



Separated?

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Shared Parental Responsibility – What does this mean for the separated parents?

Many parents become confused when considering the changes to the Family Law Act. The Court must apply a presumption that is in the best interests of a child for the parents to have equal shared parental responsibility.

Most parents assume this means that both parents are entitled to equal time with their children.

The presumption of shared parental responsibility does not refer to equal time.

There is no presumption that parents are entitled to equal time under this legislation.

Equal shared parental responsibility refers to joint and equal parental decision making with respect to major long-term decisions such as education, religion and health matters. This includes decisions such as whether a child is to be enrolled in public or private schools, or whether a child will undergo a particular medical or dental procedure.

The presumption does not apply in circumstances of family violence or abuse or if the Court considers it inappropriate.

A Court however must consider whether it is in the best interests of a child to have equal time with each parent. The Court should be satisfied that equal time would be reasonably practicable for all parties. In determining whether equal time is practicable, the Court will take into account:

- How far apart the parents live from each other;
- The parent's capacity to implement an arrangement for the child spending equal time with them;

- The parents capacity to communicate with each other and resolve difficulties that might arise; and
- The impact the arrangement would have on the child.

If a Court determines that equal time between the parents is not in the best interests of a child then the Court must consider that the child have substantial and significant time with the parent the child does not live with.

The time the child spends with the parent should allow the parent to be involved in the child's daily routine, occasions and events that are of particular significance to the child and for the child to be involved in occasions and events that are of special significance to the parent.

This should include weekend activities and time on birthdays (both the child and the parent's birthdays), culturally significant days and longer periods during school holidays. It also needs to include weekdays and parental involvement in those daily tasks that can make some parents pull their hair out, including getting the children ready for school in the mornings, homework completion and getting them to eat their vegetables at dinner time.

The court will take a keen interest in both parent's behaviour in ensuring that each parent has a meaningful and involved role in the lives of their children. It is best for both parents to try and put aside the animosity and anger that surrounds their separation and concentrate on co-parenting effectively.

Remember, these will be your children for the rest of both of your lives and even after the childhood years have passed you will be required to join in milestones for many years to come, such as school graduations, weddings and grandchildren.