

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 a legal term used to describe the responsibility parents have to care for their children and the power parents have to make decisions for their children.

For example: decisions about where children live, 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 children until they are 18 years old.

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

Generally it is best for parents to talk to each other and make joint decisions about their children.

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 children. Following separation, the parent who the children live with will usually make most of the decisions about the children.

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

What orders can the Family Court make about parental responsibility?

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

The two most common orders are:

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

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

What is equal shared parental responsibility?

Equal shared parental responsibility is where parents must make decisions about major long-term decisions together.

It involves both parents talking about issues together and making a genuine effort to agree.

For example: if one parent wanted to change the children's school they would need to talk to the other parent about this before changing schools. If the parents were unable to agree which school the children should go to then they would need to ask the Family Court to decide what should happen.

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What is a sole parental responsibility?

Sole parental responsibility is where one parent 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 parenting orders in place.

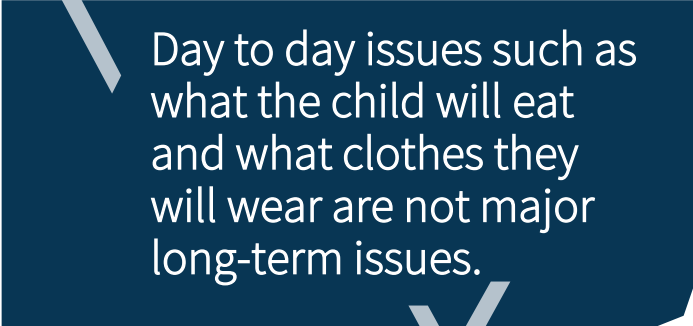
For example: if there are orders which say the children spend every weekend with their father, they cannot move a long way away with the children.

What is a major long-term issue?


A major long-term issue can be about things such as:

- » the child's education,
- » the child's religious and cultural upbringing,
- » the child's health issues,
- » the child's name, and
- » changes to the child's living arrangements which make it more difficult for the child to spend time with their parent.

Day to day issues such as what the child will eat and what clothes they will wear are not major long-term issues.



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Shared care is a common phrase used to describe the legal concept of equal time.

Is shared parental responsibility and shared care the same thing?

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

Shared care is a common phrase used to describe the legal concept of equal time. You may have also heard of this being called 50/50 time.

While the law presumes that it is in children's best interests for their parents to share parental responsibility there is no legal presumption about the amount of time children should spend with each parent.

The law presumes it is generally in the best interests of children for their parents to talk to each other and make joint decisions about major long-term issues.

However, this presumption does not apply in cases where there has been family violence, abuse of a child or the court decides it would not be in the best interests of children for the presumption to apply.

How can Legal Aid WA help?

Legal Aid WA can provide legal advice regarding family law matters, including parental responsibility.

Call the Infoline on 1300 650 579 to make an appointment for legal advice.