



FAMILY LAW: PARENTAL RESPONSIBILITY

This fact sheet has information on parental responsibility, what orders the Family Court can make about parental responsibility, and how Legal Aid WA can help.

What is parental responsibility?

Parental responsibility is the legal term used in family law to describe the responsibility parents have to care for their child and the power parents have to make decisions for their child.

For example, decisions about where their child lives, where they go to school, their religious and cultural upbringing and whether they have a medical procedure.

Who has parental responsibility?

Parents have parental responsibility for their child until they are 18 years old.

This responsibility is not affected by relationship changes. Parents still have parental responsibility when they separate or re-marry.

Who can make decisions?

Parents are encouraged to talk to each other and make joint decisions about their child, if it is safe to do so. However, this can sometimes be challenging after separation.

If there are no Family Court orders about parental responsibility in place, parents don't legally have to make joint decisions about their child. Following separation, the parent who the children live with will usually make most of the decisions about the child.

If there are Family Court orders about parental responsibility, parents must follow what the orders say.

Can the Family Court make orders about parental responsibility?

The Family Court can make orders about who has parental responsibility for a child.

The two most common orders are:

- equal shared parental responsibility, and
- sole parental responsibility.

Can someone who is not a parent have parental responsibility?

The court can make an order giving parental responsibility to a person who is not a parent.

What is equal shared parental responsibility?

Equal shared parental responsibility is where parents (or another person with parental responsibility) must make decisions about major long-term issues together.

It involves parents talking about issues together and making a genuine effort to agree. For example, if one parent wanted to change the child's school they would need to talk to the other parent about this before changing schools. If the parents were unable to agree on the issue, they would need to ask the Family Court to decide what should happen.

What is sole parental responsibility?

Sole parental responsibility is where one parent (or another person with parental responsibility) can make decisions about major long-term issues without having to talk to the other parent or agree with them. However, parents must make sure they still follow other court orders in place. For example, if there are orders which say the child spends every weekend with a parent, the other parent cannot move a long way away with the child.

What is a major long-term issue?

A major long-term issue can be about things such as the child's:

- name,
- education,
- health,
- religious and cultural upbringing, and
- living arrangements and changes which make it more difficult for them to spend time with a parent.

Do parents have to make joint decisions about day to day issues?

Parents do not have to make joint decisions about day to day issues. Issues such as what a child will eat and what clothes they will wear are day to day issues and are not usually considered major long-term issues by the Family Court.

Is shared parental responsibility and shared care the same thing?

Shared parental responsibility and shared care are not the same thing.

Shared parental responsibility is about sharing major long-term decisions about a child. Shared care is a common term used in family law to describe a child spending equal time with each of their parents.

How can Legal Aid WA help?

Infoline, Legal Yarn and Infochat

You can call our Infoline on 1300 650 579, Legal Yarn (First Nations callers) on 1800 319 803 or chat to us online.

Website

You can find more information about family law on our website: www.legalaid.wa.gov.au

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