



Can I change my Family Court Order regarding the care and living arrangements of my children?

Usually, when orders are made by the Federal Circuit and Family Court of Australia in relation to parenting arrangements, this is based on the circumstances of the children as at that time. As children grow older, those circumstances can change and you may see yourself wanting to vary your current orders.

How do I vary my final parenting order?

Importantly, the first thing you need to do if you find yourself in that position is

communicate to the other parent as to the arrangements you wish to change and find out whether they agree. You can do this directly, or through a lawyer acting on your behalf.

If both parents are in agreement to amend the existing parenting order, Consent Orders can be made where both parents acknowledge their agreement and the Court can formalise the arrangements without the necessity of either party attending Court.

If the other parent does not agree with your proposed changes to the parenting arrangements of the child, you should attempt to engage in [Family Dispute Resolution](#) with the other parent to attempt to reach an agreement outside of Court.

If the parents are still not in agreement following Family Dispute Resolution, an application will need to be made to the Court to ask the court to vary the final parenting orders that have already been made. It is important to note that this process is expensive and time-consuming.

To apply to the Court to change an existing parenting order, you must show that there has been a significant change in circumstances that make your changes to the order necessary. You must consider whether the change to the parenting order will be in the best interests of the children, and not just whether it suits you and your lifestyle. The Court is generally reluctant to re-open parenting matters and put children through further litigation unless it is necessary to do so.

Rice v Asplund (1979)

The test for whether an application to change a Parenting Order will be allowed is set out in the case of Rice v Asplund (1979). This case dealt with the living arrangements for the parties' three-year-old daughter. The Court had previously made final orders that the child live with the father. Approximately nine months later, the mother made an application to vary the current parenting orders seeking that the daughter live with her and spend time with the father.

The mother's application was made as there had been significant changes in her circumstances and therefore, the orders made the previous year were no longer in

the best interests of her daughter. The mother's significant circumstances in this case were that she had now obtained stable accommodation and remarried. The child was also about to commence school.

This case became the rule to follow in that the Court must be satisfied there have been a significant change in circumstances since the final orders were made. The purpose of this rule is to protect children from ongoing litigation throughout their childhood.

Change alone is not enough to bring an application to vary parenting orders. The changes must be of a significant nature to warrant a variation in orders.

Below are some examples of significant change in circumstances: -

1. One of the parents or the child is of ill-health;
2. There has been abuse of the child;
3. The current parenting orders were made without the court having knowledge of all of the relevant information regarding the welfare of the child;
4. One of the parents is seeking to relocate with the child.

If the Court is required to determine whether there has been a significant change in circumstances, they will vary the parenting orders in relation to the care and living arrangements for the child based on what is in the child's best interests.

How can Andersons help?

If you already have final Parenting Orders and want to vary them due to a significant change in circumstances, seek specialised legal advice from one of our experienced [Family Law solicitors](#) and we will be happy to assist you. [Contact us here.](#)