

CAN I MOVE WITH THE CHILDREN FROM BRISBANE TO THE GOLD COAST?

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This is a question that we are often asked. A recent case provides some insight on what the court thinks.

When considering parenting matters, in the context of family law in Australia, one of the major issues to consider is whether the parents have equal shared parental responsibility. In the majority of cases parents will have equal shared parental responsibility. The Family Law Act, has a legislative pathway which requires parents to then turn their mind to various time arrangements with their children. One of the terms used in the Act is “substantial and significant” time, but what does that really mean?

In a recent Victorian case, the mother was successful at trial in being allowed to relocate with the 2 children, aged 9 and 7, from Melbourne to Gippsland, a distance of 85km away, as she had obtained employment.

This is a similar distance to that between Brisbane and the Gold Coast and therefore addresses one of the frequent questions we get as Family Lawyers, of ‘can a parent relocate with the children after separation from Brisbane to the Gold Coast?’

In the case in question, the father had been having time with the children each alternate weekend before the mother moved. After the move, a dispute arose that was resolved with the father



significant', relying on the fact that, an element of this type of time is that he be 'involved in the children's daily routine'.

The Full Court disagreed with the fathers appeal and confirmed that the mother could relocate. The Court stated that the Act is to be interpreted in the context of a separated family, where parties are not living together, and it does not require daily physical association with each and every aspect of the child's life. Nor does the provision of the Act specifically state that the daily routine is limited to school weeks. Whilst they accepted that the father's time was reduced compared to what he had been having it still met the criteria of being 'substantial and significant' time albeit only to a limited extent during the school week.

Not the whole appeal court agreed with the decision, so it highlights the complexity and uniqueness of 'short distance' relocation cases. If you are in such a situation it is essential that you get specialist Family Law advice as soon as possible. For a fixed cost initial consultation, call us on (07) 3221 4300.

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