, or decision-making power, for their child until they are 18 years old, unless the court makes an order removing it.

A parent has parental responsibility, or the decision-making power, for a child even if they never lived with the other parent or re-marry after separation.

Each parent can make day-to-day decisions about their child without needing to consult the other parent.

For major long-term issues that affect a child, parents are encouraged to talk to each other and make joint decisions, if it is safe to do so. Sometimes this can be challenging after separation, and attending mediation may help.

## Can the Family Court make orders about decision-making?

Yes. The Family Court can make orders about who can decide on major long-term issues for a child that are in the child's best interests.

The court can make orders for:

- joint decision-making about all or specific issues
- sole decision-making about all or specific issues.

The court can also make an order giving parental responsibility or decision-making power to a person who is not a parent of the child, if the court is satisfied it is in the child's best interests.

If there are court orders in place about parental responsibility or decision-making power, parents must follow what the orders say.

## What if there are no court orders?

If there are no court orders in place about parental responsibility or decision-making power, a parent will not get into legal trouble if they make a decision about a major long-term issue affecting the child without consulting the other parent.

But if the other parent starts court proceedings for orders about the child, the court may take this into account in deciding what orders to make.

## What is joint decision-making?

Joint decision-making is when the parents (or persons named in an order) must:

- consult with each other when deciding on major long-term issues about a child, and
- make a genuine effort to reach a joint decision.

For example, if one parent wanted to change the child's school, they would need to talk to the other parent about this before making any changes. If the parents were unable to agree on the issue, they would need to try Family Dispute Resolution (often called mediation) first before asking the court to decide what should happen.

## What is sole decision-making?

Sole decision-making is when only one person makes decisions about major long-term issues affecting a child.

A person with sole decision-making power does not have to consult with the other parent (or persons named in an order) or get their agreement. But the person must still follow the orders in place.

For example, if there are orders which say the child is to spend every weekend with a parent, the parent (or person) with sole decision-making power cannot relocate with the child to a place that would affect the child's ability to spend this time with their parent. The person would need the consent of the other parent or a court order.

## What is a major long-term issue?

Major long-term issues are issues that affect the long-term care, welfare, and development of a child. This can include the child's:

- name
- schooling and education
- religious and cultural upbringing
- health and medical procedures
- overseas travel
- living arrangements and changes which make it difficult for them to spend time with a parent and other important people.

## What are day-to-day issues?

Day-to-day issues are things that come up while the child is with a parent, such as what the child will eat or wear, or activities they will do that day. Parents do not have to consult with each other to make joint decisions about day-to-day issues.

## How can Legal Aid WA help?

[Infoline](#), [Legal Yarn](#) and [Infochat](#)

You can call our Infoline on 1300 650 579, Legal Yarn (First Nations callers) on 1800 319 803 or chat to us online.

### Website

You can find more information about family law on our website: [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au).

**Legal Aid WA contacts:** Website + Chat [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)  
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