

Family Law Fact Sheet

My ex is making all the decisions for my child – what can I do?

Separation can be a difficult time for parents. When parties are happily married there is little difficulty making joint decisions for their children.

After separation, disputes often arise between previously co-operative parents about what is best for their child. One parent may make decisions for their child without consulting the other parent. The other parent may then find themselves 'stuck' with a decision which may involve a significant issue, such as where the child will attend school or live post-separation.

Parental responsibility

Under the *Family Law Act* both parents of a child usually have what is known as *equal shared parental responsibility*, except in situations involving family violence or where there are serious concerns about the care of the child.

This means that both parents individually have the rights, powers, duties and responsibilities relating to their child, which no other person has.

It is important to remember that neither parent has more power than the other parent in relation to making any decisions.

Unless the Court takes away parental responsibility from a parent (which it will only do in rare cases), then both parents continue to have an independent and equal say in the long-term decisions concerning their child's welfare.

The parental responsibility that parents have enable them to independently make decisions about their child regarding short-term welfare, and jointly decide on major long-term decisions.

What are major long-term decisions?

Where there is shared parental responsibility, parents have to consult and make a joint decision on issues in relation to a child's long-term care.

This includes making decisions about issues such as:

- Education;
- Religious and cultural upbringing;

- Health;
- The child's name; and
- Changes to the child's living arrangements that would make it significantly more difficult for a child to spend time with a parent (but not a decision of a parent of a child to form a relationship with a new partner).

If parents cannot agree on a major long-term issue, then usually the Court is asked to decide the issue.

What can you do?

If you cannot agree about a decision as to your child's long-term welfare, you should seek legal advice.

There are many alternate dispute resolution services we can recommend that you attend to assist in resolving your dispute and agree on major matters.

If alternate dispute resolution is not appropriate in your case or it does not resolve the dispute, we can advise you regarding options to resolve your dispute without the need to go to Court.

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