

# Shared parenting and parental involvement in children's schooling following separation and divorce

Thea Brown, Alison Lundgren, Lisa-Maree Stevens and Jennifer Boadle

*Although the new family law legislation, the Family Law (Shared Parental Responsibility) Amendment Act of 2006, seeks to implement the notion of ongoing and collaborative parenting of children following parental partnership breakdown, separation and divorce, institutional obstacles still prevent the realisation of this policy. The question then arises: can such a model of separation and divorce be achieved? This question is examined through a discussion of a series of studies undertaken by a Monash University research team investigating parents' involvement in their children's schooling following parental separation and divorce. The research, building on a number of small studies carried out in Western Australia, looked at parents' and teachers' views of schools' ability to relate to separated and divorced parents and the wider difficulty of schools managing this family form.*

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The lens through which the authors wish to view the Family Law (Shared Parental Responsibility) Amendment Act of 2006 and its introduction of a model of divorce with an emphasis on ongoing collaborative parental responsibility and care for children, often known as shared parenting or shared care (Chisholm 2009), is that of parents' involvement in their children's schooling, post separation and divorce. This has not been a perspective commonly taken on the legislation, either when it was viewed in its draft form or subsequently in the Commonwealth Government ordered reviews of the legislation (Chisholm 2009; Family Law Council 2009; Kaspiew, Gray, Weston, Moloney, Hand & Qu 2009). Nevertheless, the legislation brought new expectations for parents about solving longstanding parenting problems post separation and divorce and, for some parents, a key problem was their maintaining a continuing involvement in their children's schooling. The legislation specifically mentioned that parents were to share equal responsibility for decision making in their children's education (Faulks 2008), as well as in their religion and health, implying that both parents would be able to maintain an involvement in their children's schooling following separation and divorce.

## BACKGROUND

The issue of parents jointly managing their children's schooling following separation and divorce has a public history extending over almost two decades. Notwithstanding research into the problem, lobbying to achieve policy changes in the educational services, social services and family law socio-legal services, Australian parent national lobby groups have continued to argue that the problems remain much the same and that schools exclude one or other of a child's parents from participation in their education following the parents' separation and/or divorce (Slattery 2006).

## EDUCATIONAL RESEARCH

The issue first attracted research attention with the work of educational researchers studying children's progress at school some fifteen years ago in the USA. There, Epstein (1995) found that social factors affected the progress that children were able to make at school. He found that children

whose parents were involved in their schooling did better than children whose parents were not, and that children with both parents involved in their schooling did better than children with only one parent involved. Moreover, he and a colleague found that parental involvement rested on the school – that is, unless the school was proactive, parents did not become involved – and that a school and parent partnership was needed for the best school outcomes for children (Epstein & Dauber 1991). His findings were later pursued and confirmed by Griffith (1998).

These conclusions were important because of the link between educational achievement and poverty, with education having been identified as a significant strategy in overcoming poverty (Bernstein 2007). When this is considered in relation to children where parental separation and/or divorce have taken place, the strategy becomes even more important, for a drop in financial well being for both mothers and fathers has been found to be an outcome for many families post separation and divorce, together with a fall in children's academic progress (Evans, Kelly & Wanner 2001). Consequently, optimising children's educational achievements is an important goal for the well being of children affected by parental separation and divorce. It is a form of preventive intervention that might overcome a possible fall in academic progress in the short term and economic adversity in the long term.

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## NON-RESIDENTIAL PARENT RESEARCH

Shortly afterwards, spurred on, the researchers said, by non-residential parents' expressions of discontent, a Curtin University team from WA began studying the experiences of non-residential parents' involvement in their children's schooling. At this time in Australia, in the late nineties, the sharing of the care of children of separated and divorced parents fell under the so called 80:20 principle, whereby most children spent 80% of their time with the then termed 'residential parent' and 20% of their time with the 'non-residential parent', the person regarded as having less responsibility for the child's care (Chisholm 2009). The first study, a small one where the researchers interviewed some twenty non-residential fathers and a smaller number of non-residential mothers from Western Australia (Baker 1996;

Baker & Bishop 2005), and their second study, a larger one surveying over two hundred non-residential fathers and mothers from all states of Australia (Baker & Bishop 2003; Baker & Bishop 2005), sought to explore the discontent expressed by non-residential parents,

The research showed that almost all the non-residential parents, regardless of whether they were fathers or mothers, felt they were not involved or little involved in their children's schooling. For example, less than half reported that they received copies of the school reports, possibly the most simple and valuable connection that could occur between the school and the parents. In addition, parents found difficulties in gaining feedback from teachers (such as informal face to face feedback, school newsletters and reports), and in being permitted to join in school activities with or without their children (on occasions like sports days, drama days, tuck shop duty and working bees). Some found they were not welcome to enter the school grounds at all. Although many discussed this with the schools, they said they were not able to change this loss of contact with their child's education and school, and for many this represented a painful loss that underlined other aspects of their perceived loss of their children through the separation. Their alienation from the schools was not what these parents wanted as all sought involvement in their children's schooling and all wanted more involvement than they were now receiving. They wanted more contact with their children's classroom teachers and more communication with the schools over school reports and notices of school activities.

The researchers concluded, unhappily, that a culture of exclusion existed for non-residential parents in schools (Baker & Bishop 2005). The researchers' final words were an appeal to the Commonwealth Attorney-General to intervene in the state educational systems to encourage schools in fostering involvement with non-residential parents. The researchers thought the anticipated 2006 family law legislation with its notions of ongoing collaborative parenting after separation and divorce and of equal parental responsibility in decision making, supported by the proposed new national network of Family Relationship Centres where post separation parenting plans could be worked out with professional assistance, would improve parents' links with their children's education and schooling.

## STATE POLICIES AND SCHOOL PRINCIPALS RESEARCH

As the WA team was finishing their work, a Monash University team took up the same issue. The first of the Monash studies investigated what state Departments of Education had achieved in policy development for the involvement of non-residential parents in their children's schooling after separation and divorce. The research carried out in 2006 (Stevens 2006), and refreshed in 2008 (Stevens

2008), showed that in all states except Victoria, the state Departments of Education had developed policies for parents regarding their involvement in their children's education post separation and divorce. These policies were available on departmental public websites and the policies allowed, and even encouraged, non-residential parents' involvement in their children's education and schools, except where court orders prohibited it (Stevens 2006, 2008). The website detailing NSW's policy presented what the researchers thought was the best laid out, most clear and most comprehensive policy (NSW Department of Education and Training 2007). The website set out the policies in understandable language, provided common examples and gave additional advice for parents. The NSW style of presentation and policy content was used subsequently by the ACT (ACT Department of Education and Training 2010). The public availability of this information seemed helpful to parents and to teachers. Moreover, the public availability of the policies, in all except one state, was an indicator of governmental policies to the schools and a model example to them.

As mentioned, Victoria did not have such a public policy; instead the now named Department of Education and Early Childhood Development was reported to have a departmental legal policy available to schools, but not to parents (Stevens 2006). The principals of two Victorian primary schools were interviewed to gain some understanding of the perspectives of at least two schools on parents' involvement with their children's schooling after separation as a preparation for subsequent research. Admittedly interviewing only two principals meant that the information could not be generalised beyond those two schools but, like all exploratory research, it gave valuable insights as a basis for future planned research (Rubin & Babbie 1997). Furthermore the views of school principals had not been obtained by any research study previously.

The school principals reported they were guided by a Department of Education and Early Childhood Development policy but that the policy left much to the principal's own decision-making. Neither principal felt informed or supported by the policy or by the Department. The Department provided no information or training to school staff and parents about schooling and parenting following separation and divorce and gave school principals no way of developing discussion, information sharing, common procedures and common problem solving. Thus it was not surprising that each principal interpreted non-residential parents' positions quite differently, with one seeing parental involvement more positively than the other.

Importantly, the principals reported difficulties with court orders. They saw them as too vague to be useful to them in guiding the school's actions for any one family. They saw the courts as being unaware of schooling as part of post separation and divorce parenting. They believed the issue

was becoming more prominent as more parents were sharing responsibility more equally for the care of their children post separation and divorce, although they did not seem aware that new Commonwealth legislation supporting this was about to be introduced. They also pointed to an issue not previously covered in the research or literature. They argued that grandparents also lost opportunities for involvement in their grandchildren's schooling following the separation or divorce of their own children, and that grandparents complained to them of difficulties in maintaining involvement in their grandchildren's schooling in much the same way as non-residential parents did. However their problems were being ignored (Stevens 2006, 2008).

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## THE NEW LEGISLATION

Against this backdrop of discontent came the introduction of the contentious family law legislation, the Family Law (Shared Parental Responsibility) Amendment Act of 2006, which had appeared to the WA research team to offer prospects of beneficial change. The legislation abandoned the former adversarial model of divorce and adopted a model which stressed the need for ongoing parental collaboration in the care of the children. As part of the notion of collaborative parenting, it specified that children required a meaningful relationship with both parents; that there was to be equal decision making responsibility shared between parents, including in education; and that each parent was to share substantial and significant time with their children, equally when possible and when other factors, like family violence, did not overrule the principle. These principles were to form the preferred pattern of parenting against which courts were to make decisions (Faulks 2008; Redman 2008). Furthermore, the Child Support formulae were amended to encourage extensions of more equally shared time (Child Support Agency 2008). The terms of 'residential parent' and 'non-residential parent' disappeared, to be replaced with the somewhat clumsy one of the parent who shares more, less or equal time with or care of their child.

To support these changes, the Commonwealth Government re-structured the family law socio-legal services system, expanding it with the introduction of new services and the extension of existing ones. A national network of 65 local Family Relationship Centres was created over the period 2006 to 2008 to be the first port of call for separating parents

for information, referral and advice and, consequently, as the drivers of parenting change. They also provided free mediation in parenting disputes, and it was mandatory for parents to attend prior to taking a parenting dispute to court, unless exemptions regarding violence or child abuse (Brown & Alexander 2007), for example, were found to apply, which would allow the parents to proceed directly to court (Brown 2010).

The legislation had many critics (McCoy 2005). It was seen as incorporating inconsistent principles, favouring fathers over mothers, advancing principles of care of children that were not appropriate (especially for very young children), diminishing protection for victims of violence, introducing unnecessary and intimidating penalties for allegations of violence, for being a 'one size fits all' model and for being just unworkable (Brown 2010). The Commonwealth government set up a number of research projects to evaluate the reforms, some focusing on the local and some on the national level (Brown 2010; Hannan & Bracebridge 2008; Kaspiew et al. 2009). None of the evaluations singled out the issue of parents' involvement in their children's schooling.

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## SCHOOL STAFF AND NON-RESIDENTIAL PARENTS

Subsequent to the introduction of the new legislation, the Monash University team explored the problem further with a study investigating the issues from the perspective of a wider group of school staff to learn more of what the views and experiences of school staff might be. The study also included non-residential parents, or lesser time parents, to gauge their experiences now that the 2006 legislation had been introduced. The study developed two on-line surveys, using Survey Monkey software, that were placed on the university's website to ask the views of these two groups. Respondents were obtained through a Monash media release to newspapers. When the surveys had attracted fifty teaching staff and fifty parents, they were taken down. Such numbers did not represent the teaching population of any one state or of Australia, but fifty school staff respondents was an increase in numbers above the previous study and such numbers would give a stronger evidence of views without overwhelming the study with an excess of qualitative data.

## School staff responses

The responses from school staff came mostly from teachers and principals from state schools, but also from some teachers and principals from independent schools and from school support staff and school council members from all schools. Their views revealed more clearly the difficulties that the schools had in dealing with this problem (Lundgren 2007). Taken as a whole, the findings suggested that almost all of the teachers had little understanding of the perspective of non-residential parents and the problems they experienced in maintaining involvement in their children's schooling post separation and divorce, that the schools did not prepare teachers for this issue and its management, or for the wider issue of children living in a family where the child's parents did not live together and where the child might have more than two parents involved in their care.

Only some 24% of the school staff said that their school had a relevant policy and the rest said that either their school did not have a policy (24%) or that they did not know if the school had a policy or not (52%). Of those who said their school had a policy, two respondents said that the policy was *not* to provide information to the non-resident parent and two more said information went out only if the non-resident parent approached the school with contact details. However, one respondent pointed out that this did not always work, saying:

... schools tend to become less diligent in contact with non-residential parents unless their contact with the school is frequent and the parent repeats requests and complaints about being excluded.

School staff said they did not necessarily know if a child's parents were separated or divorced with only 22% saying that they did know or they would be told. Some 93% of school staff believed that it was the school's duty to inform them if the parents were separated or divorced and not their responsibility to enquire, especially from the child. And some 98% of school staff said they would only contact both parents if they knew of the parents' separation.

At the same time, some 51% of the school staff reported that they experienced difficulties with non-residential parents and that these difficulties included day-to-day communication, formal reporting, school absences, school pick-ups and drop-offs, attendance at school functions, attending sporting events and volunteering. They saw these difficulties as being worse when parents' relationships were very strained. For example, as one respondent said:

Problems occur when we get conflicting information or the parents don't inform us of their lack of communication. However, we often find this out after some issue arises.

Not surprisingly the school staff thought that changes should be made, but they should come from parents being more

proactive in their relationships with the school. As one respondent said:

They [parents] should voice their concern; and seek information directly.

Another echoed this with:

... parents need to provide schools with all relevant information re contact, custody, day-to-day arrangements and other information.

Yet most of the schools where these respondents worked did not appear to have any policies or procedures for gaining, maintaining or dispersing such information.

### Non-residential parent responses

The replies from parents fitted with the responses from the school staff. The parents said they had little communication from schools, with a majority of 61% saying they received nothing from the school, not even school reports. Some 64% did not receive notices, some 71% did not receive fees or bills, some 84% did not receive any notes from teachers, some 67% did not receive notices for upcoming events, and 71% did not receive information about parent/teacher interviews. Nevertheless the parents reported a keen desire to be involved and did appreciate the importance of involvement in their children's education.

All the parents (57% from Victoria, the remainder from Queensland, NSW, Tasmania, and ACT) said they had little knowledge of their legal position with regard to their children's schooling. Some 29% said their school did have a policy covering their position but that it only extended to reports and newsletters. Furthermore, they said they did not know how they might present their own and their children's situation to the school, what they might do to improve their links with the school or how to resolve issues when they arose. Importantly, some 64% of parents felt marginalised by the schools, believing they were treated unequally in relation to residential parents, a feeling that seemed similar to the views expressed in the WA study. With feelings like these, one can see that these parents might be easily discouraged from persisting with their desire for involvement.

However, there was one group of parents who had few difficulties. This group comprised those who were both teachers and non-residential parents. These parents knew how to approach schools, knew how the administration worked, were more forgiving of school obstacles and found far less difficulty with involvement in their children's education. Their views did not really inspire hope for the future. If one has to fill both roles in order to gain understanding and maintain involvement, then the difficulties may be too great for most parents to overcome.

### Discussion

The study suggested that individual parents can find it difficult to overcome the obstacles to ongoing involvement in their children's schooling following separation and divorce if they are the non-residential parents (now known as the parent having less time with their child). It showed that the schools in this study had not yet devised strategies for involving both separated parents in their children's schooling post separation and divorce, despite the need to do so in order to optimise the children's educational achievement and to mitigate against economic disadvantage.

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The study showed a gap between parents and schools, but one senior teaching respondent did report one school's proactive strategies for bridging the gap. The school that employed this respondent offered a number of supporting services for children, parents and teachers to manage the issues of separation and of gaining and maintaining parents' involvement in their child's education and their school. At this large, multi-campus school, all staff received education in working with children where parental separation and divorce had taken place. In addition, the school went out to meet the parents and children from the time the children started at the school. Parents who were the separated or divorced parents of the child at the school were invited to a special orientation before the child started. At the orientation the school covered its perception of the issues of their special circumstances. The parents were made welcome, advised of their importance and told of how the school wanted to deal with their circumstances. The school's policy was that all parents, except those with court orders excluding them from the school or their children's schooling, were welcome at all school events, those held both with and without their children; in fact both parents were required at a number of school events such as parent/teacher meetings. The school also offered support services to children and their parents that incorporated knowledge of separation and divorce. The school ran groups that children could attend to discuss parental separation problems. It also had a counselling department for children who could attend with and without their parents. The advantage that this school offered lay in its recognition that many children today live in families with backgrounds of parental separation and divorce

and, with a school's proactive preparation, the children's position, and that of their parents, can be managed well.

## THE SOCIO-LEGAL SERVICES SYSTEM

The WA team had hoped that the socio-legal services of the family law service system would offer supporting services to separated parents regarding ongoing cooperation in their children's schooling. Such services might include schooling as an issue to be earmarked for discussion in information sessions provided by Family Relationship Centres, community mediation services, family relationship services, family law legal services and Courts, and discussion of schooling in the free mediation sessions could be integrated into mediation. However, some current research still at an early stage which is looking at mediators working in the Family Relationship Centres and their experiences with parental decision making over schooling, does not suggest this is happening (Boadle 2010). The time funded for free mediation is not long enough to include this issue and it does not seem to be one that surfaces immediately on separation, but one that emerges a little later, in part as a consequence of the decisions made in mediation.

*... the schools in this study had not yet devised strategies for involving both separated parents in their children's schooling ...*

## CONCLUSION

This series of studies suggests the new legislation has not brought any changes for parents who share their children's care following separation and divorce in relation to both of them maintaining an involvement in their children's schooling. The schools do not recognise the problems for parents and many parents have not found a way to manage the connection with the school for themselves. Recent reviews of the legislation (Chisholm 2009; Family Law Council 2009; Kaspiew et al. 2009) have suggested equal parental responsibility in decision making and shared care of the children are difficult for parents to manage successfully. Their consideration of the issue has been about the families and their internal dynamics. This study shows social institutions like schools and services that lie both within and without the family law socio-legal service system have difficulty in managing shared care of children after separation and divorce as well, and that some of these institutions do not see the issue as being related to them at all.

For schools to deal better with this issue, they would need to introduce new services for this group of children. Collaborative divorce and shared parental responsibility have been noted as requiring many supporting services and appropriate funding (Brown 2010). Services related to schools would need to extend beyond the notion of separation and divorce being seen as a risk factor for children's well being – as is the case, for example, in the new and promising school mental health services of the Kids Matter program (Kids Matter Primary 2009). In this case, the service does not focus on parental separation and divorce as a common family situation that the schools should manage themselves, but on parental separation as one of many problematic factors for children that heightens the risk of mental ill health and the need for referral to mental health services. It is preferable for schools to develop policies and programs to support all children and parents when separation and divorce have taken place. They need to educate their staff about separation and divorce so that they don't say, as one teacher was reported by a parent in the study to have said to her six-year-old child:

No! You can't make two Mother's Day cards; you know we only have one mother.

All schools need to offer orientation programs to parents who are separated or divorced and show parents and children that all separated and divorced parents are welcome to join in all school activities unless there are court orders saying otherwise. They need to lay down protocols of behaviour for these parents at school events; they need to establish communication routes that include both parents; and they need to set up parent databases and maintain them to allow constant communication. They also need to offer teachers avenues for the referral of children for help if the separation is troubling them. State schools and many independent schools do not have funding for such services but Commonwealth education resources could be used to fund pilot programs of new suites of services such as those proposed. Also, services need to be extended within the socio-legal family law service system so that children's schooling becomes a matter for discussion and resolution in Family Relationship Centres before it becomes a source of dispute and difficulty. Courts need to consider schools in their orders and make school arrangements specific and clear.

It has been said that collaborative divorce and cooperative ongoing parenting require multiple strategies to overcome the very many obstacles impeding their achievement (Garrison 2007). Most think of these obstacles as lying within individual families or in the socio-legal family law services system. However, they lie in other systems too, such as in the school education systems, where all children will spend many, if not most, of the years of their youth. Thus intervention needs to be across many service systems, including the education service system. Even there,

intervention will need to be multi-targeted to the various government and non-government school sectors and to the central policy units of each sector, as well as to each and every school in Australia. ■

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### Physical Punishment in Childhood: The Rights of the Child

by

**Bernadette Saunders and Chris Goddard**

Providing a wide spectrum of views, the authors explore the fine line between normalized physical punishment and illegal or unacceptable physical and emotional abuse of children. It builds on the emerging field of research that provides opportunities for children to speak for themselves about their views and experiences.

- Provides observations from children, professionals and several generations from within individual families
- Discusses the power of language used by parents, professionals and the media to describe physical punishment
- Reflects upon the status of children in societies that sanction their physical punishment, motivations and justifications for its use, perceptions of its effectiveness, and its impact
- Presents a combination of personal, social, legal, and language factors which provide significant new insights and suggest ways to move forward

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