

**PUTTING THE KIDS FIRST:  
CARING FOR CHILDREN AFTER SEPARATION**

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**Abstract**

It is likely that the majority of separating couples make their own arrangements for the care of their children after separation. The aim of the Post Separation Parenting study was to explore how couples make these arrangements for the care of their children, without recourse to the Family Court. Using qualitative methods, the researchers interviewed a volunteer sample of 39 parents (including eight couples). Parents were asked how they decided on their current post-separation parenting arrangements and what factors they considered important in influencing the nature of the arrangements. They were also asked about changes in arrangements over time, satisfaction with current arrangements, and parents' need for information on separation. A predominant theme emerging from the interviews was the prioritisation of children's needs and best interests. Both mothers and fathers felt that children's ongoing contact with both parents was in their children's best interests. Couples reported putting aside relationship issues and working to keep these issues separate from ongoing parenting responsibilities. Although research has often focused on conflicted couples, this exploratory study suggests that further study of successful post-separation parenting might help guide parents through this very stressful time.

**INTRODUCTION**

This paper will present the results of a recent study of parental decision-making with regard to post-separation parenting arrangements in a sample of parents who have largely avoided the use of the Family Court. As such, it presents an alternative focus to research that has focused on those parents in contested cases who attend the Family Court. It presents a brief outline of the relevant previous research, the goals of the study and the methods adopted. The findings are then discussed, and their implications for policy and practice are highlighted.

Parental separation is a common occurrence in New Zealand and other Western countries, with a quarter of children at some time living in a lone-parent household before age 15 (Pool et al. 2007). After separating, parents must make arrangements for the ongoing care of their children, but in New Zealand relatively little is known about the nature of these arrangements. Data from Statistics New Zealand suggest that, in the majority of cases, children live with their mothers. Census data from 2001 indicated that 82% of lone-parent households were headed by mothers (Statistics New Zealand 2007), a slightly lower proportion than in 1996. However, such figures are a poor representation of the often complex childcare arrangements for children post-separation (Callister and Birks 2006). In comparison to the level of information available in Australia (Smyth 2004, 2005, Australian

Bureau of Statistics 2008), New Zealand has little national information on post-separation childcare arrangements.

We also know little about how parents make their post-separation care arrangements. Parents who are unable to agree between themselves about living arrangements for their children can call on the services of the Family Court. However, it is not known what percentage of those separating use the Family Court services or alternative support services (e.g. lawyers) to help them reach agreements. Recent research from the Ministry of Justice suggests that fewer than 10% of those approaching the Family Court required a defended hearing in order to settle their children's care arrangements (Ministry of Justice 2003).

There is some earlier research on the care arrangements made by those who had contact with the Family Court (Maxwell et al. 1990, Lee 1990). Maxwell et al. found that, in their sample of parents who had approached the Family Court (both for counselling and to make applications concerning property, "custody and access", and "domestic protection"), about half of all residence and contact issues were resolved privately without any help from the Court, with only a minority of separating couples seeking judicial intervention to resolve matters relating to children. They also found that those who were able to reach their own agreements about the care of their children were more likely to report being satisfied with the decisions than those who relied on counsellors, lawyers or judges to make a decision.

Lee (1990) surveyed divorcing couples who had obtained a dissolution of their marriage. Parents had been separated, on average, for about four years. Lee found that a sizeable proportion of children did not see their non-resident parent at all: one year after separation, 22% of resident parents and 16% of non-resident parents reported no contact between child and non-resident parent. Where contact was occurring, the majority of children tended to see their non-resident parent at least fortnightly: one year after separation, 50% of resident parents and 66% of non-resident parents reported this. In general, parents were satisfied with their current arrangements, with only 26% of non-resident parents reporting being dissatisfied with the arrangements six months after separation, compared with 12% of resident parents. While these studies give some indication of how those using the Family Court make arrangements, little is known about how parents who do not use the Family Court make decisions about their children's ongoing care.

An indication of the types of arrangements parents make may come from overseas research. In Australia, drawing on customised data from the Australian Bureau of Statistics, Smyth (2005) identified six patterns of parenting post-separation. Most common (34% of children) was what he termed "standard" care, which involved a set schedule of every weekend or every other weekend with the non-resident parent (usually the father), staying one or two nights. Daytime-only care (16% of children) and holiday-only care (10% of children) were more common than "shared" care, defined as at least 30% of nights with each parent (6% of children). However, a quarter of the children had little or no contact with their non-resident parent, and 7% had occasional contact. Kelly (2007) suggests that these patterns of contact are similar to those in the United States.

These studies give a picture of the arrangements in operation at a particular point in time. Comparing these data across time will enable researchers to examine changes in care arrangements in operation for different periods and to see if shared care is becoming more common. However, such data do not tell us if and how these individual arrangements change over time. While there is some evidence from overseas that some arrangements are more

stable than others (Smyth and Moloney 2008), little is known about the factors that contribute to changes in arrangements.

The extent to which Australian and US findings can be applied to New Zealand is unclear. For example, it is not known to what extent cultural factors play a role in determining post-separation parenting arrangements. Given New Zealand's Māori and Pacific populations, overseas data may be limited as a guide to the arrangements adopted by New Zealand parents. Furthermore, different laws and support services may influence the arrangements parents make in different countries. This study makes an initial contribution to knowledge of post-separation parenting in New Zealand.

## GOALS OF THE STUDY AND METHODS EMPLOYED

The aim of the study was to interview a sample of parents in order to generate information on:

- the pathways through which these parents made decisions regarding post-separation residency and contact for their children
- the arrangements these separated parents came to regarding the frequency, amount, and type of contact they have with their children
- how well these arrangements work for these parents, and how and why the arrangements may have changed over time.

Parents in the study were mainly drawn from those responding to a media release announcing the study, which was carried in a number of national newspapers. An additional small group of mainly Pacific parents was recruited through community contacts. The researchers interviewed 39 separated parents (24 mothers, 15 fathers) from 31 families (i.e. eight separated couples were interviewed separately) to find out how they made these decisions. Six parents were Māori and six were Pacific people. The sample included parents who had been recently separated and parents who separated over 10 years prior to the interview. The ages of the children involved was mainly spread across a range from 0 to 18 years (one family had adult children only). Parents tended to be in their late 30s and early 40s and to be generally well educated (19 had a university degree).

Semi-structured interviews were recorded, transcribed and analysed thematically. The sample was not representative of separated couples in New Zealand as they were self-selected and were likely to be those who were articulate, had strong opinions, and were satisfied with their own experiences. In particular, we asked for the involvement of parents who had made their own arrangements, and this probably resulted in the relatively high rate of shared care in our sample.

## FINDINGS

When discussing arrangements, parents first tended to agree on general principles about contact – most usually that children should maintain regular contact with both parents. They were then able to negotiate arrangements according to their particular circumstances and contexts.

“When [my husband] left us, I never stopped him from seeing [our son], as he needs to know his father as he was growing up, and I was happy for him to go and visit him.” (Mother, child with father one weekend per month)

Many of them made decisions jointly and reported having discussions both before and after separation about the best arrangements. However, in some instances one parent took the lead when the other parent appeared either uninterested or unable to participate. Most agreements were informal, with only a few recorded formally. Where they were recorded, this was usually done with the help of a lawyer.

The arrangements that were put in place for the parents in the study fell into four broad categories: shared care (children spent at least 30% of the time with each parent), weekend contact with overnight stays, monthly contact, and infrequent contact. The rate of shared care in our study (10 out of the 31 families) is considerably higher than the figures that come from more representative samples (approximately 5 to 10% in Smyth 2004). This probably reflects the fact that the families who self-selected into our study were characterised by having cooperative relationships between parents (often even after the involvement of a new partner), the ability to discuss and negotiate, and positive parent–child relationships.

The second group of 12 families tended to adopt a more “traditional” arrangement, with the child living most of the time with one parent and having weekend contact with the other parent. In all, two-thirds of the families at the time we interviewed them had arrangements whereby the children saw non-resident parents at least once every two weeks (shared and “traditional” care).

Within this group there was a diversity of arrangements in operation, ranging from the traditional every weekend with the father, to parents caring for their children on alternating weeks.

“[Our son] is with me Monday to Friday and [his father] takes him Friday night and brings [him] back Monday morning.” (Mother, shared care of four-year-old)

“We have one week on and one week off. Friday is change-over day. The parent who has them drops them at school Friday morning and the other parent picks them up after school on Friday.” (Mother, shared care of two children)

“They all go to his place every second weekend. They all go, even though they don’t have to. He picks them up Friday night and brings them back Sunday night.” (Mother, three children with father every second weekend)

Six families had monthly contact and three had infrequent and irregular contact with their other parent. In this latter small group, the arrangements were not formalised and contact was haphazard. These were families with parents who were finding parenting challenging and felt unsupported by the other parent. Care arrangements were additionally complicated by parents’ and children’s health concerns. One parent attributed a breakdown in arrangements to her husband’s mental health problems.

“He actually had a mental illness (he still does)... [Parent–child contact] slowly dwindled off – like I said – once he moved in with this woman, the girls stopped wanting to go there – and then every now and again he would cancel and so we gave it away. He has hardly had any contact with them at all. I wouldn’t even know where he lived.” (Mother, two children have infrequent contact with father).

It was notable that all but one family in the sample had arrangements that included overnight stays with the non-resident parent. This is significant, because staying overnight with a parent

facilitates the kind of parenting that is optimal for children from a non-resident parent: an involved, authoritative parenting style. Parents with children staying overnight have the opportunity to engage in day-to-day parenting activities such as preparing meals, bathing and dressing children, monitoring behaviour and disciplining.

On the whole, parents were satisfied with the arrangements they had and reported warm relationships with their children. Comparatively few reported ongoing conflict with their former partner. Those who were not happy were more likely to be those with more infrequent contact, with the parent with main care wanting the other parent to see the children more often.

Many of these parents described responding flexibly to changes in each other's circumstances – sometimes at a personal cost. Some also showed a degree of reciprocity with their ex-partners: if one was flexible in agreeing to changes because of personal circumstances, then the other reciprocated on another occasion.

“Yes, there is a lot of flexibility. There has been a few times when I have to go out of town for work and she will have the kids those nights, and then we might swap a day. I drop the kids off and it is fine.” (Father, shared care of two children)

Parents were asked to describe the arrangements over the post-separation period and to indicate when and why they had changed. Some of the changes over time were relatively minor (e.g. hand-over days), but in other cases the parent with the main care changed. The families fell into three groups:

- those who had maintained the arrangements (nine families)
- those who had made some minor changes within a relatively short period of the separation (eight families)
- those who had made a major change to existing settled arrangements (14 families).

Where arrangements changed over time, this was usually in order to facilitate better contact with children or in response to changed circumstances such as unemployment or repartnering. It was striking that most parents took time to consider the options for living arrangements and experimented with different ways of organising them. They were also generally able to negotiate changes. Parents had used a number of other arrangements; for example, one set of parents initially alternated weeks in the family home, with the parents moving in and out of the home each week.

The parents interviewed in this study generally shared a conviction that their children's needs were a high priority, and this was a major factor from which their actions followed.

“Our top priority is our son ... it was about striking a balance that was best for all of us with [our son] as a priority.” (Father, shared care of one child)

Parents we interviewed acknowledged the importance of the children having quality time with both parents. They were also able to put aside personal issues for the sake of reaching agreement and maintaining a co-operative parenting relationship. One father described separating out the parenting relationship from the feelings he had towards his ex-partner.

“It is the baggage that creates the tension. I've been told not to buy into any of the emotional stuff – keep it really clear. As a male, you get hot under the collar when someone challenges you about what you are not good at, and at times I

have had to bite my lip. It is about having some good communication.” (Father, visits baby every second weekend)

Their willingness to seek counselling and their avoidance of potentially litigious pathways were also key factors. Other factors that influenced the arrangements made included the quality of the relationship between the parents, geographical location and accommodation for children, and (for older children) children’s needs and wishes. Parents often sought to find suitable accommodation close to the family home and the child’s school, and where this happened contact was more frequent.

“When I moved out of the place we were living in, I got my own place quite close to where her mother was living, within five minutes’ walk, and walking distance of her school. And I straight away got one with an extra bedroom, for a child’s bedroom. So as soon as I had myself sorted out, we then arranged that she started staying every other week with me.” (Father, shared care of his daughter)

Also important were mothers’ and fathers’ attitudes to caring for their children, support from family and friends and, in a few cases, individual circumstances such as mental health issues and previous experience of separation. Many parents reported facing financial challenges after separation, although these did not appear to be linked systematically to the arrangements they made for their children.

A number of factors generally influenced the final arrangements, and sometimes trade-offs needed to be made. The following quote illustrates the multi-faceted nature of the decision-making.

“He was quite keen to do shared custody, and I did a little bit of research about what was best for the children. I also talked to some friends who had been through separation who were two or three years down the track and what had worked and what hadn’t worked ... and the information that came back to me was that the kids, especially [my daughter] being so little, needed a home base. [She needed to spend] most of the time in [her own] home and have security. [My husband] was moving into a two-bedroom flat where they would have to share a room. When they stayed with me, they still had their own rooms. It was around upheaval and insecurity for them because their dad was leaving. I didn’t want us to pack up and live in a new place either. I wanted to keep things as much the same as I possibly could for them. I put it to [my husband] that I would prefer that we did a nine:five split over a fortnight – I would have the children nine days and he would have them five. And I also recommended to him that he have them every Thursday night as well, so I could do things. He was fine with that. So as he physically left the home, we started that arrangement, and I was on the DPB at the time, so I took about three or four months off when I wasn’t working because of the stress of it all. And I also had information around child support that I got. I was aware that, even with a nine:five day split, I was still entitled to child support. I would have financial security. So weighing it up I decided that was the best way to go.” (Mother, shared care of two children)

Children were not interviewed in this study. However, parents were asked about whether they involved their children in the decisions about care arrangements. None of the children, even those who were teenagers when their parents separated, were reported as having played an active part in determining the arrangements at the time of the separation. This was mainly because they were seen by their parents as being too young to be burdened with the decision-making. More common were parents telling children that they were going to separate and informing them of the post-separation arrangements. Other research has indicated that while

children want to know about what is happening in their families, and in many cases want to be consulted about decisions, almost none want to take responsibility for making those decisions (Brannen et al. 2000, Smart and Neale 1999). Being involved in the decision-making process has been found to be measurably good for children; those who are listened to and consulted show better adjustment than those who are not (Dunn and Deater-Deckard 2001, Walczak and Burns 1984).

Parents were asked where they turned for advice and information, whether they needed more, and what advice they would give to separating couples. Perhaps as a consequence of their belief that children's issues take priority, parents reported little need for information or programmes (it should be noted that this study preceded the national Parenting Through Separation course). This finding may not translate to all separated parents – parents who are less able to make arrangements themselves will probably benefit from accessible information. A few parents did express a need for more or better information, or were critical of what was available. Parents often needed information on Child Support and the Domestic Purposes Benefit. Others wanted to understand the legal situation, although, because most made the arrangements themselves, this was not as important.

For those mentioning sources of support and information, the most frequently cited was counselling, either through the Family Court or privately arranged. Counsellors helped parents to focus on the needs of the children, setting aside their relationship issues in order to reach a parenting agreement.

“I think it had a lot to do with the counsellor we first had because there was such an emphasis on keeping our relationship okay – I thought our relationship was over and she said, ‘No, your relationship is never over. You have children.’ ... Within an hour of seeing a counsellor I knew what I had to do.” (Mother, shared care of two children)

Books, pamphlets and the Internet were not often mentioned, and advice from family and friends was not always found to be helpful. Lawyers were used by some parents, but ambivalence about lawyers was also expressed, with some voicing wariness about the expense and the potential for increasing antagonism between parents.

Advice that those interviewed would give to separating parents was dominated by the exhortation to set aside personal and relational issues and focus on the needs of children.

“The top of the list is making sure that your child's interests are at the top of the list. And your own individual circumstances – be it broken hearts, wounded pride, frustration and anger – is nothing. Pales into insignificance.” (Father, shared care of one child)

“Always put your kids first. Work out something that makes the transition smooth. Even if you have to compromise yourself. ... For the kids, it's about the kids.” (Mother, children spend weekends with father)

Self-care was also advised in terms of finding support and taking time out. Parents also noted how difficult it is to separate “well”; this was not seen as the easy option, calling as it does on the ability to put children's interests first. Some parents also spoke about the need to let some issues go (e.g. if they disagreed with the rules in the other household), recognising that it was not worth alienating their partner over relatively minor issues.

Overall, this group of parents demonstrated remarkable strength, resilience and self-sufficiency in managing their separations. Paramount was their conviction that children's needs have priority over theirs, and their ability to negotiate and make decisions based on this enabled them to avoid litigation. Many also demonstrated flexibility and adaptability as circumstances changed. Especially notable was their relative lack of use of sources of advice and information, apart from that provided by counsellors.

Although this sample is not representative of separating couples in general, their accounts indicate the importance of enabling and supporting parents to understand the need to put children first. If this conviction is in place, and with some support – especially from counsellors – and the ability to communicate and negotiate, then many more parents may be able to separate in a way that is sufficiently civil and informed to minimise the impact on children.

### LESSONS LEARNED

Although our sample was not representative either of all separating couples or, indeed, of all those who separate without using the Family Court, our findings provide some insights into identifying key factors for negotiating “successful” decisions about living arrangements for children post-separation. The following points incorporate information from our sample and indicators from previous research.

- Parents *are* able in many instances to negotiate arrangements between themselves, given the right context and support. It is not possible in every situation, however, and parents should not feel as if they have failed if they cannot manage the process between them. Many of our interviewees described the very real challenges of separating “well”.
- The ability to set aside partnership and individual issues, and to give priority to children's wellbeing, is central to negotiating successful outcomes.
- Respectful and civil communication is an important part of negotiating living arrangements, and is sometimes made easier if ex-partners are regarded as business partners rather than attempting to re-establish friendships, at least in the first instance. Communication by email and other indirect methods is sometimes helpful if direct contact (e.g. face to face or by telephone) is difficult.
- Parents in this sample often took time to reach optimal arrangements. They “experimented” with different arrangements rather than putting themselves under pressure to “get it right” the first time. This approach needs to be set against children's need for stability. A possible solution to this potential dilemma is to keep talking to children so that they know what processes are being followed. Parents also noted the usefulness of reviewing arrangements from time to time to make sure they were working for everyone.
- Flexibility and reciprocity in regard to arrangements appear to be beneficial if parents can establish a co-operative co-parenting relationship that enables this.
- Children of the parents we interviewed were often included in discussions, but were not asked to make decisions. Previous research supports this level of involvement for them,



and also signals the difficulties children have if they are not told about what is happening. Explanations can be made that are age appropriate for children.

- For those parents needing information, courses such as the Parenting Through Separation course also need to be promoted. Consideration may need to be given to whether the Family Court is the most appropriate pathway for these types of services, especially where separated parents are amicable and not litigious. Parents often saw the Family Court as a place where parents in conflict go and where decisions would be taken out of their hands. Efforts to promote the Family Court as non-litigious are to be encouraged. For some parents, however, the need probably remains for more easily accessible information via books, pamphlets and websites.
- Our findings suggest that, at least for these parents, the availability and affordability of informed counselling, both to give information and to help resolve issues, is desirable. The Family Courts is a source for this, and indeed many parents used the Family Court in this way.
- Experienced Family Court lawyers can also assist parents to negotiate their own agreements by providing them with information, referring them to programmes or counselling, and encouraging a focus on the needs of the children.
- A range of care arrangements were made by the parents interviewed for this study. On the whole, the different arrangements seemed to work well for the parents and their children. Families settle on arrangements that work well for their specific circumstances – no one care arrangement will work successfully for all families.

## CONCLUSIONS AND FURTHER RESEARCH

We know very little about how the majority of New Zealand couples negotiate post-separation parenting agreements. This study shows that some, at least, are able to negotiate arrangements between themselves and to maintain these arrangements for many years. Sometimes they sought help to reach agreement, with the most effective support being counselling. With the human and financial costs associated with contested care of children, it is important to promote the fact that couples can successfully negotiate arrangements with appropriate support and information. Parents are more likely to be satisfied with arrangements that they themselves negotiate.

In the public debates concerning childcare after separation, reference is often made to standard arrangements, such as every-second-weekend contact. However, the group of parents who took part in this study made diverse living arrangements for their children, based largely on their circumstances but driven by their ability to put their children's interests first. Parents also showed that such arrangements can have some degree of flexibility and may need some modification over time. It is evident that there is no one solution that is either best or that works for all parents.

Further research is needed that involves more representative groups of separated parents, ideally using nationally representative samples (such as the Australian Bureau of Statistics Family Characteristics and Transitions Survey 2008). This is important in order to gain a wider and more generalisable picture of how parents make – and can be helped to make –

optimal arrangements for their children after separation. In particular, further research is needed about separated parents who have little or no contact with their children and highly conflicted parents. In turn, this calls for quantitative survey data that include a wide range of patterns of care, and their efficacy. Given that good and useful information is helpful, it might be important to examine in more depth what kinds of information are accessible, affordable and of use to parents at the time they separate.

We also need to know a great deal more about the experiences and arrangements made by Māori and Pacific families, and new migrant groups of families. Finally, studies with longitudinal components that follow changes in arrangements over time would yield valuable information for policy makers and those who support separating families.

Our hope is that the voices of the parents we talked to in this project will empower other families who are separating to understand and explore the many options and possibilities for caring for children after separation.

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