

PARENTING INFORMATION SHEET



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:

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 process of reaching agreement will generally include participating in a dispute resolution event such as mediation (where it is appropriate to do so) prior to commencing Court proceedings.

DECISION MAKING:

This refers to decision making for major long term issues in a child's life such as: *the child's education and schooling, religious observance, health and medical treatment, name and significant changes to living arrangements.*

All parents have decision making for their children, although this can be displaced by an Order of the Court to give one party sole decision making. This can occur in cases where it is in the best interests of a child, for reasons including where there has been family violence or child abuse.

DAY-TO-DAY CARE:

While a 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 what a child will eat or wear, as these are usually not major long-term issues.

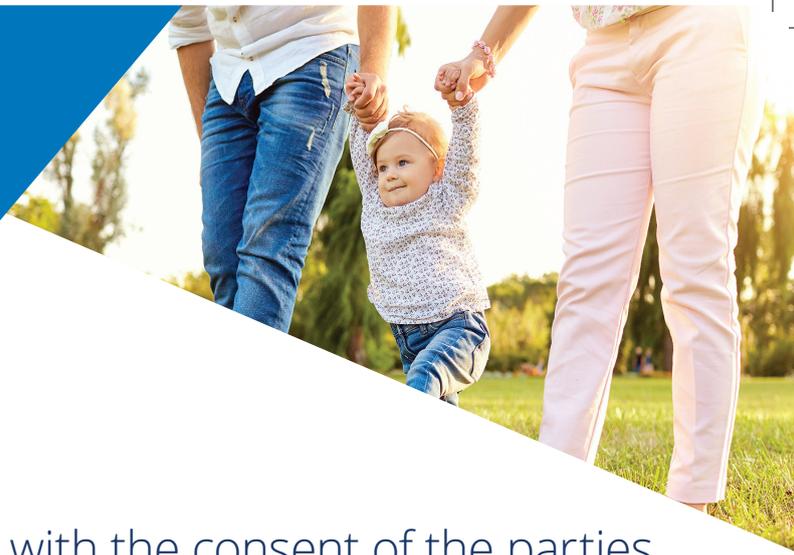
HOW MUCH TIME?

To determine who the child should *'live with'* (primary care) or *'spend time with'*, requires a consideration of the child's *'best interests'* as the paramount consideration. Parents are not required to consult on issues that are not major long-term issues.

Obtaining professional legal advice is critical if your matter proceeds to a Court Hearing. We offer a fixed-fee initial consultation. *Protect your rights, get in touch.*

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Parenting Orders

WHAT CAN BE INCLUDED?

Whether determined by a Court or with the consent of the parties, can include matters such as:

ALLOCATION OF DECISION MAKING?

For major long-term issues

WITH WHOM A CHILD WILL LIVE?

Primarily with one parent or with both parents equally

WITH WHOM A CHILD IS TO SPEND TIME?

Including during school term, school holidays and on special occasions

WITH WHOM A CHILD WILL COMMUNICATE?

By phone, video, social media and how often

SPECIFIC ISSUES?

Including travel, passports, schooling, parental communication and dispute resolution provisions, to name a few

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) Family Dispute Resolution Certificate

FAMILY REPORTS

As a parent you may wish to try and have a 'Family Report' prepared to capture your child's "wishes".



Parenting Order Terms

UNDERSTANDING THE CONCEPTS

“LIVES WITH” Replaces residence (*formerly custody*);

“SPENDS TIME WITH” Replaces contact (*formerly access*).

‘BEST INTERESTS’ – WHAT IS CONSIDERED BY THE COURT:

- what arrangements would promote the safety (including safety from being exposed to family violence, abuse, neglect, or other harm) of the child/ren and each person having care of the child/ren;
- any views expressed by the child/ren;
- the developmental, psychological, emotional and cultural needs of the child/ren;
- the capacity of each parent to provide for the child/ren’s developmental, psychological, emotional and cultural needs;
- the benefit to the child/ren of being able to have a relationship with their parents, and significant others, where it is safe to do so;
- anything else that is relevant to the particular circumstances of the child/ren; and
- where relevant, the child/ren’s right to enjoy their Aboriginal or Torres Strait Islander culture, by having the support, opportunity and encouragement necessary to connect with, and maintain their connection with, members of their family and with their community, culture, country and language.

DOCUMENTING PARENTING AGREEMENTS:

If an agreement is reached regarding the arrangements for the children, it can be documented in two ways:

1

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

2

Parenting Plan:

- No set form. Only needs to be signed by both parents.
- 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.
- Easy to change.

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