



Professional Practice regarding Separated Parents/Guardians

The Education Act 1989 sets out the right of entry to early learning services for parents and guardians. It is essential for early learning services, in particular the person responsible, to be aware of day to day living arrangements for children in their care and to have emergency contacts for each child.

Section 319A of the Education Act (1989) states:

The parent or guardian of a child has a right of entry to a licensed early childhood education and care centre or to the premises where a licensed home-based education and care service is provided, whenever the child is there, except if the parent or guardian:

- is subject to an order of a court that prohibits access to, or contact with, the child, either generally or with respect to the child while, or at a time when the child is, attending the centre or service; or
- is subject to a warning under section 4 of the Trespass Act 1980 to stay off the premises; or
- is suffering from a contagious or infectious disease likely to have detrimental effect on the children if passed on to them; or
- is, in the opinion of a person responsible for the operation of the centre or service, under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or
- is, in the opinion of a person responsible for the operation of the centre or service, exhibiting behaviour that is or likely to be disruptive to the effective operation of the centre or service.

Day-to-day responsibility for a child

When parents or guardians live apart, a decision is made about the day to day responsibility for the child. This is done either between the parents and any additional guardians or by the family court.

If a parent or guardian does not have the day-to-day responsibility, they are still likely to be entitled to have contact (previously known as access) with the child, unless there is a Family Court order stopping a parent or guardian from having contact with a child, or there are concerns that would justify refusing entry/contact under section 319A of the Education Act.

Not all parents and guardians formalise the arrangement, some arrangements are changeable and informal. Any dispute over the child's day-to-day care and right to early learning needs to be settled by the parents and/or guardians. Early learning staff need to be aware that it is not their role or responsibility to mediate in a dispute and it is not the service provider's role to enforce agreements between parents and guardians.

Early learning services should have a policy that informs staff about the actions they can take to avoid getting involved with disputes between parents/guardians.

Professional practice when parents or guardians live apart

Early learning services need to be aware of the day-to-day living arrangements for children. However, the responsibility for informing the service of any parenting agreements or parenting orders is up to the child's parents/guardians. Unless a court order rules otherwise, all parents and guardians are entitled to:

- Reports about their child's participation in early learning and learning experiences
- Participate in the opportunities provided by the service to engage with parents
- Have access to any official records held at the service related to their child's participation in that service.

It is recommended that services have a policy for managing parent/guardian contact or visits with their children.

Early learning staff will not always be able to satisfy the wishes of all parents and guardians. It is important that the person responsible continues to act within the law and exercise their professional judgement.

If a child becomes distressed by the contact with their parent or guardian, then the person responsible may decide that the parents/guardians visit is disruptive and may ask the person to leave.

However, if there is no disruption/ distress to the child then a visit by a parent/guardian could be managed as an opportunity to engage them in their child's learning.

When enrolling a child whose parents or guardians are living apart:

If the information is volunteered (or is known) that the child's parents and any additional guardians are living in different households this could be recorded on the child's enrolment form.

Early learning staff will need to:

- Where there is a parenting order from the Family Court prohibiting a parent or guardian from having contact (visiting) with a child before they refuse entry (unless they have other concerns under section 319A).
- Clarify and record who has responsibility for providing the day-to-day care of the child and responsibility for the living arrangements for the child.
- Clarify which surname the child is to be known by and if there is more than one, to record both.
- Record who the emergency contact people are.

- Clarify and record if there is likely to be anything in the parenting agreement or parenting order that may impact on the child being able to attend for the hours they are enrolled
- Record who else is able to have contact (visit) with the child while they attend early learning.
- Clarify and record the name of the child's social worker (if applicable).
- Ensure all staff are made aware of the situation and arrangements.
- Ensure the recorded information and knowledge of the family circumstances is kept confidential to the service.

For further information see [our website](#) to find contact details for your local Ministry offices.