

Family Law

CHILDREN

The *Family Law Act 1975* (Cth) deals with the children having a meaningful relationship with both parents and the best interest of the children.

Despite the Family Law Act stating the children should have the benefit of both of their parents having a meaningful involvement in their lives, they will always take into consideration the circumstances surrounding each case and whether the children are at risk.

The Act encourages parents to try and negotiate arrangements for the children. This can be done:

- Via communication with the other parent;
- Or through Mediation.

These arrangements can then be recorded via a written Parenting Plan and or Consent Orders sealed by the Court.

Parenting Plans v Consent Orders

Parenting Plans contain arrangements for the children which are signed and dated by the parties but is not lodged with anyone.

Parenting Plans are not legally binding so if one party were to 'breach' the plan, they cannot be held accountable. Should the matter go to a Court the Court will look at the previous arrangements of the parties but are not bound by the terms and it is often open to the Court to make orders in accordance with the best interests of the children.

Consent Orders are legally enforceable as they have been considered by a Registrar and deemed to be in the best interests of the children. If a Court finds that a parent has contravened the orders without reasonable

excuse there are certain penalties the Court may apply to that parent.

At Chinka (HEP) Steel Solicitor we prefer our clients to enter into the legally binding option which is consent orders.

Mediation

From 1 July 2007 it became mandatory to have a Certificate from a Family Dispute Resolution Practitioner before parenting proceedings can be issued at Court. The Certificate states whether there has been a "genuine effort" by the parties to resolve the issues.

All discussions with Family Dispute Resolution Practitioners are confidential and privileged. In instances of violence, abuse or urgency, the requirement for the Certificate can be waived.

What about Legal Aid?

Chinka (HEP) Steel is on the Victoria Legal Aid ("VLA") Panel for Family Law matters. We undertake copious amounts of this type of work each year. We will determine if you are eligible for assistance and we can assist with the completion of your VLA Application form.

If a client is VLA funded and assuming there are no serious domestic violence issues or a child's welfare is not at immediate risk, then the first action will be a Family Dispute Resolution Conference facilitated by VLA.

Privately funded clients

If the client is privately funded, we will assist the parties in arranging Mediation at a Family Relationship Centre.

What happens after mediation?

If all of the issues are able to be agreed upon at Mediation (Family Dispute Resolution Conference for VLA clients) then we will assist with the formalisation of a Parenting Plan and if issues are not able to be resolved at Mediation, then the Mediator will issue an FDR Certificate and either party can commence proceedings.

What can I do to assist someone dealing with separation?

Be understanding and empathetic. It is likely that this person will understandably be highly emotional and/or even irrational at times. You could suggest the services of the new relationship centers, website or phone line. In cases of either the parent or a child's welfare being in immediate danger, then a solicitor should be contacted as a matter of urgency.

What is Chinka (HEP) Steel's approach to children's matters?

The experienced and empathetic Family Law Team at Chinka (HEP) Steel understand that prompt action and a reassuring environment are essential in delivery of our services in this sensitive and particularly personal area. At all times we treat issues with the utmost respect and confidentiality.

We believe that the first approach and continuing approach throughout Family Law matters should be a non-adversarial one with the issuing of proceedings being advantageous only in cases where children's welfare is at risk, or as a last resort.

We promote the use of mediation as a tool for resolution and are there for you throughout the mediation process. We understand that separating parties are likely to be experiencing one of the most stressful periods of their lives and our aim is to negotiate an amicable and timely settlement rather than create additional stress to the parties.

Where can I get more information?

To obtain personalised advice regarding your particular set of circumstances please make an appointment with the Chinka (HEP) Steel Family Law Team or ask for our free party pack full of information on 5427 2477.

Further information can also be found at:

Victorian Family Relationship Centres

[Ballarat](#) – 1025 Sturt Street, Ballarat - 5337 9222

[Boronia](#) – 83 Boronia Road, Boronia - 9725 9964

[Berwick](#) – 1-2, 38 Clyde Road, Berwick - 8768 4111

[Broadmeadows](#) – Level 1, Building 2/1100 Pascoe Vale Road, Broadmeadows - 9351 3700

[Cranbourne](#) – 2/199 South Gippsland Highway, Cranbourne - 5990 1900

[Greensborough](#) – 3/25-33 Grimshaw Street, Greensborough - 9431 7777

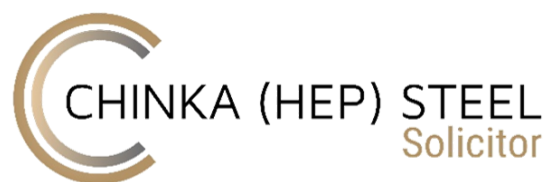
[Kew](#) – 46 Princess Street, Kew - 9261 8700

[Melbourne City](#) – Lower Ground Level, 379 Collins Street, Melbourne - 8625 3666

[Shepparton](#) – 634 Wyndham Street, Shepparton - 5820 7444

[Sunshine](#) – 4 Devonshire Road, Sunshine - 8311 9222

[Traralgon](#) – 59 Breed Street, Traralgon - 5175 9500



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