



# family flyer



Issue #89

## Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

## This edition includes:

- Is Shared Parenting Working?
- Free CD
- Child Support Facts and Figures
- Financial Clean Break
- Relocation – with a Twist!
- Happy Christmas



## IS SHARED PARENTING WORKING?

Since the shared parenting amendments commenced on 1 July 2006 the debate has continued as to whether, or not, it is the right approach. A recent report (McIntosh) adds recent data to that ongoing debate.

The report involved 2 small study groups of couples in high conflict and offers a rare snap-shot into the post-2006 shared parenting orders.

In one study, almost half the children left the 'Court mediation' in a "substantially shared care arrangement" (5 nights or more a fortnight with each parent). Four months later 73% of shared-care parents reported "almost never" cooperating with each other.

In the second study, where the parenting disputes were privately mediated 28% went into a "substantially shared care" arrangement. One year later ¾ of those arrangements had collapsed.

The Report concludes:

- The average rate of "clinical anxiety" in children from non-divorced families is 14%, in the two study groups it was between 21%-28% and for children whose parents have been through a Court hearing it is 46%.
- For equal-shared care to work there needs to be 2 sets of everything, i.e. cooperation, geographic proximity, family-friendly work practices and people to be financially comfortable. You also need the emotional equipment for it.
- That children from broken families are happiest where parenting time is not substantially shared (i.e. where children are in less than 35%/65% arrangements).
- There should be caution about applying the "shared

parenting" presumptions to cases characterised by ongoing high conflict between parents.

## FREE - CD

Learn tips about relationship law and surviving separation from our NEW FREE CD!

The FREE audio CD is titled "7 Common Traps of Separation" and provides easy-to-understand tips on Divorce, separation and a number of other issues.

We have already received a lot of requests for the CD and stocks are going quickly. Get your FREE CD by calling 3221 4300 or visit [www.mfl.com.au](http://www.mfl.com.au). We will deliver it to you for NO COST.

## CHILD SUPPORT FACTS AND FIGURES

The Federal Government has recently released a Report on the impact of the new Child Support formula.

The results show that under the previous system (in 2007-2008), \$2.9 billion was assessed to be paid in Child Support. By comparison, the new Child Support system has reduced this by 7% (i.e. \$210 million).

The Government advises that the reduction in Child Support has been off-set by an extra \$140 million paid out in Family Tax Benefits.

## FINANCIAL CLEAN BREAK

Section 81 of the Family Law Act provides that the Court shall, as far as practicable, make Financial Orders (property settlement and spouse maintenance) that will finally determine the financial relationship





between the parties to the marriage and avoid further proceedings between them. This is referred to as the “clean break” philosophy of the Family Court.

## **RELOCATION – WITH A TWIST!**

When a parent is Ordered by the Court to return from another Country to Australia under the Hague Convention do they have to resume living in the same area of Australia that they originally were? This is the question that recently came before the Court.

The facts were:

- The parents lived together for 8 years and had 2 children.
- After separation, the Mother left Australia and relocated to New Zealand without the Father’s consent.
- 2 months after the Mother left she was Ordered by the Australian Court, under the Hague Convention, to return to Australia.
- 3 weeks later the Mother returned, but instead of returning to Central Queensland, she moved to Perth. Perth was geographically a greater distance away from the Father than New Zealand.
- The Mother lived in Perth for 13 months prior to the Final Court Hearing. The Father’s Application requested that the children (both aged 5) live with him.
- The Mother sought Orders that she be entitled to relocate to New Zealand with the children.

### **Court Findings:**

- The Mother’s allegations of Family Violence were not significant enough to remove the presumption of shared parental responsibility.

- For the last 18 months the Mother had not fostered the relationship between the Father and the Children.
- The real consideration for the Court was the children’s right to a meaningful relationship with both their parents.

### **Court Order:**

- If the Mother returns to Central Queensland (within 50km of the Father’s residence) then the Children are to ‘live with’ the Mother and ‘spend time with’ the Father from Thursday afternoon to Monday morning each week and half school holidays; or
- If the Mother does not return to Central Queensland (within 3 weeks) the children ‘live with’ the Father and ‘spend time with’ the Mother for all school holidays and half Christmas school holidays.

## **HAPPY CHRISTMAS**

We will be closed over the Christmas period from 5.00pm on Tuesday, 23 December until 8.30am Monday, 5 January 2009.

Merry Christmas and Best Wishes for the New Year from all of us at Michael Lynch Family Lawyers.



Issue #89

### **Contact details**

Michael Lynch Family  
Lawyers

### **Principal**

Michael Lynch\*

### **Senior Associates**

Helen Bryden\*

### **Associates**

Kirstie Colls

Elizabeth Millar

### **Solicitors**

Amelia Gaffy

Leanne Schmetzer

\*Queensland Law Society  
Accredited Family Law Specialists

**Telephone:** 07 3221 4300

**Facsimile:** 07 3221 9454

**Email:** law@mlynch.com.au

**Web:** www.mlfl.com.au

**Address:** Level 6  
193 North Quay  
Brisbane QLD 4000

**Post:** PO Box 12027  
George St, Brisbane Qld 4003



Copyright 2008

This document contains general comments only and should not be relied upon as specific legal advice. Readers should contact this Office for a detailed information or advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to any person acting in reliance on this document shall be accepted by the Principal of this Office. No part of this document may be included on any document, circular or statement without our written approval.