



Related Policies

Nil

Purpose

This policy contributes to the Catholic Education Office's responsibility to comply with Government Legislation.

Policy

In areas of Family Law, when Principals are unsure of what action to take, they should contact the Principal Human Resources Officer: Child Protection and Legal Issues or the Principal Human Resources Officer: Employment Relations and Legal Issues who will organise appropriate legal advice. School staff members who are unsure about Family Law matters should consult with their Principal.

Definitions

Nil

Procedures

1. Background

The *Family Law Reform Act 1995* was passed by the Commonwealth Parliament on 21 November 1995 and took effect on 11 June 1996. This Act instituted reforms to the *Family Law Act 1975*. The amendments provide greater emphasis to primary dispute resolution procedures such as counselling and mediation to resolve disputes rather than taking legal action. The *Family Law Act* places the focus on the best interests of children.

The concepts of custody, access and guardianship, which imply ownership of children by parents, have been replaced by the broader concept of parental responsibility.

2. Reasons for Reform

The philosophy guiding the reforms is that children should receive adequate and proper parenting, and that parents have responsibilities for the care, welfare and development of children.

- 2.1 Children have the right to know and be cared for by both parents.
- 2.2 Children have the right to regular contact with both parents and any other person significant to their care, welfare and development.
- 2.3 Parents should share duties and responsibilities concerning the care, welfare and development of their children.
- 2.4 Parents should agree about the future parenting of their children.

3. **Parental Responsibility**

Both parents have parental responsibility, except where they otherwise agree or the court makes an order to change their responsibility in a particular matter.

4. **Parenting Plans and Orders**

4.1 In keeping with the focus on primary dispute resolution in the Act, there is a stronger emphasis for parents to reach agreement about arrangements for their children, and to formalise this agreement through parenting plans. Parenting plans must be in writing and are made between the parents of a child. Other people may sign and be parties to the plans.

4.2 Parenting plans or parenting orders will address issues such as children's residence, their contact with other people and specific issues of parental responsibility. Specific issues orders set out an individual parent's responsibilities for particular areas of a child's life such as medical, educational and religious matters.

4.3 Unlike in the past, a decision regarding where a child is to live will not automatically bestow responsibilities on any one parent about the day-to-day care, welfare and development of a child. Both parents are involved in the upbringing of their child unless they agree, or a court orders, otherwise. Where parents cannot agree, they can apply to a court for a specific issues order.

4.4 The responsibility for day-to-day care, welfare and development of the child can be dealt with in the parenting order so that it is clear to the parties where those responsibilities extend. In cases of dispute at school, the Principal should ask to see the parenting plan.

5. **Registration of a Parenting Plan**

A parenting plan may be registered with the court and, if so, takes effect as if it were a court order. Parenting plans can be revoked or set aside by a court in the best interests of the child.

6. **Grandparents and Other People Significant to the Care, Welfare and Development of the Child.**

The Act now clearly recognises children's right to have contact with their grandparents, among other people who are significant to their care, welfare and development. While the primary responsibility for children rests with parents, the Act recognises that grandparents and others play an important role in children's lives. These people may be parties to parenting plans, and, if necessary, may apply to the court for orders relating to children.

7. **Location and Recovery Orders**

The process for finding and recovering abducted children has been simplified. It is no longer necessary to get a warrant. Instead, anyone concerned with the care, welfare and development of a child can apply for location and recovery orders. A location order requires a person who may have information on the whereabouts of a child to give that information to a Registrar of a court.

Family Law

A recovery order will generally be served by the police and will authorise them to retrieve a child. It gives police the right to enter premises, search vehicles, or use force, if necessary, to find a child. A court will consider the best interests of a child when deciding to grant these orders.

References

Family Law Reform Act 1995

Forms

Nil

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CEO Contact Officer:	Principal Human Resources Officer: Child Protection & Legal Issues or Principal Human Resources Officer: Employment Relations & Legal Issues