

Best interests of the child

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

In family law cases that involve children, the court will look for the best interests of the child.

Watch the video for an overview or read below for more information.

What does 'best interests of the child' mean?

The law looks to the "best interests of the child" when a couple with children separate. The "best interests" relate to a child's safety – to make sure a child is protected from physical or psychological harm, abuse, neglect, and family violence. If you have separated from your partner and you have children, the law ensures that the plans you and your ex make are good for your children.

A court will consider several factors to work out what is in the child's best interests. A Court will weigh up all the considerations to work out what arrangement is best for a child. The Court understands that each family is different and therefore some considerations may be more important than others.

How does a court work out the best interests of the child?

To determine the best interests of a child, a court will consider 6 core considerations, with 2 additional considerations if the child is Aboriginal or Torres Strait Islander.

The Court will consider:

- What arrangements would promote the safety (including safety from family violence, abuse, neglect, or other harm) of:
 - The child, and
 - Each person who has care of the child (whether or not a person has parental responsibility for the child).
- Any views expressed by the child.
- The development, psychological, emotional, and cultural needs of the child.
- The capacity of each person who has or is proposed to have parental responsibility for the child to provide for the child's development, psychological, emotional, and cultural needs.
- The benefit to the child of being able to have a relationship with the child's parents and other people who are significant to the child, where it is safe to do so.
- Anything else that is relevant to the particular circumstances of the child.

While also considering if the child is Aboriginal or Torres Strait Islander:

- The child's right to enjoy their Aboriginal and Torres Strait Islander culture, by having the opportunity to connect with, and maintain their connection with, members of their family and with their community, culture, Country, and language.
- The likely impact of any proposed parenting order on the child's right to enjoy their Aboriginal or Torres Strait Islander culture.

Where else can I get help?

A lot of separated couples need some help and advice when working out arrangements for their child. You can contact [Relationships Australia](#) to find help with mediation.

[Did this answer your question?](#)

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.