

Shared parenting and the new law

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On 22nd April the Children and Families Act 2014 comes into force. This Act is of interest to many of my clients whom I advise in children, divorce and family law matters.

The media represented the Act as promoting splitting the care of children equally between parents. The Family Justice Review 2011 was the starting point of this Act and it looked at 'shared parenting' and concluded that legislation must not give the impression of a "right" to any specific time with a child. The Act states that the court must presume at the start that it is better for a child to have the involvement of both parents in their lives. Family lawyers are not sure if this will make any difference in practice as the courts would take this attitude anyway, so time will tell.

'Custody' and 'access' used to be the favoured terms back in the day, changing to 'residence' and 'contact'. The idea was to encourage parents not to see children in terms of ownership as connoted by the word 'custody'. Once again, to signal this, the terminology is changing. Instead of saying 'residence' and 'contact' we will have 'child arrangements order'. I myself am not sure that changing the terminology makes much difference. As parents we feel the same things about our children regardless of the current trends in descriptions. I do think it is a good idea to emphasise that arrangements about children are entirely different from arrangements about money. Money and property can be split fairly, without having to worry about the effect on the bank or the property. With children it is completely different. The court's aim is to put children at the centre: the arrangements are not based on a fair split between parents, but on what is best for the children. This theme runs through mediation, where one of the

aims is to ensure that the child and their wishes and feelings are brought into mediation. Parents are asked to reflect on how their plans would be received by their children.

There is great flexibility in arrangements for children's contact. It is not unusual to see a gradual movement from one kind of arrangement to another. For example, if there has been a big gap in time, or there has been some emotional upheaval, arrangements might begin quite slowly. Sometimes the court can specify where the event should take place – for example, at a particular venue that will suit the child, or in some kind of supported or even supervised setting. One example of an excellent supported contact setting is the Muswell Hill Contact Centre, at North Bank. It is supported in the sense that it is within the grounds of North Bank, with workers around but not intrusively so. Supervised contact is quite different as someone else is actually present during the contact, usually taking notes. This is reserved for more complex or serious situations. Another change in the Children and Families Act is to try to hand the planning of contact back to the parents, with parents returning to court for reviews only if really necessary.

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