

## WHAT ARE THE BEST INTERESTS OF A CHILD?

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When considering a parenting matter, the *Family Law Act* is clear that the paramount consideration should be "what is the best interests of the child". The objects of the Law in terms of parenting arrangements are to ensure that the best interests of children are met by:

1. Ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with their best interests; and
2. Protecting children from physical or psychological harm; and
3. Ensuring that children receive adequate and proper parenting to help them achieve their full potential; and
4. Ensuring that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and development of their children.

The *Family Law Act* provides an extensive list of factors that are considered when determining what is in a child's best interests, these include:

1. The benefit to the child of having a meaningful relationship with both of the child's parents;
  2. The need to protect the child from physical or psychological harm;
  3. Any views expressed by the child;
  4. The child's relationship with both parents and any other person (such as grandparents or other relatives);
  5. The willingness and ability of each of the child's parents to facilitate, and encourage a close and continuing relationship with the other parent;
  6. The likely effect of any proposed change to the child's circumstances;
  7. The practical difficulty and expense of a child spending time with a parent;
  8. The capacity of the child's parents to provide for the needs (i.e. emotional and physical) of the child;
  9. If the child is of Aboriginal and Torres Strait Islander descent:
    - a. The child's right to enjoy his or her culture; and
    - b. The likely impact of making any parenting Order will have on that right;
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1. The attitude to the child and the responsibilities of parenthood demonstrated by each of the child's parents;
  2. The terms of any Family Violence Order (i.e. Domestic Violence Protection Order);

3. Whether it is in the child's best interests to make the Order which would be least likely to lead to the institution of further proceedings in relation to the child; and
4. Any other fact or circumstance that the Court thinks is relevant.

There is no fixed outcome to be expected in relation to the best interest of children, no presumption that either parent is better equipped to care for a child, and no presumption as to what time a child should spend in relation to each of his or her parents. As you can see, what is in the best interests of a child depends on the personal circumstances of that unique child.