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Parenting Capacity Isn't About Clean Lunchboxes: What Psychological Reports Should Measure

Under s 60CC(2)(d) of the *Family Law Act*, courts must consider each parent's capacity to meet the child's developmental, emotional, and psychological needs. Too often, reports focus on visible functioning—providing meals, attending appointments, or presenting well in interviews—rather than the psychological core of parenting.

This tip sheet explains what capacity really involves, what indicators should be assessed, and what questions lawyers should ask when those deeper competencies are missing, overstated, or assumed.

A well-reasoned report should reflect how a parent supports the child under pressure, not just in well-lit interview rooms.

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1. Parenting Capacity Is Not Just 'Functioning Well'

Surface-level parenting tasks—feeding, clothing, and transporting a child—are necessary but not sufficient. Psychological capacity includes the ability to understand a child's emotional cues, provide developmentally attuned responses, and establish safe, consistent boundaries. These skills can't be observed in routine functioning alone.

High-quality reports:

- Describe how a parent engages with the child on an emotional level—not just task completion.
- Include behavioural examples of attunement, emotional containment, and co-regulation.
- Differentiate between efficient household management and relational sensitivity.

Example:

A parent may keep a tidy home and attend school meetings but ignore or misread their child's emotional distress during transitions. If a report stops at describing daily care, it risks overlooking this fundamental gap. A high-quality report would note:

"While the parent ensured the child's physical needs were met, they dismissed or redirected emotional concerns, suggesting limited capacity for emotional attunement."

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2. Capacity Is Revealed Under Strain

True parenting capacity shows itself in moments of emotional difficulty—conflict, fatigue, transition, or when the child is distressed. A parent’s ability to remain responsive and regulated during these moments is critical. Parenting assessed in ideal or one-on-one conditions may not reflect the full reality of post-separation parenting demands.

High-quality reports:

- Assess parenting in emotionally dynamic contexts, e.g. such as during conflict, co-parenting stress, child dysregulation, or transitions.
- Incorporate direct observation of parenting when a parent is interacting with all children simultaneously, not just one child at a time.
- Where appropriate, seek collateral reports from schools, handover supervisors, or contact centres to evaluate parenting under pressure.

Example:

A parent who is composed during interview may become verbally hostile or emotionally dysregulated during handovers. If a report doesn’t consider these dynamics (via observation, collateral, or self-report) it may miss the parent’s real-world functioning entirely.

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Professional Practice Point

Observations are a valuable component of parenting capacity assessments, but they are not always indicated. Their inclusion depends on the scope of the referral, the availability and quality of collateral information, and any financial or logistical constraints affecting the assessment process.

Where observations are conducted, clinicians must apply careful judgement in selecting a context that elicits meaningful data about a parent's relational functioning, particularly under emotional pressure. Where developmentally appropriate, observing all children together offers a more realistic view of parenting in action. It enables the assessor to evaluate how the parent manages competing demands, responds to sibling dynamics, and maintains emotional regulation, attunement, and boundary setting in real time. These conditions more closely approximate the complexities of post-separation parenting and often reveal relational patterns that are not activated in one-on-one interactions. By contrast, single-child observations may provide useful information but are less likely to uncover difficulties with prioritisation, emotional containment, or simultaneous engagement.

The setting of the observation also matters. Home-based assessments may offer insight into the physical environment, routine structures, and spontaneous interaction patterns. However, they may also obscure relational difficulties, particularly where children self-occupy or the parent appears more composed in a familiar setting. Clinic-based observations often place the parent under more strain—without access to environmental buffers such as screens or toys—requiring active regulation and engagement. These conditions can surface difficulties that are otherwise masked in low-demand settings.

It is important to emphasise that a well-presented or orderly home should not be conflated with adequate parenting capacity. Clinically significant concerns, including neglect, emotional unavailability, and coercive control, have been observed in homes that are superficially functional. Observational conclusions must be grounded in relational behaviour, not environmental aesthetics.

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3. Intent ≠ Capacity to Protect or Support

A parent may state they will protect or support their child, but capacity must be demonstrated, not declared. Protective parenting is behavioural: it includes managing one's own distress, de-escalating tension, and prioritising the child's needs—even when under stress.

High-quality reports:

- Evaluate the parent's ability to enact protective behaviours in emotionally challenging circumstances.
- Distinguish between verbal assurances and consistent behavioural follow-through.
- Include observed or collateral examples of protection, regulation, or harm mitigation.

Example:

A parent might say they avoid conflict in front of the child, yet allow the child to witness frequent arguments or speak negatively about the other parent. Reports should include examples of how intentions are enacted—or not—in real contexts. A strong assessment might read:

"Although the father reported shielding the child from conflict, handover observations and school reports indicated the child frequently heard disparaging comments about the other parent, suggesting a discrepancy between intent and practice."

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4. Mental Health Alone Doesn't Equal Impairment

A diagnosis of depression, anxiety, or other mental health concern does not automatically impair parenting. Similarly, the absence of diagnosis doesn't confirm competence. What matters is function: How well the parent supports the child across emotional and relational domains.

High-quality reports:

- Focus on how symptoms affect or do not affect parenting, rather than on the presence or absence of a diagnosis.
- Include analysis of the parent's treatment engagement, insight, and symptom management.
- Consider environmental context and how parenting is sustained across different stress levels.

Example:

A parent with chronic anxiety may be consistently emotionally available and attuned, while a parent with no diagnosis may show emotional detachment or unpredictable discipline. Reports should explain how symptoms affect parenting, rather than assume impairment or capacity. For instance:

"Despite a history of anxiety, the parent demonstrated emotional responsiveness, sustained interaction, and the ability to regulate affect in response to the child's distress."

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5. Watch for Oversimplified Reasoning

Some reports equate therapy attendance with insight, or a child's comfort with parental capacity. But comfort can be based on indulgence or avoidance of boundaries. Insight requires reflection, not attendance. Reports must justify conclusions with evidence, not assumptions.

High-quality reports:

- Avoid proxy reasoning (e.g., therapy = insight; no complaints = no harm).
- Clarify the basis for conclusions and avoid over-reliance on one-time observations or unverified statements.
- Explain how observed behaviour supports—or undermines—key parenting competencies.

Example:

A child might seem relaxed with a parent who sets few limits, but this does not necessarily reflect a secure or emotionally supportive relationship. Likewise, therapy participation is only meaningful if linked to behavioural change or improved parenting insight. A strong report might read:

"The parent has engaged in therapy. However, no observable shift in parenting behaviour or reflective insight was evident during interview or observation."

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6. Ask the Right Questions

To assess the credibility of a report's conclusions on parenting capacity, consider:

- *Does the report distinguish between intentions and demonstrated behaviours?*
- *Was the parent's functioning assessed during stressful or emotionally charged situations, not just at baseline?*
- *Were key competencies—such as emotional availability, attunement, reflective functioning, and boundary-setting—evaluated?*
- *If mental health concerns are present, was their impact on parenting contextualised, rather than inferred?*

If the report does not address these domains, its assessment of parenting capacity may be incomplete, and legally vulnerable to challenge.