

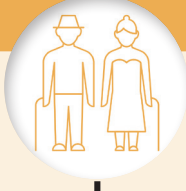
INFORMATION SHEET

Parenting



WHERE TO START:

The law regarding parenting arrangements in the Family Law Act (FLA) is complex. This information sheet aims to provide you with a brief outline of the main considerations.



WHO CAN APPLY:

Any person concerned with the care, welfare and development of a child can apply for a parenting order. This may include the child's parents, grandparents or other relatives. You can apply for a parenting order at any time. You can apply before or after separation or divorce.



THE APPROACH:

Parents have the responsibility for their children's care, welfare and development. This is referred to as the Presumption of *Shared Parental Responsibility (SPR)*.

In all situations the aim is for parents to reach an agreement regarding the care arrangements for their children. If an agreement is reached, consideration should be given to it being documented.

THE PRESUMPTION OF SPR:



This refers to decision making for long term care issues in a child's life such as: *the child's education, health, name and schooling.*

In cases of family violence or child abuse, the court can order sole responsibility to one parent.

DAY-TO-DAY CARE:



While the child is in the care of each parent, that parent has responsibility for the child's day-to-day care. This involves issues such as sport and extra-curricular activities, phone calls, holidays and special days.

HOW MUCH TIME?



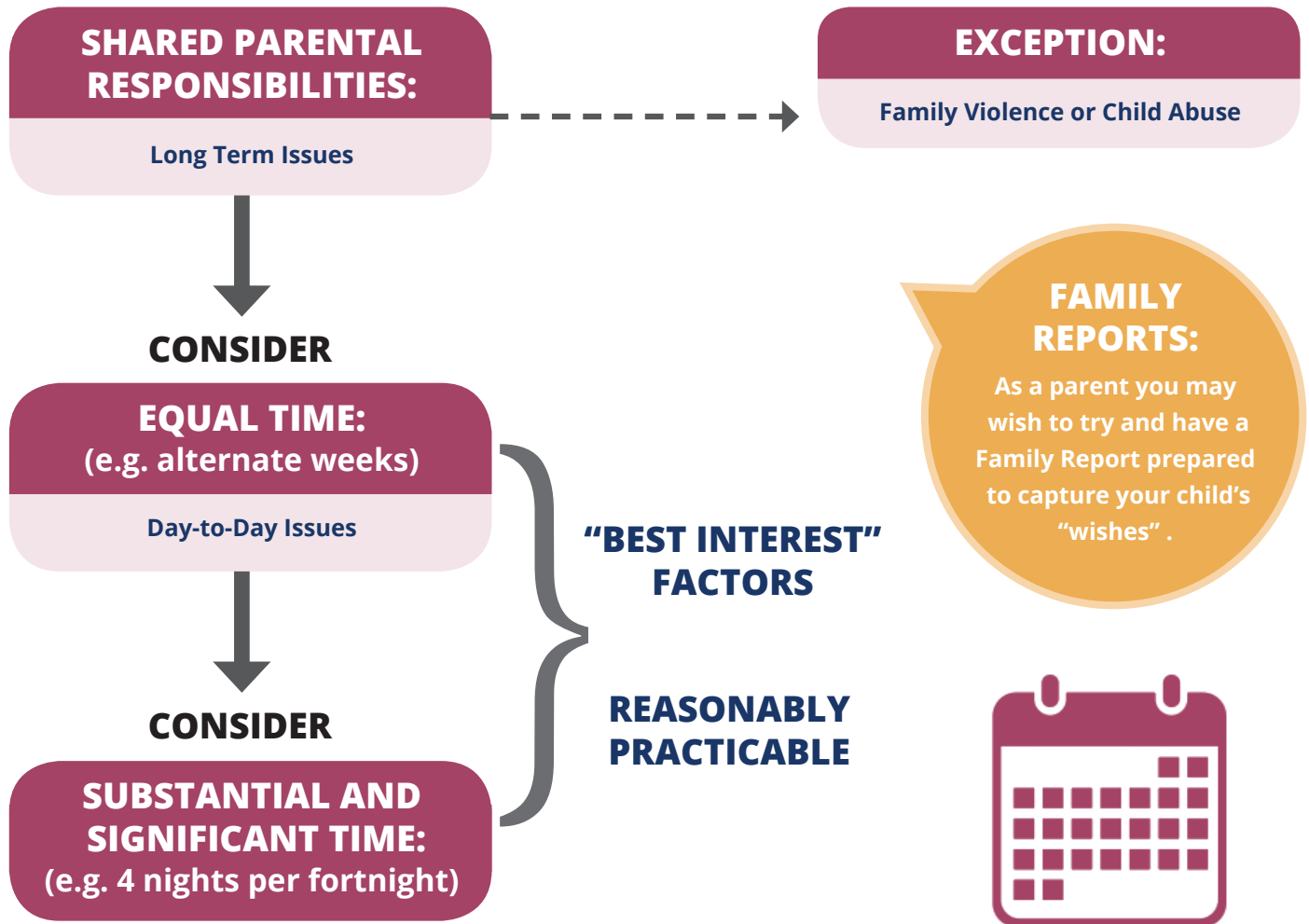
To determine who the child should *'live with'* (primary care) or *'spend time with,'* requires a consideration of the child's *'best interests'* as well as whether the proposed arrangements are *'reasonably practicable.'*

With those factors in mind, there must firstly be a consideration of an *'equal time'* arrangement or if that is not suitable, then a consideration of a *'substantial and significant'* time arrangement (for the parent having less time) – this is defined as *'time in addition to weekends and holidays'*.

Substantial and Significant Time requires some time on weekends, holidays and other days. It must include time in daily routines and allow the participation in events that are significant to the child and significant to the parent.

Shared Parenting - The Process

WHAT IS CONSIDERED IN DETERMINING A PARENTING ARRANGEMENT?



OUTCOMES:

AGREEMENT

Agreement Options:

1. Parenting Plan
2. Consent Order
3. Non-documented Agreement

OR

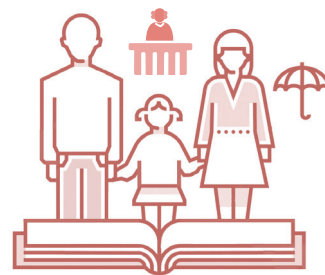
NO AGREEMENT

Going to Court:
An application to Court requires a (section 60I) - Mediation Certificate

Understanding the Concepts

PARENTING ORDER TERMS:

- **"LIVES WITH"** Replaces residence (*formerly custody*);
- **"SPENDS TIME WITH"** Replaces contact (*formerly access*).



'BEST INTERESTS' – WHAT IS CONSIDERED BY THE COURT:

- The benefit to the child of having a meaningful relationship with both parents.
- Protecting the child from physical or psychological harm.
- Any wishes expressed by the child.
- The child's relationship with the parents or any other people (such as grandparents).
- The effect of any changes in the child's circumstances, separation from either of the parents or any other person (such as siblings or grandparents).
- The capacity of each of the child's parents to provide for the needs of the child, including emotional and intellectual needs.
- The attitude to the child and to the responsibilities of parenthood, demonstrated by each of the child's parents.
- If the child is of Aboriginal or Torres Strait Islander background, whether or not separation from the parent of the same background would impact on the child's right to enjoy his or her Indigenous heritage.
- Any other relevant circumstance.

'REASONABLY PRACTICABLE':

The arrangements also need to be *'reasonably practicable'*, for example:

- How far apart the parents live from each other.
- The parent's capacity to implement an arrangement for the child to spend time with each parent.
- The parent's capacity to communicate with each other and resolve in implementing an arrangement.
- The impact that an arrangement might have on the child and;
- Any other relevant matters.

DOCUMENTING PARENTING AGREEMENTS:

If an agreement is reached regarding the arrangements for the children and the parents want to document it -

Consent Order:

- A standard court form that is completed by the parties, lodged with the court and (if accepted by the court) becomes a court order and is binding and enforceable.
- A court order is difficult to change.



OR

Parenting Plan:

- No set form. Only needs to be signed by both parents and there is no witnessing requirement.
- Not lodged with the court, does not become a court order and is not enforceable.
- It can only act as evidence of what the parents agreed upon and it tends to be more flexible in its wording of arrangements than a consent order.
- Easy to change.





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