

# CHILD ISSUES

Custody, Care &  
Control, Access and  
The Welfare Principle



*When making a parenting order, the family court regards the best interests and welfare of the child as the most important consideration. Parents are encouraged to use this principle when making parenting plans.*

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# Custody

Custody refers to the right to make major decisions for a child. Having custody of your child means that you have the right/joint right to make major decisions on behalf of your child. This can be distinguished from day-to-day decisions such as what food the child eats and what attire your child wears.

## Four different types of custody orders may be made.

**Sole custody order:** The custodial parent may make major decisions for the child without the agreement of the other parent.

**Joint custody order:** Both parents must make major decisions for the child jointly. In the absence of agreement, regrettably, either parent will have to apply to court for a determination of the disputed issues.

**Hybrid order:** The custodial parent must consult (or even obtain the consent of ) the non-custodial parent when making decisions on specified matters, for example, choice of school, choice of course in school and so on.

**Split custody order:** Custody of siblings is split between parents. As a general rule, siblings should be cared for by the same parent. If a split custody order is sought, then the parents must file affidavits in support of such a split custody order and explain how this would be in the best interests of the children.

## The three main areas of major decision making are:



**Medical:** Decisions such as whether the child is to be hospitalised, whether a non-emergency surgical procedure is to be performed on the child.



**Education:** Choice of school, enrichment classes, courses in school, choice of subjects and whether the child is to attend a particular school trip, outing or tuition.



**Religion:** Religious instruction of the child, attendance at religious places of worship, undergoing religious ceremonies, etc.



## Care & Control

If you have care and control of your child, you would live with your child on a day-to-day basis.

### **Types of care and control orders:**

**Shared care and control:** Where the child lives with either parents on a fixed rotation and / or schedule.

**Sole care and control:** One parent would be spending most of the time with the child, while the other parent would have frequent access to the child.

### **Relevance to HDB flat ownership**

A divorced person under the age of 35 who has care and control of his/ her child will be allowed to retain the HDB flat subject to his/her satisfying other eligibility conditions.

# Access

Access orders allow the non-custodial parent to spend quality time with the child and maintain a healthy parent-child relationship. The main issue would then be the quantum of access.

## Quantum of access

This is dependent on various factors, including but not limited to the following:

- The child's needs and wishes
- The non-custodial parent's previous contact and history of relationship with the child

## Types of access orders

Access can be unsupervised, supervised or assisted. Typically, access orders will be unsupervised to allow the non-custodial parent uninterrupted time to spend with the child. Supervised or assisted access is sometimes ordered if the circumstances call for it. Examples are as follows:

- To protect the child from abuse
- To assess the relationship between non-custodial parent and child
- To assist to improve the relationship between non-custodial parent and child

## Access periods

Access periods can fall on weekdays, weekends, public holidays, school holidays and any special occasions.





## The Welfare Principle

In any proceedings before any court where the custody or upbringing of a child is in question, the court is asked to regard the welfare of the child as the first and paramount consideration. The welfare of the child is not measured in monetary terms.

In deciding what is in the best interest of a child, the family court will take into account the following considerations:

- The benefits to the children of having a meaningful relationship with both parents
- The need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence
- The will to give greater weight to the consideration of the need to protect children from harm
- The child`s views and reasons which affect those views
- The child`s relationship with his parents, grandparents and other relatives
- The willingness and encouragement shown by each parent to encourage the child to continue a relationship with the other parent
- The impact of changed circumstances on a child`s day-by-day schedule

- The parents ability to provide for the child`s needs
- The parent`s attitude towards the child and their upbringing
- The maturity, sex and lifestyles of the child and parents

A court will also take into consideration the degree to which each parent has or has not, beforehand, met their parental obligations, in particular:

- The parent`s willingness to participate in decision making about major long-term issues involving the child
- Time spent with the child
- Parents meeting their obligations to maintain a child and facilitated the other parent`s involvement in aspects of the child`s life

If the child`s parents have separated, a court must consider events and circumstances since the separation.

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