

Family law information Sheet

In deciding parenting disputes, a court will first determine **parental responsibility** for the child(ren). Having made a decision on this, the court will then determine what parenting arrangements are appropriate. Where the court has ordered **equal shared parental responsibility**, this will include an examination of whether **equal time** or **substantial and significant time** are in the **best interests of the child** and **reasonable practicability**. This Information Sheet outlines how a court does this.

The court must regard the best interests of the child as the most important consideration. In doing so the court will consider:

The main considerations

- Protection from physical/psychological harm, abuse, neglect and family violence.
- The benefit of having a meaningful relationship with both parents.

In applying these main considerations, the court will give greater weight to the protection of the child.

Other considerations:

- Views expressed by the child.
- Relationship with each parent/grandparent/relative.
- Maturity, sex, lifestyle & background (including cultural traditions) of the child & parents and any other relevant characteristics of the child.
- If the child is Aboriginal or Torres Strait Islander, the child's right to enjoy that culture with others who share that culture.
- Capacity to provide for the needs of the child (including emotional & intellectual needs).
- Attitude to the child & responsibilities of parenting demonstrated by each parent.
- The extent each parent has fulfilled (or failed to fulfil) their obligations to maintain the child.
- Things that have happened since separation.
- What any parenting plan says.
- The effect of any change in circumstances.
- The difficulty/expense of spending time/communicating with either parent (and whether that will substantially affect the child's right to maintain personal relations & direct contact on a regular basis with both parents).
- Any family violence involving the child or member of the child's family.
- Any family violence order, if it is a final order or the making of the order was contested.
- Whether it would be preferable to make an order that is least likely to lead to further court proceedings in relation to the child.
- Anything else the court considers relevant.

When considering equal time or substantial and significant time, the Court will also consider the practicability of any parenting arrangement in light of:

- How far the parents live from each other;
- The parents' current and future capacity to implement the parenting arrangement;
- The parents' current and future capacity to communicate & resolve difficulties that might arise in implementing the parenting arrangement
- The impact that the parenting arrangement would have on the child; and
- Any other matters the court considers relevant.

Sydney North advice clinic: Fridays at Parramatta Baptist Church, 84-94 Kleins Rd, NORTHMEAD

Sydney South advice clinic: 1st and 3rd Tuesdays of the month at Georges River Life Care, 23 Stanley Street, PEAKHURST

Telephone advice line: 9am – midday Tuesdays & Thursdays on 02 9890 1203

Administration line: 02 9890 1208

Facsimile: 02 9890 1218

Postal address: P.O. Box 3533, ROUSE HILL NSW 2155

E: office@horizonsfamilylaw.org.au

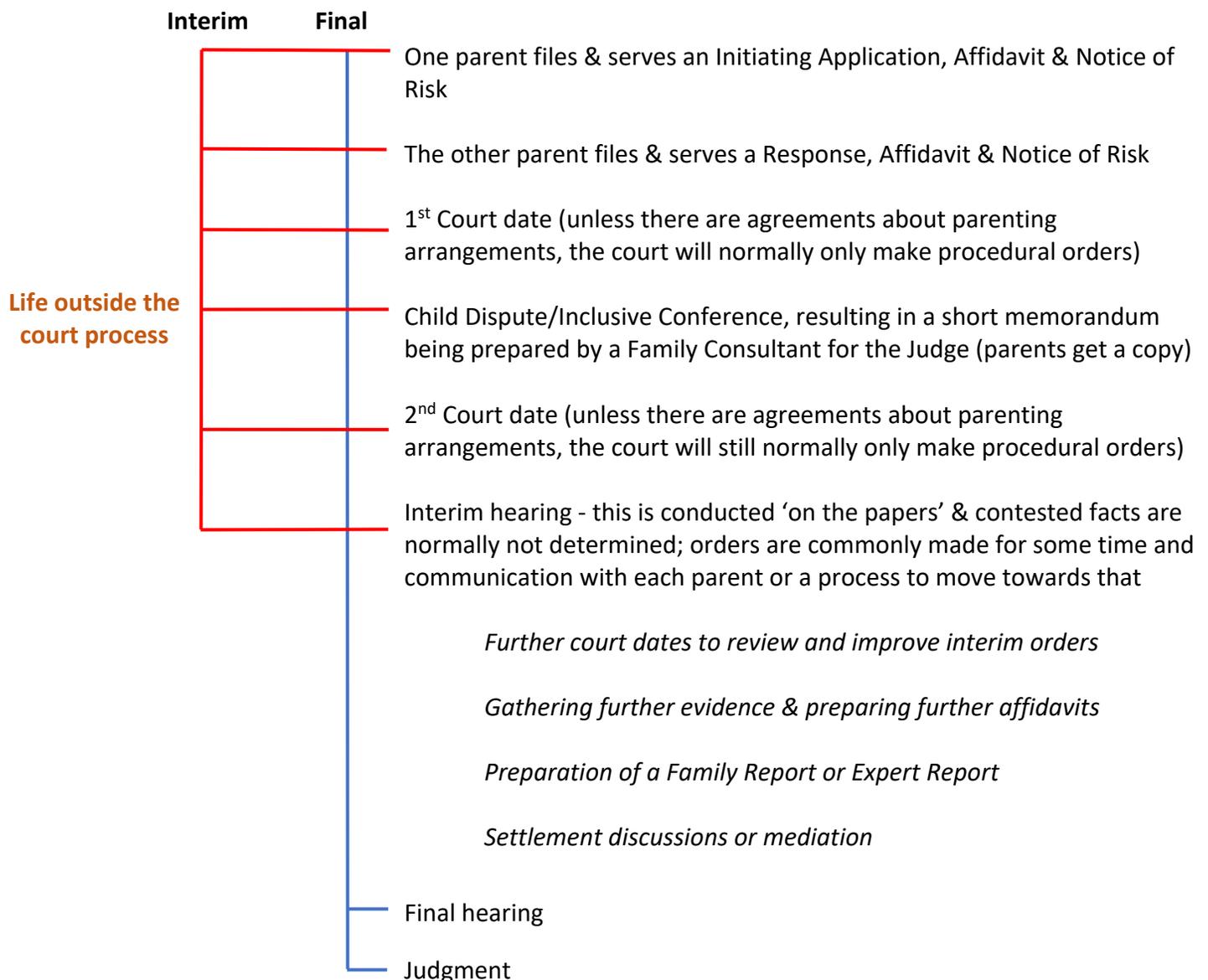
Website: www.horizonsfamilylaw.org.au

The mechanics of a court's decision

Every child in Australia has a right to time and communication with both their parents. This should include as much time and communication with each parent as the best interests of the child and the overall circumstances of the family allow.

The legal process to obtain court ordered parenting arrangements normally includes the following:

**Pre-court mediation
(unless there is urgency or
a history of family violence or child abuse)**



Life after the court process