

RELOCATING – BUT NOT TO WHERE YOU ASKED TO GO...

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What power does the court have to direct a parent and children where they are to live? A mother has recently appealed against a judge's decision allowing her to relocate but then telling her to what town that would be.

It is important to remember that the Family Law Act provides the Family Court with extremely broad powers to make orders in parenting cases. This includes the power to require a parent who is wanting to relocate to move to a town they had not proposed however this would only be in circumstances where it is necessary to avoid an adverse effect to the best interests of a child. It is rare for the court to impose an order on a parent that will affect their freedom to live and work where they wish, and as this recent [case](#) shows, this power must only be exercised after careful consideration of the surrounding circumstances and alternatives in the case.

In this case, the 3 children were aged 2, 4 and 8 years of age. Following separation, the mother relocated to Town B some 3 hours' drive from Town A where the father (and formerly the mother and father was living). The mother proposed remaining in the Town B and the children spending alternate weekends and school holidays with the father. The father opposed the relocation.

The relevant facts were:

- The mother had significant support and close friendships in Town B to help her;
- The mother had a drug problem previously which had stopped when she relocated, and she was concerned about a relapse if she returned to the same circles in the father's town (Town A);
- The mother and father agreed that the mother should continue to be the primary caregiver for the children.

The trial Judge made orders for the mother to live in Town C, a town 40kms from Town A (where the father was living).

On appeal, the Full Court found that the trial Judge had failed to take into account relevant considerations. The Full Court noted that coercive orders should only be made in rare and extreme circumstances. The matter was remitted to the lower court for rehearing.