



## What if my child refuses to see the other parent?

**Date: Monday November 27, 2023**

When parents separate, it can be very confusing for children to understand and manage. It is not uncommon for children at this time to express how they are feeling through their behaviour. Sometimes this can cause issues when [child handover](#), from one parent to the other is looming. So, what should you do if your child is kicking or screaming as they refuse to spend time with the other parent?

Although the [views of the child are considered](#) in family law proceedings, a child under 18 years of age cannot legally choose to live with one parent over another. Nor can they refuse to spend time with that parent. Children may, however, still resist spending time with the other parent for a variety of reasons. This can be challenging and emotional for all involved.

### Reasons a child may refuse to spend time with the other parent

It's important to understand why the child is refusing to see the other parent. The reasons why will be unique to your situation, but some causes might include:

Your child does not like the rules they must follow in the other parent's home;

Your child and the other parent frequently argue or have a strain on their relationship;

Your child does not get along with the other parent's new partner;

The other parent lives far away from their friends, school, or social activities;

The child's safety is at risk due to reasons like [family violence or substance abuse](#).

If your child refuses to spend time with the other parent due to a reason concerning their safety and any family violence concerns, you should seek legal advice immediately. Although a child has a right to a meaningful relationship with both parents, it should not come at the compromise of their safety.

[CONTACT AN EXPERIENCED FAMILY LAWYER: 08 6245 0855](#)

The paramount consideration of the Court is [the best interests of the child](#). However, if the reason doesn't directly affect their safety or well-being (including their psychological well-being), your child should spend time with their other parent.

## Parenting orders or parenting plan

Parenting plans are an informal agreement between the parties on how the parenting arrangements will work. They are not legally binding. Consent Orders (parenting orders), on the other hand, are issued by the Court and are legally binding on all parties.

Having said this, parents should follow as closely as possible to any parenting plan they have agreed to and signed with the other parent. If the family finds themselves in Family Court at a later date, the Court will consider the terms of the parenting plan when determining the dispute. You can read more about this in our blog, ["Difference between parenting orders and parenting plans"](#).

If there are parenting orders in place, you are obligated to do everything the order says. This means more than just rocking up at handover and waiting in the car. Generally speaking, parents have a "positive obligation" to facilitate contact time with the other parent. As well as presenting at handovers, you should also be positively encouraging the child to spend time with their other parent.

A good way of thinking about it is how you might encourage your child to see a cherished family member, like a grandparent. How would you encourage the child to see that person if they said they didn't want to go?

## What can you do on the day of handover if your child is refusing?

Even if your child is still refusing to see the other parent, you need to present at handover during the specified times and positively encourage the child to spend time with their other parent. You can't be passive and allow the child to determine who they spend time with.

In the past, the Courts have been quite critical of parents who don't make a reasonable effort and take positive steps to encourage their children to spend time with the other parent.

Of course, the circumstances of every case are different, and factors like the children's age, history of the proceedings, or any history of family violence, are all relevant.

Some practical steps to consider if your child is refusing to spend time with the other parent:

If safe to do so, give the other parent a heads-up that the child is talking about refusing. The other parent might be able to share any fun activities they have planned with your child.

You must physically take your child to the place of handover, as ordered by the Court.

If the child says they do not want to go, you have to positively encourage the child to spend time with the other parent. This may include:

saying that the child will have fun with the other parent;

showing that you are supportive of the time your child spends with the other parent, through your body language and through what you say;

after a visit, talking positively about what the child did with the other parent and focusing on positive points about their time. "You went to the zoo? That's awesome – what animals did you see?"

You will need to keep presenting at the handover location and positively encouraging the time spending, even if the child refused on the previous occasion. Hopefully, after some positive encouragement, you will notice an improvement in your child's attitude. If not, at the least, you will have a stronger case in why you might not be complying with the Parenting Orders.

## Get help from a family lawyer

We have a team of highly experienced family lawyers who can help you understand your obligations under a parenting order. Hopefully, with our guidance, you can achieve the best possible outcome for you and your family.

---

*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*