



## FAMILY LAW FACTSHEET 1: PARENTING ARRANGEMENTS

### NON-COURT BASED OPTIONS TO HELP RESOLVE FAMILY DISPUTES

*The best interests of the child will always be the most important consideration. This is to ensure your child's routine is kept the same, your child is safe and your child can enjoy a meaningful relationship with both parents.*

#### FAMILY COUNSELLING

Family Counselling is a process in which a family counsellor helps one or more persons to deal with personal issues in relation to marriage, separation or divorce. It helps people who are affected, or likely to be affected, by separation or divorce deal with personal and interpersonal issues relating to the care of children. It is different to Family Dispute Resolution (FDR) because FDR is specifically (but not exclusively) for those who intend on commencing legal proceedings.

#### FAMILY DISPUTE RESOLUTION (FDR)

Family Dispute Resolution means trying to come to an agreement about your family arrangements without going to court. If you want to apply to the court for a parenting order, you must have made a genuine attempt to resolve your issues by Family Dispute Resolution. If there has been family violence then you may apply for an exemption. PCLS can assist you with a referral to an FDR service.

*It's best to try to reach an agreement with the other side without going to Court but if you can't agree on arrangements for the child then the Court can assist you.*

#### PARENTING PLANS

A Parenting Plan is a written agreement that is made and signed by both parents and states the agreed parenting arrangements. The plan includes each parent's rights and responsibilities and will be a plan based on the best interests of the child. A Parenting Plan will be the best option if the relationship with the other parent is friendly as it means you don't have to go to court, it's less formal and cheaper. However, a Parenting Plan is not legally enforceable like a Parenting Order or a Consent Order. An FDR service can assist you with working out a Parenting Plan.

#### A PARENTING PLAN SHOULD INCLUDE

- ✓ Who the child will live with
- ✓ Time the child will spend with each parent
- ✓ Time the child will spend with others (grandparents etc.)
- ✓ How the parents will share parental responsibility, such as deciding schools etc.
- ✓ How a child will communicate with the other parent or other people
- ✓ Arrangements for birthdays and holidays
- ✓ Process to change the plan or resolve disagreements about the plan
- ✓ Anything else the parents wish to include

### COURT BASED OPTIONS TO HELP RESOLVE FAMILY DISPUTES

#### CONSENT ORDERS

A Consent Order is when the Court makes a Parenting Plan or agreement between the parties into a legally enforceable Order. If one parent does not comply with the Order, an application can be made to the Court to enforce the Order.

*Disclaimer: This factsheet provides general information and is not to be taken as legal advice. Published 2019.*



## PARENTING ORDERS

A Parenting Order is made by the Court. It sets out parenting arrangements for the future, like who the child will live with. A Parenting Order is legally enforceable by the Court. The Court can make a Parenting Order based on an agreement between the parties or after a Court hearing. Either parent can apply for Parenting Orders, as can other relatives such as grandparents and extended family members therefore when referring to parents this essentially refers to the caregivers.

The Court will aim to ensure that the parents have meaningful involvement in the children's lives, children are protected from physical and mental harm, the children receive adequate and proper care and that the parents fulfil their duties and meet responsibilities.

*A Parenting Order can include the same things as a Parenting Plan*

## EQUAL PARENTING RESPONSIBILITY

The Court will generally apply the presumption that equal share of parental responsibility will be in the best interests of the child, unless there is evidence to show it is unsafe to do so. Where there is a risk of exposure to family violence or actual family violence has occurred a *Notice of Child Abuse and Family Violence (or Risk)* (**Form 4**) should be filed. A PCLS lawyer can help you with this.

## EQUAL SHARED TIME ORDER

Equal shared parental responsibility is not the same as equal time. Parents will spend equal time with a child only where:

- ✓ they can agree to this arrangement; or
- ✓ a court finds that equal time is in the best interests of the child and is the most suitable arrangement.

## SUBSTANTIAL AND SIGNIFICANT TIME ORDER

If an equal shared time order is not appropriate, the Court can make an alternative order which allows you to have substantial and significant time with the child as opposed to the same time the other party will get. This is often an easier option when logistics can be difficult to navigate. This may include the child spending time with you on weekdays, weekends or holidays and having meaningful involvement in the child's daily routine via telephone calls. The Court may, in some instances, find evidence that shows it is in the best interests of the child to have limited supervised time or no time with the other parent.

## WHEN TO APPLY FOR A PARENTING ORDER

- ✓ Parents cannot agree on arrangements for the children
- ✓ A parent's situation is changing, and this will affect an existing parenting order
- ✓ There is an emergency and you or the children are at risk
- ✓ There is family violence
- ✓ You need to prevent children from being removed from you

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