



Family matters

By Leanne Francis, Solicitor, Walsh Halligan Douglas



Shared Care

When Is It Appropriate?

More commonly, one or both separating parents of children are reaching agreements or asking the court to order a shared care arrangement.

It is almost two years since the introduction of the amendments to the *Family Law Act 1975* that provided a presumption of shared parental responsibility if in the child's best interests and allowed the court to consider equal time between the parents or substantial and significant time for the parent the child doesn't live with.

There are issues to consider prior to reaching this step, but presuming those have been adequately addressed, when should you seek an equal arrangement? Is it really in the best interests of your child?

Firstly, there are practical considerations:

- Do you and your former partner live in geographical proximity to allow such an arrangement?
- Have both parents demonstrated a capacity to parent the child? For example, if Mum has been the primary care provider, can Dad bathe and feed the child appropriately or administer medication?
- Do you have the capacity to communicate in relation to the child's welfare, and have the ability to agree on matters relevant to the child's day to day life, e.g. discipline, attitudes to homework, health and dental care, diet and sleeping habits?
- If you disagree on parenting matters, are you able to compromise?

- Do you share similar ambitions for your child?
- Do you respect your former partner as a parent?

This list is not exhaustive and the court will consider the child's age, their wishes and other issues it considers relevant.

However, even if it's practical, is it in the child's best interest?

It is accepted that children benefit from a loving and meaningful relationship with both parents. However, if the relationship between the parents is conflicting and there is open animosity, a shared care arrangement may not be appropriate or beneficial to the child. Research suggests that children respond to ongoing open conflict as well as tension and poorly concealed animosity and this includes denigration by one parent to another. Research also suggests that it may be more appropriate for children aged over 10 years and less appropriate for small children aged under 3. In smaller children the attachment to one or two adults is considered important and less likely to occur effectively if the child is in constant transition between homes.

If this is an issue of relevance to you and your family, consider these matters:

- Any arrangement may be suitable for your children if they are provided with ongoing quality parental relationships;
- What is in the child's best interests is for you and your partner to get along and communicate;
- The parenting arrangement is not for your convenience; and

If there is any conflict, distance involving any lengthy travel between homes, unusual work commitments or children who are unsettled or dislike moving around, shared care may not be the best option.