



Parental Responsibility of Children

What does Shared Parental Responsibility mean?

The term “Parental Responsibility” means all the duties, powers and responsibilities that parents have in regards to their children. When a Court makes a “Parenting Order” there is now a presumption of equal shared parental responsibility in favour of both the mother and the father unless it is not in the children’s best interest that Parental Responsibility be equally shared. Issues that may negate shared Parental Responsibility include child abuse or family violence.

Does equal shared parental responsibility actually mean that when parents separate they will spend equal time with their children?

In simple terms no. This is because, whilst there is a presumption that each parent should spend equal time with their children, the main concern of the Court is “what is in the best interests of the children?”

What does the family Court consider when making a Parenting Order?

The Court will consider whether it is practical for a child to spend equal time with each parent – the Court will look at how far the parents live apart from each other, the parents current and future capacity to make arrangements for the child to spend equal time with each other, the parents current and future capacity to communicate with each other and to resolve difficulties in relation to these arrangements, the impact of that arrangement on the child and any other matters that the Court considers relevant.

A Court may consider that the parent’s future capacity to implement the arrangements, and to resolve issues may be best dealt with by the parents attending family counselling or dispute resolution and a Court may order that the parents attend such programs.

How can parenting issues be resolved?

Parents can discuss parenting issues between themselves, and when there is an agreement between them in relation to the arrangements for the children, an application for Consent Orders can be made to the Family Court of Australia to formalise that agreement.

What if there is no agreement?

If there is no agreement, then the parents will need to participate in pre-action mediation run by Family Relationship Centres before either of them can file an application in the Family Court of Australia. If there has been no resolution at



the mediation, either of the parents may then file an Application in the Family Court of Australia for the Court to make a determination as to what are the best interest of the child.

If you require further information or wish to discuss any issue regarding Parenting Orders or any issues about Family Law generally, please contact Oliver Hagen at Bateman Battersby Lawyers on (02) 4731 5899 or email to familylaw@batemanbattersby.com.au.