



What is parental responsibility in family law matters

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When discussing [parenting arrangements](#) for your child after separation, you may hear the term 'parental responsibility' being used. What does it mean? Why is it important? Does it govern the amount of time each parent spends with the child/children?

What is parental responsibility?

Section 61B of the *Family Law Act 1975 (Cth)* ('the Act') defines parental responsibility as the:

'duties, powers, responsibilities and authority which, by law, parents have in relation to children'.

This refers to the major long-term decisions to be made on behalf of your child/children. For example:

- what school they will attend;
- what their religious and cultural upbringing will be;
- any major health decisions;
- the child's name; and
- any changes to the child's living arrangements that make it significantly more difficult for the child to spend time with a parent

These are major long-term issues which a parent may make for a child, from birth until they turn 18 years of age, or a court order displaces parental responsibility.

Parental responsibility exists regardless of whether the parents are separated or not.

Consultation between parents on major long-term issues is required

As of 6 May 2024, the *Family Law Act 1975 (Cth)* introduced an additional section to the Act that provides that if it is safe to do so, and subject to any court orders, parents are encouraged to consult each other about major long-term issues in relation to the child, having regard to the best interests of the child as the paramount consideration.

Effect of court orders for joint decision-making on major long-term issues

A [parenting order](#) can be made which deals with the allocation of responsibility for decisions about major long-term issues in relation to a child. The order may provide for 'joint' or 'sole' decision-making in relation to all or specified major long-term issues.

Section 61DAA of *the Family Law Act 1975 (Cth)* introduced by *the Family Law Amendment Act 2023*, states that if a [parenting order](#) provides for joint decision-making in relation to all or specified major long-term issues in relation to a child, the parties are required to:

- consult each other in relation to **each** decision; and
- make a genuine effort to come to a joint decision.

The Act expressly notes that it does not require any other person to establish or verify that a decision was reached jointly before being acted upon. This means, for example, that third parties, such as schools or healthcare providers, are not obliged to verify the decisions and can assume they were determined jointly.

Parenting Orders providing for sole decision-making in relation to long-term issues

A new subsection, 61D of the Act (which came into effect from May 2024), provides that the court can make a parenting order that permits the allocation of sole decision-making in relation to all or specified major long-term issues.

Sole decision-making means one parent has full responsibility for the major long-term decisions for the child. The court may consider it is in the child's best interest for a sole decision-making order to be made. An example of such circumstances would be where the parental relationship is one of high conflict, including [family violence](#) and where the parents would be unable to jointly decide on parenting issues.

No need to consult the other parent on day-to-day issues

Another new section of the Act, 61DAB, introduced in the legislative changes of May 2024, provides that parties no longer have an obligation to consult each other on issues that are not major long-term issues. This includes, for example, decisions about the child's dietary choices or clothing.

Get help from a family lawyer

It is common for separating or divorcing parents to seek advice and assistance about parenting arrangements.

It is in everyone's best interests to have an amicable arrangement with regard to raising your children, however, if this is not possible or if some more structure is required, our family lawyers can assist you in obtaining parenting orders that best reflect your requirements and are in the best interests of your children.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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