



# Best Practice Principles for use in Parenting Disputes when Family Violence or Abuse is Alleged

March 2009



**FAMILY COURT OF AUSTRALIA**

## Preamble

These best practice principles have been developed to provide decision makers with practical guidance in dealing with matters in which a notice has been filed alleging family violence or the risk of family violence, or abuse or the risk of abuse.

The best practice principles have been developed in recognition and understanding of the devastating effects of family violence and abuse on victims; in furtherance of the commitment of the Family Court to protecting children and parents from harm resulting from family violence and abuse; in furtherance of the accepted recommendations contained in the Court's *Family Violence Strategy*; in recognition of the principles guiding the Magellan case management system for the effective and efficient disposition of cases involving allegations of sexual abuse or serious physical abuse of children, and in recognition of the place accorded to the issue of family violence in the changes to Part VII of the *Family Law Act 1975*.<sup>1</sup>

### Key legislative provisions

Compulsory participation in primary dispute resolution prior to filing **DOES NOT APPLY** where a Court reasonably believes there has been family violence or abuse, or there is a risk of family violence or abuse.

Section 60B has been amended to insert a new object: "*protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence*".

The presumption of equal shared parental responsibility **DOES NOT APPLY** where there are reasonable grounds to believe that a parent of a child (or a person who lives with a parent of a child) has engaged in abuse of the child or in family violence.

Pursuant to 60CC, "*the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence*" is one of two 'primary' factors that the Court must take into account in deciding what orders are in the child's best interests.

Section 60K imposes an obligation on the Court to take prompt action in Part VII proceedings where allegations of family violence or abuse are made and the allegations are relevant to the Court's decision as to whether to grant or refuse the orders sought. The Court must give consideration to what orders are required to gather evidence and protect any children or parties (and must consider whether a relevant state agency should prepare a report and whether a personal protection injunction is required) as soon as is practicable and within eight weeks where possible.<sup>2</sup>

The Court has developed procedures relating to section 60K. Where a party files a Form 4 'Notice of Child Abuse or Family Violence', that party is directed to the Duty Registrar or, where not available, to another judicial officer for consideration as to whether a directions, procedural or interim hearing should be held to make orders to enable evidence to be gathered about the allegations, orders for the protection of the parties, or any other appropriate order.

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<sup>1</sup> The Family Court has a national family violence screening and assessment program in place. Accordingly, issues associated with screening for family violence are not included in these best practice principles.

<sup>2</sup> These best practice principles have been prepared in the understanding that a number of other jurisdictions, including the United Kingdom, have developed a range of initiatives to address the issue of family violence when alleged in family law proceedings. The UK '*Guidelines for Good Practice on Parental Contact in Cases where there is Domestic Violence*' are particularly noteworthy and regard has been had to the introduction of those guidelines, and to case law referring to those guidelines, in the United Kingdom.

## Best practice principles

### **A** Matters that may be considered in parenting disputes where family violence or abuse, or risk of family violence or abuse, is alleged

Upon the filing of a notice, the application is to be referred to a Registrar or, if not available, to another judicial officer.

#### **In every application the decision maker must:**

- (i) Where an exemption has been granted from the requirement to attend family dispute resolution because there has been family violence or abuse or there is a risk of family violence or abuse, consider whether or not to order that a person attend family dispute resolution with the other party or parties in relation to an issue or issues that an order would deal with.

[Section 60I(10) Family Law Act]

- (ii) Consider seeking the advice of a Family Consultant prior to making an order that one or more of the parties attend family counselling, family dispute resolution and/or participate in an appropriate course, program or other service.

[Section 11E Family Law Act]<sup>3</sup>

- (iii) Where section 60K(1) applies:

- consider what interim or procedural orders (if any) should be made to enable appropriate evidence about an allegation of family violence or abuse to be obtained and to protect the child or parties to the proceedings;
- consider whether orders should be made under section 69ZW;
- consider whether an injunction should be granted under section 68B;
- make such orders as the decision maker considers appropriate; and
- deal with the issues raised by the allegation as expeditiously as possible.

[Sections 60B(1), 60K, 69ZN, 69ZW Family Law Act]

- (iv) Whether it is satisfied that there is an urgent need to make a parenting order or a special circumstance (such as family violence) that makes it appropriate to make the order despite the parties not having attending family counselling.

[Section 65F(2) Family Law Act]

<sup>3</sup> Section 11A describes the functions of family consultants, which are to provide services in relation to proceedings under the Family Law Act, including assisting and advising courts and giving evidence in relation to the proceedings.

## In every application the decision maker may:

Upon the filing of a notice, the application is to be referred to a Registrar, or, if no Registrar is available, to another judicial officer. It is important that all the relevant matters be attended to when the matter is first referred. Sometimes, especially when one or both parties are not represented, the judicial officer will not have the benefit of systematic or comprehensive submissions. For this reason, the following check-list is provided. Such an application will ordinarily require that consideration be given to the following:

- (i) Whether a family dispute resolution practitioner has granted a certificate to a party under section 60I(8) and the type of certificate granted.

[Section 60I(8) Family Law Act]

- (ii) Whether an exception should be granted under section 60I(9)(b) to the requirement to attend family dispute resolution prior to issuing proceedings.

[Section 60I(9) Family Law Act]

- (iii) Where an exception is granted under section 60I(9)(b) on the basis that there has been abuse of the child by one of the parties to the proceedings or there has been family violence by one of the parties to the proceedings, and section 60J(1)(b)(ii) therefore applies, whether there would be a risk of abuse of the child if there were to be a delay in applying for the order; or there is a risk of family violence by one of the parties to the proceedings.

[Section 60J(2) Family Law Act]

- (iv) Whether to direct a party or parties to file an affidavit.

[Section 60K(1) Family Law Act, Rule 2.04, Part 15.2 Family Law Rules]

- (v) Whether a state or territory family violence order is in force that applies to the child or a member of the child's family and the terms of the family violence order.

[Sections 6CC(3)(k), 60CF, 60CG Family Law Act, Rule 2.05 Family Law Rules]

- (vi) In making a parenting order or injunction, the extent to which that order is inconsistent with an existing family violence order.

[Section 68P Family Law Act, Rule 2.05 Family Law Rules]

- (vii) Whether to seek the advice of a Family Consultant as to any services appropriate to the needs of the parties and the most appropriate provider of those services.

[Section 11E(1) Family Law Act]

- (viii) Whether one or more of the parties should be ordered to attend family counselling or family dispute resolution or an appropriate course, program or other service.

[Section 13C Family Law Act]

- (ix) Where one or more of the parties is ordered to attend family counselling or family dispute resolution or an appropriate course, program or other service what orders, if any, are necessary to protect the safety of any party subject to the order.

[Section 13C(4) Family Law Act]

- (x) Whether one or more of the parties should be ordered to attend an appointment with a Family Consultant and what orders, if any, are necessary to protect the safety of any party ordered to attend an appointment with a Family Consultant.  
[Section 11F Family Law Act]
- (xi) What, if any, safety plan is in place for Court events and whether a safety plan needs to be formulated.  
[Sections 60B(1)(b), 69ZN(5) Family Law Act]
- (xii) Whether the matter should be referred to the judicial officer responsible for the Magellan list for consideration as to whether the matter should be included in that list.  
[Magellan Procedures Manual]
- (xiii) Whether there are unresolved criminal or state welfare proceedings on foot and, if so, whether the family law proceedings should be adjourned pending finalisation of the criminal or state welfare proceedings or whether the party against whom proceedings have been instituted should be invited to obtain a certificate under section 128 of the *Evidence Act 1995* (Cth).  
[Section 128 Evidence Act]
- (xiv) Whether the address of the party making the allegations should be suppressed.  
[Section 69ZN(5) Family Law Act]
- (xv) Whether the child or children should be independently represented in the proceedings.  
[Section 68L Family Law Act]
- (xvi) Whether any person not currently a party to the proceedings should be joined as a party.  
[Rule 6.02(1) Family Law Rules]
- (xvii) Whether to request a child welfare officer to intervene in the proceedings.  
[Section 91B Family Law Act]
- (xviii) Whether it would be appropriate to make interim or procedural orders without notice to the other party and in the absence of a party.  
[Section 69ZN(5) Family Law Act; Parts 5.3 and 5.4, Family Law Rules]
- (xix) Whether a Family Report should be ordered.  
[Section 62G Family Law Act]
- (xx) Whether an expert with expertise and clinical experience in family violence or abuse should be appointed to report on relevant matters.  
[Section 69ZX(1) Family Law Act]
- (xxi) Whether the child or children should be made available for a psychological or psychiatric evaluation.  
[Section 68M(2) Family Law Act]

- (xxii) Whether the views of an Independent Children's Lawyer, where appointed, should be sought as to the appropriate expert to undertake any psychological or psychiatric evaluation of the child or children.

*[Section 68LA Family Law Act]*

- (xxiii) Whether the production of documents should be sought by the issue of subpoenas.

*[Part 15.3 Family Law Rules]*

- (xxiv) Whether the person alleging family violence or abuse, or risk of family violence or abuse, may give evidence by video from another location or by closed circuit television from another location.

*[Sections 69ZN(5)(b), 102C(1), 102D(1), 102E(1) Family Law Act]*

- (xxv) Whether to allocate a date for hearing in the duty list.

*[Rules 2.04C, 12.04 Family Law Rules]*

- (xxvi) Whether to refer the matter to the case management judge for consideration as to whether a Judge Manager should be appointed.

- (xxvii) In consultation with the case management judge, whether the case is appropriate for the allocation of preliminary hearing dates for the findings about disputed facts related to the alleged family violence or abuse.

*[Section 69ZR(1) Family Law Act]*

- (xxviii) Whether to transfer the matter to another court.

*[Section 33B Family Law Act, Rules 11.17, 11.18 Family Law Rules]*

## **B** Matters that may be considered in making orders directing the preparation of a Family Report or appointing a Court expert to report

If the Court makes findings of fact about the allegations of family violence or abuse or the risk of family violence or abuse prior to the report process, the Family Consultant or Court expert is to be provided with a copy of the findings and the report is to proceed on that basis.

In considering the appointment of an expert witness to prepare a family report or other expert report, the Court may wish to satisfy itself that the expert witness has appropriate qualifications and experience to assess the impact and effects (both short and long term) of family violence or abuse, or being exposed to the risk of family violence or abuse, on the children and any party to the proceedings.

In the framing of orders for a Family Report or a report from a Court appointed expert, the judicial officer may wish to give consideration to the following matters and, where appropriate, direct the reporter to:

- (i) Specifically address the issue of family violence or abuse or the risk of family violence or abuse.
- (ii) Make an assessment of the harm the children have suffered or are at risk of suffering if the orders sought are made and if the orders sought are not made.
- (iii) Consider whether or not it would be appropriate for the presumption of equal shared parental responsibility to apply.
- (iv) Consider whether or not there would be benefits, and the nature of those benefits, if the child spent time with the parent against whom the allegations are made.
- (v) Assess whether the safety of the child and the parent alleging the family violence or abuse can be secured before, during or after any time that the child spends with the parent against whom the allegations are made.
- (vi) Assess whether the safety of the child alleging the family violence or abuse can be secured before, during or after any time that the child spends or any contact a child has with a person against whom the allegations are made, where that person is not the child's parent.
- (vii) Where equal time or substantial and significant time is sought, assess whether the safety of the child can be secured during the time spent with the parent against whom the allegations are made.
- (viii) Where equal time or substantial and significant time is sought, assess whether the safety of the child can be secured during the time spent with the person against whom the allegations are made, where that person is not the child's parent.
- (ix) Ascertain the views of the child or children in light of the allegations of family violence or abuse or the risk of family violence or abuse.
- (x) Where family violence or abuse is acknowledged or established, report on:
  - the impact of the family violence or abuse;
  - whether or not the parent acknowledges the family violence or abuse has occurred;
  - whether or not the parent accepts some or all responsibility for the family violence or abuse;
  - whether and the extent to which the parent accepts that the family violence or abuse was inappropriate;

- whether or not the parent has participated or is participating in any program, course or other activity to address the factors contributing towards his or her violent or abusive behaviour;
  - whether or not there is a need for the child and the other parent to receive counselling or other form of treatment as a result of the family violence or abuse;
  - whether the parent has expressed regret and shown some understanding of the impact of their behaviour on the other parent in the past and currently; and
  - whether there are any indications that a parent who has behaved violently or abusively and who is seeking to spend time with the child can reliably sustain that arrangement.
- (xi) Inform the reporter whether the whereabouts of the party making the allegations has been suppressed and direct that those whereabouts not be revealed directly or indirectly in the reporting process.

*[from the Guidelines for Good Practice on Parental Contact in Cases where there is Domestic Violence,  
Prepared by the Children Act Sub-Committee of the Lord Chancellor's Advisory Board on Family Law,  
April 2002]*

## **C** Matters that may be considered in making interim parenting orders pending a full hearing

Experience has shown that the following matters are often of particular importance when making interim orders in which there are disputed allegations of family violence or abuse, or the risk of family violence or abuse, and it would ordinarily be desirable for consideration to be given to them at an interim hearing:

- (i) The likely risk of harm to the child, whether physical and/or emotional, if an interim application for a child to spend time with a parent against whom allegations have been made is granted or refused.
- (ii) If the Court decides that it is in the interests of the child to spend time or communicate with a parent against whom allegations have been made, what directions are required to give effect to such order(s), and in particular:
  - whether time spent with the other parent should be supervised;
  - if so, whether or not that supervision should occur at a child contact centre;
  - if not, where the time spent should take place and who should supervise it;
  - times for the visit and places of exchange;
  - who should be permitted to attend the appointment with the parent;
  - who will bear the costs of the supervision, and in particular;
  - what other arrangements should be put in place (including an order under section 60CG(2)) to secure the safety of the child and the parent with whom the child is living before, during and after any time spent with the other parent.
- (iii) Whether a parent or parents seeking to spend time with a child should attend a post-separation parenting program pursuant to section 65LA or seek advice and/or treatment pursuant to section 13C(1)(c) as a precondition to such an order or as a means of assisting the Court in ascertaining the likely risk of harm to the child from that person at the final hearing.

## **D** Matters that may be considered at the final hearing

Experience has shown that the following matters are often of particular importance when making final parenting orders in which there are disputed allegations of family violence or abuse, or the risk of family violence or abuse before the Court and it would ordinarily be desirable for consideration to be given to them at a final hearing:

- (i) On the first hearing day consider whether or not it would be appropriate to hear the evidence about the disputed allegations of family violence or abuse or risk of family violence or abuse and make findings in relation to those allegations by way of a specific judgment.
- (ii) Wherever appropriate, make findings of fact as to the nature and degree of the family violence or abuse which is established on the balance of probabilities and its effect on the child and the parent with whom the child is living.
- (iii) Consider the extent to which the allegations of family violence are consistent with the principle features of 'controlling family violence', including but not limited to that the violent party is alleged to have:
  - used coercion and threats;
  - used intimidation;
  - used emotional abuse;
  - used tactics to isolate the other party;
  - minimised and/or denied the abuse;
  - blamed the other party for the violent behaviour;
  - used the children as tools; and
  - denied the other party access to fiscal resources.

## **E** Matters that may be considered where findings of family violence or abuse, or an unacceptable risk of family violence or abuse, have been made

Judicial officers often have regard to social science research, and particularly that of psychologists, psychiatrists and social workers, in considering the cause, nature and effects of family violence and abuse. Judicial officers may wish to consider the factors identified in the Sturge & Glaser psychiatric report, which discusses the effect on children of being exposed to domestic family violence and the circumstances in which a child should have no contact with a parent who has used or exposed the child to family violence, in considering whether or not to order that a child spend time with a parent against whom findings with respect to family violence or abuse, or the unacceptable risk of family violence or abuse, have been made.<sup>4</sup> These factors are:

- (i) The effect of the family violence or abuse which has been established, or the unacceptable risk of family violence or abuse, on the child and on the parent with whom the child is living.
- (ii) Whether or not the motivation of the parent seeking a particular parenting order is a desire to promote the best interests of the child or as a means of continuing a process of family violence against or intimidation or harassment of the other parent.
- (iii) Where findings have been made against a parent and that parent seeks an order to spend time with a child:
  - whether or not the parent acknowledges that the family violence has occurred;
  - whether or not the parent accepts some or all responsibility for that family violence;
  - the extent to which the parent accepts that the family violence was inappropriate, particularly in respect of the domestic and parenting context and the likely ill-effects on the child;
  - whether or not the parent has participated or is participating in any program, course or other activity to address the factors contributing towards his or her use of family violence;
  - whether or not the parent has a genuine interest in the child's best interests and a full commitment to the child;
  - whether the parent wishes to work towards the child recognising the inappropriateness of the family violence and the attitude to and treatment of the parent against whom family violence has been used and helping the child to develop appropriate values and attitudes;
  - whether the parent has expressed regret and shown some understanding of the impact of their behaviour on the other parent in the past and currently;
  - whether there are any indications that the parent seeking to spend time with the child can reliably sustain that arrangement in all senses;
  - the potential detriment to the child arising from the Court ordering that the child have limited or no contact with the parent against whom findings have been made, including but not limited to:
    - deprivation of a relationship with that parent;
    - the loss of opportunity to know that parent first-hand;
    - the loss of opportunity to know grandparents and other relatives on that parent's side of the family;

<sup>4</sup> The report was discussed in detail in the English decision of *Re L (Contact: Domestic Violence)* [2000] 2 FLR 334. Dame Butler-Sloss, President of the Family Division of the High Court of Justice, described the report as containing extremely valuable information to assist in the difficult task faced by family judges or family proceedings magistrates in deciding whether to order contact in cases where family violence is proved.

- the loss of that parent if the child has a positive and meaningful relationship;
  - the loss of the opportunity for that parent to provide positive and supportive contact;
  - the absence of the opportunity for any repair to the relationships or to the harm done; and
  - the lessening of the likelihood of the child being able to get in touch and/or form a relationship with the parent at a later stage.
- respecting the child's views and seeking an assessment of the context in which the view has been expressed so that the weight of that view can be considered.

*[Sturge and Glaser, 'Contact and Domestic Violence – the Experts' Court Report' [2000] Fam Law 615; Re L (Contact: Domestic Violence) [2000] 2 FLR 334]*

## **F Matters that may be considered where the Court orders that a child spend time with a parent against whom findings have been made that allegations of family violence or abuse are proven, or against whom findings have been made that the parent presents an unacceptable risk of behaving violently or abusively**

Experience has shown that the following matters are often of particular importance when findings of family violence or abuse, or an unacceptable risk of family violence or child abuse, have been made and the Court orders that a child spend time with a parent against whom such findings have been made:

- (i) Whether time spent with the other parent should be supervised, and if so, by whom and under what conditions, including but not limited to:
  - times for the visits;
  - places of exchange;
  - whether access to the home where the child lives should be restricted;
  - who is permitted to attend the supervised contact in addition to the parent (for example, other siblings or step-siblings who may be living with the parent);
  - whether telephone contact with the child is permitted and under what conditions, including the time of such contact, the duration of such contact and the number of times per week;
  - whether contact via other electronic means, such as e-mail, SMS and webcam, is permitted;
  - who will supervise the contact;
  - how the supervisor is to be chosen;
  - who shall bear the cost of the supervision; and
  - whether that expense can be realistically sustained.<sup>5</sup>
- (ii) Where an order is made that time spent with a parent occur at a children's contact centre, whether the policy of the contact centre accommodates the arrangements envisaged.
- (iii) What conditions (for example by way of seeking advice or treatment) should be complied with by the party in whose favour the order has been made.
- (iv) Whether the Court should exercise its powers under 68B to make or extend an order for the personal protection of the child or the parent with whom the child lives.
- (v) Whether the time spent with the other parent should be for a specified period or should contain provisions which are to have effect for a specified period.
- (vi) Whether the order should be supervised by a Family Consultant for a limited period of time or referred to an external Parenting Orders Program for longer term supervision and support.
- (vii) Whether a Family Consultant should be directed to give one or both parties assistance to comply with the parenting order.
- (viii) Whether any parenting order or injunction is inconsistent with a family violence order and the extent of any inconsistency.

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<sup>5</sup> The Family Court has developed parenting orders, including a model order for supervised contact at a contact centre. The text of the order is listed on page 15:

## **G** Matters that may be considered where the Court has been asked to make a consent order

In any matter in which a Court is asked to make an order with the consent of the parties and the order, if made, would require a child to spend time with a parent against whom allegations of family violence have been made, in addition to the section 60CC factors, the Court may find the following questions of use in deciding whether or not to make the order sought:

- ▶ How serious are the allegations?
- ▶ Has there ever been involvement of the child or children (direct or indirect) in the family violence or a threat against the children?
- ▶ Are there indicators of pathological jealousy, marked possessiveness or stalking?
- ▶ Is there any reason to believe that the parent seeking to spend time with a child or children is doing so as a way of continuing to control or maintain contact with the parent with whom the child lives?
- ▶ Is the driving motive for the parent in wanting to spend time with his or her child related more to his or her feelings about the parent with whom the child or children principally live than about the child or children?
- ▶ Are there any indicators of significant mental illness or suicidal ideation in the parent with whom a child or children would be spending time?
- ▶ Is it clear that the parent with whom the child or children will principally live has agreed to the order without pressure from others and having had an open discussion with his or her lawyer about the arguments for and against the child spending time with a parent?
- ▶ Where appointed, does the Independent Children's Lawyer support the consent orders and, if not, how should the concerns of the Independent Children's Lawyer be addressed?

If the Court has any reason for concern then the following action may be considered before consent is given to the order:

- ▶ Ordering the preparation of a Family Report.
- ▶ Ordering the appointment of an Independent Children's Lawyer.
- ▶ Requesting a Family Consultant to interview one or both of the child's parents and, where appropriate, the child or children and reporting back to the Court.
- ▶ Ordering a section 69ZW report.
- ▶ Hearing evidence to determine whether or not a parent has behaved violently or abusively towards the other parent and/or the child or children, or whether a parent with whom a child is to spend time presents an unacceptable risk.
- ▶ Referring one or both parents to an appropriate service and adjourning the proceedings.

If the Court forms the view that it is in the best interests of the child to make the orders sought by consent and those orders provide for a child to spend time with a person against whom allegations of family violence have been made, the Court may wish to give consideration to delivering a short judgment explaining why the Court has agreed to make the orders sought.

## **H** Time standards for Court events

In hearing and determining applications for parenting orders under Part VII of the *Family Law Act 1975* in which allegations of family violence or abuse, or allegations of risk of family violence or abuse, are put forward as a reason to make or refuse to make a parenting order, the Court aims to achieve the following time standards between Court events, while recognising that matters that require urgent attention will be accorded necessary priority:

- (i) Where a notice containing allegations of family violence or abuse or the risk of family violence or abuse is filed in accordance with the Family Law Rules with an initiating application or in response to an initiating application:

*no later than 8 weeks from filing the notice to an Initial Procedural Hearing in a Parenting Case or Case Assessment Conference.*

- (ii) Where a notice containing allegations of family violence or abuse or the risk of family violence or abuse is filed in accordance with the Family Law Rules with an initiating application or in response to an initiating application and an abridgement of time is sought:

*no more than 6 weeks from abridgement being granted to an Initial Procedural Hearing in a Parenting Case.*

- (iii) Where an application is adjourned from a Case Assessment Conference or Registrar's Procedural Hearing List to a Judicial Duty List in circumstances where the Registrar considers it appropriate for an interim personal protection order or interim parenting order to be made:

*no more than 4 weeks from an Initial Procedural Hearing in a Parenting Case or Case Assessment Conference to hearing in a Judicial Duty List.*

- (iv) In other circumstances where an interim order is sought:

*no more than 6 weeks from an Initial Procedural Hearing in a Parenting Case or Case Assessment Conference to hearing in a Judicial Duty List.*

- (v) Where participation in family counselling or family dispute resolution is ordered:

*not later than 8 weeks from the date of order.*

- (vi) Where parties are ordered to attend an appointment with a Family Consultant:

*not later than 8 weeks from the date of order.*

- (vii) Where a Family Report is ordered on the first return date:

*12 weeks from the date the report is ordered (otherwise not later than 2 weeks prior to the next Court hearing for which the report is required).*

- (viii) Where a report is order pursuant to section 69ZW:

*10 to 12 weeks from the date the report is ordered.*

## **I** Information about local facilities

The Court will take steps to inform itself from time to time about any locally available facilities that would be likely to assist those who have been violent to their partners and/or their children, and, where appropriate, consider imposing upon that parent participation in that service as a condition of spending time with the child.

## **J** Reasons

In its judgment or reasons the Court will explain how its findings on the issue of family violence or abuse, or its finding of unacceptable risk of family violence or abuse, have influenced its decision; and in particular where the Court has found family violence or abuse to be proven but nonetheless makes an order for a parent to spend time with or communicate with a child, the Court should explain, whether by way of reference to section 60CC or otherwise, why it takes the view that is in the best interests of the child.

## Spending time

### Supervision by Contact Centre - Order

Each party shall:

- (a) contact the **<name and address of Contact Centre>** (“the Contact Centre”) within 7 days and arrange an appointment for assessment for suitability for supervised **<time/changeovers>**;
- (b) attend the assessment;
- (c) comply with any appointments made by the Contact Centre for supervised **<time/changeovers>**;
- (d) comply with all reasonable rules of the Contact Centre; and
- (e) comply with all reasonable requests or directions of the staff of the Contact Centre.

If after the assessment intake procedure the Contact Centre is unable or unwilling to provide **<supervision of time/changeovers>** as set out in order **<number>** then each party and the Independent Children’s Lawyer has leave to restore the matter to the list on **<number>** days written notice to the other party and to the Court.

The Contact Centre may recommend the parties or either of them to participate in a program or programs, and in that event either party may re-list the matter for mention on 3 days notice.

If after assessment the parties are accepted by the Contact Centre as suitable for supervised **<time/changeovers>** **<name>** is to spend time with **<the child/ children/name(s) and date(s) of birth>** each **<specify e.g day of week/each weekend/ each second (weekend or specified day of week)>** at times nominated by the Contact Centre and such contact is to **<occur at the Contact Centre/ be implemented by (name) collecting the child/ren from the Contact Centre at the start of contact and returning the child/ren to the same place at the end of contact>**.

**<Name>** shall **<cause some other responsible adult known to the child and nominated beforehand in writing to the Contact Centre, the other parties and the Independent Children’s Lawyer to>** deliver **<the child/ren>** to and collect **<the child/ren>** from the Contact Centre at the times specified by the Contact Centre and on each occasion promptly leave the building and the vicinity.

In the event that the Contact Centre offers supervised **<time/changeovers>** only at times which are less regular than specified in order **<number>** then time will be spent at the times which are offered by the Contact Centre.

**<For supervised time>** Time under order **<order number>** is to be supervised by the Contact Centre and **<name>** shall pay the fees for the supervision on each occasion of supervision OR each of the parents shall pay one half of any fees for the supervision on each occasion of supervision OR each party shall pay the fees charged him or her by the Contact Centre for each occasion of supervision OR (specify the proportion of fees each party is to pay).

**<Name of parent spending time>** shall not attend the Contact Centre or its vicinity before the time with the child/ren is to start and shall promptly leave the Contact Centre and the vicinity when their time with the child/ren is to end.

If the Contact Centre during the currency of these orders declines or is unable to continue to provide its services, or the Director of the Contact Centre recommends in writing to the parties a variation of these orders, then either party **<or the Independent Children’s Lawyer>** may on 7 days written notice to the other party and the Court restore the matter to the list.

If during the currency of these orders the parties **<and the Independent Children's Lawyer>** agree in writing to vary these orders the parties have leave to list the proceedings in chambers urgently for consent orders to be made.

The period of time to be spent provided for in these orders may vary by reason of the closure of the Contact Centre's services during school and public holiday periods, and in such event, time will be spent at times when the services can be provided by the Contact Centre.

**<Name of party/parties>** shall participate in **<name of course or primary dispute resolution facility>** provided by **<name of service provider>**.





FAMILY COURT OF AUSTRALIA

[www.familycourt.gov.au](http://www.familycourt.gov.au)