



YOUR CHILDREN – CONTACT, WHAT IS IT?

What is Contact?

The provisions of the Family Law Act dealing with children are based on the principle that children have a right to know and be cared for by both parents and anyone else who is important to the child.

Contact refers to the means by which a child maintains or develops a relationship with people with whom the child does not live on a day to day basis.

Contact can be in person, by telephone, by recorded message, by e-mail, or internet chat, in writing or by exchange of photographs and gifts.

Contact may be with people other than the parents of the child, for example, brothers and sisters, step-parents, step-brothers and sisters, grandparents, aunts, uncles and anyone else who has been significant in the child's life.

What are common orders made?

As with all matters concerning children under the Family Law Act, the question of what contact should take place is considered in light of what is in **each child's best interest**. Contact arrangements vary to take into account the needs and ages of different children. Contact orders can therefore change as a child's needs change as he or she grows older.

Generally where the parents and the children live nearby, for example in the same city, usual orders for contact with primary school age children are:

- (i) every second weekend from after school Friday to before school Monday, to extend to the Tuesday if pupil free day or public holiday;
- (ii) often in the other week either overnight on the Wednesday or for dinner that night;
- (iii) Half the school holidays;
- (iv) Special days, such as Christmas Day, birthdays and Mother's and Father's Day
- (v) Regular phone contact.



Orders or agreements may make specific provision for telephone contact, transport arrangements and where the children are to be delivered and collected.

This is called "changeover" or "handover" because that's what happens - the children are changed over between parents.

Very young children have different needs from primary school age children and orders for children younger than five will generally provide contact for shorter periods of time on a more frequent basis. Such an order may provide for contact each Saturday for four hours or may provide for contact three times a week for one to two hours on each occasion.

This contact might increase over time as the child becomes older and more familiar with the contact parent or relative.

Often orders will provide for a gradual increase in contact over six months to two years. As individual children have individual needs, orders should be tailored to meet the needs of the children.



Supervised Contact

Contact may be supervised when the Court considers that the children may be at some risk if contact occurs without the presence of a third person. For example, if there have been allegations of sexual or physical abuse towards the children, if the children have witnessed domestic violence between their parents, or if the contact person consistently says and does inappropriate things during contact with the children.

Who can be a supervisor?

Provided both parties agree, anyone can be a supervisor. For example, a grandparent, aunt or uncle, friend or neighbour who is familiar with the child and knows of the allegations of risk may supervise contact. However, there are responsibilities for supervisors and should not be undertaken lightly.

If the parties cannot agree to a person to supervise contact, there are some contact centres which offer a supervised contact service. This service may provide for contact to take place at its facilities between the children and the party with whom they do not live, under the supervision of the centre staff. Alternatively the centre may provide a service which allows changeover without the parties coming into contact with each other.

The leading agency in Brisbane is the Logan West Contact Centre (phone 3800 3929) at 2 Wineglass Drive, Hillcrest. It isn't free. There are other centres outside Brisbane.

Contact and Domestic Violence

Contact can take place between a child and the parent or other person with whom they do not reside even though a protection order has been made which prohibits contact between the parents. **Contact is the right of the child, not the right of the parent**, and despite violence between the parents, it may still be in the child's best interest to maintain an ongoing relationship with the parent with whom they do not reside. However, if there has been violence directed towards the child or the child has witnessed severe domestic violence directed by the contact person towards the person with whom the child resides, it may be appropriate to suspend contact or to have contact take place on a supervised basis. You must get good legal advice before you decide to suspend contact or limit it to supervised contact.



General Problems with Contact

Most problems with contact arise because one (or sometimes both) of the parties allow their own feelings towards the other person to interfere with their parental duties, and to prevent them getting on with the job of bringing up happy and well adjusted children.

Too often one or both parents forget that contact is the right of the child.

Problems often occur where parents use contact changeover times to argue or fight.

This is usually stressful and distressing for children and **should be avoided** wherever possible. Contact is not the time or place for parents to argue with each other.

Problems are also common when one party is not paying child maintenance or support for the child and the parent with whom the child lives responds by limiting contact with the child. Although the issues of contact and child support usually involve the same parties and relate to the same child, in the eyes of the court the two matters are not entirely related. The court takes the attitude that even if child support is not being paid, children still have a right to have contact with the parent or other significant persons with whom they do not reside.

Problems can also occur where the parents live a great distance apart, when the costs of travel cannot be afforded and therefore contact takes place less frequently, and when one parent decides to move away from the place in which the parties and the children have usually been residing.

What to do if there is a dispute

If you and your former partner are in dispute as to the arrangements for contact with the children, you should consider mediation or counselling. It's usually a lot cheaper and a lot less stressful than court and lawyers.

You decide what happens, not a stranger (a judge) who doesn't know you or your children.

If mediation and counselling is unable to resolve the dispute, you should seek legal advice. If domestic violence, child abuse, mental health or substance abuses are issues, mediation or counselling may not be appropriate.





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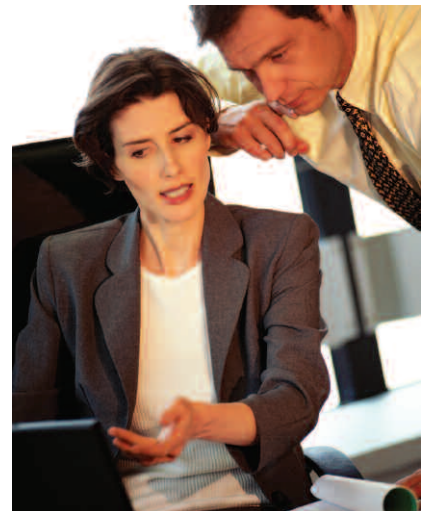
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***The solicitors in our family law section are
Warren Tegg, Kate Murphy and Joanne Bennett***



Warren Tegg

Warren was admitted to practice as a Solicitor of the Supreme Court of Queensland and the High Court of Australia in 1979. He ran his own legal practice specialising in Family Law and Business Advice from 1980 until 2001 before merging with Bennett Carroll. Warren has been helping people with their Family Law problems since the inception of the Family Law Act in 1976.

Warren is Department Head with the Family Law division of Bennett Carroll. He brings to the department a wealth of experience that includes some five years running his own call centre for people with Family Law problems, as well as acting as a sessional mediator with Relationships Australia Queensland from 1989 to 1994. He is also the General Manager of the Master Guidance Company, which is a counselling service owned by Bennett Carroll.

Warren has served on a number of Queensland Law Society committees during his career and is currently a member the Small Practice Management division where he has been called upon to speak at State conferences on legal practice.



Kate Murphy

Originally from Northern NSW, Kate studied at Queensland University of Technology graduating in 2005 with a Bachelor of Laws and a Bachelor of Business. She has a strong interest in Family Law, which extends to international law relating to marriage and children.

Kate was admitted to the Supreme Court of Queensland in 2006 and the High Court of Australia in 2007. Kate has over 4 years extensive experience in Family Law, as well as engaging in Criminal and Commercial Law. Kate has also had the benefit of being trained with Pauline Tesler, with a strong focus on negotiation.

Kate is a member of the Queensland young lawyers association.

Joanne Bennett

Joanne graduated from Deakin University before completing her Professional Legal Training at Bond University in 2003 and was admitted in December that year.

Joanne is an experienced family lawyer and can offer professional assistance and guidance in all types of family law matters including those involving children and financial issues, de facto relationships, pre-nuptials and parental orders.

Joanne also has extensive Commercial Law experience in vital areas such as property, company structures, franchise agreements, joint venture agreements and leases.

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