

Truce

Part three of a three part series on Family Law

The welfare of children after divorce has often been the last thing on the minds of warring parents. And the Family Court has presided over some unhappy agreements. Yet there are former couples who have worked out their own solutions to the access problem. BETTINA ARNDT looks at how shared parenting can make for happy ex-families.

THERE were times I've wanted to plunge a dagger into him but I wasn't going to put my problems onto the children. They love their Dad, you know. So of course, he could see them whenever he wanted to," says Linda Hampshire, divorced for eight years, three children.

"When he left me, I thought about packing up and taking off with the kids. I've always wanted to live on the Central Coast. But I looked at my children and thought that as much as I can't stand him there's no way I could deprive them of seeing him," says Jenny *, divorced for two years, three children.

"At first I wanted to share our son week about, but he's going to a French school so we decided my wife – she's French-speaking – is better having him during the week. He stays with me regularly and I look after him if my wife goes away or whatever. We are just trying to work out what's best for him," says Owen, divorced for one year, one child.

These are the divorced people one never hears about: the men and women determined to do the right thing by their children; couples who manage to work out their own solutions to the thorny issue of parenting after divorce. These are solutions far removed from the usual custodial mother and Weekend Dad roles.

With the introduction of amendments to the Family Law Act last June, the Australian Parliament has sought to encourage more people to follow such civilised examples. The Family Court's past handling of the welfare of children after divorce has been a disaster, as evidenced by large numbers of fathers losing contact with their children. Consequently Parliament has directed a change towards shared parenting, seeking to ensure children's contact with both parents.

The reaction from many judges and lawyers has been to throw up their hands in horror. "We're trained sceptics," says one.

Their cynical reaction to the notion of shared parenting stems from years spent in the trenches, surrounded by divorcing people at daggerheads.

Yet within the community is ample proof that divorcing parents can co-operate over caring for their children. There are many who, long before it became a parliamentary edict, went to great lengths to ensure their children still had their two parents in their lives after divorce.

Manny Renton is a Canberra divorcee who left her husband two years ago, taking her four children with her. But unlike many other women who make such a move, she's encouraged her husband to remain involved with her children. In fact, the children now see a lot more of him than they did when their parents were married.

"Before, he never had any time off to be with them," Manny says. "Now, if I want a week off, he'll take time off work to look after them. He's there for them 24 hours around the clock. They ring him every day when they get home from school. He sees them whenever he can. If I'm going out, I'll use

him to take care of them before anyone else. He's their Dad and I prefer that they are with their father."

While many warring parents are using Family Court rulings to support their hostile behaviour, there have always been parents who deliberately steer clear of lawyers, counsellors and courts, determined to find a better way. "Sole custody would have been cruel and pointless. Geoff wasn't a bad parent or anything like that. He was their father and that was important," says Sally McInerney, who had three children under five when she ended her marriage to poet and tax lawyer Geoffrey Lehmann 20 years ago.

The couple decided to share custody, with the children initially swapping midweek and then week about between their homes. That plan continued for many years and then gradually became more flexible, ultimately with the children all deciding to stay put in their mother's home for their final school year. The process was hard work. Family members describe the hassle of items forgotten at one house or the other, the constant packing and unpacking, difficulties keeping up with friends, the adjustment when parents repartnered. But the children are very conscious of the efforts made by their parents to make it work. John Lehmann, 23: "I'm proud of them. Given their relationship with each other was not very good in the early years, they did very well."

When you talk to the Lehmann children, there's a strong sense that for them split custody was the only fair solution. "I think there's no alternative. Fathers usually have a lesser role anyway but to just permit him a visit now and then," says Lucy Lehmann, 22.

Anne Prior is director of services at Relationships Australia, in South Australia, and a long-time counsellor for divorcing couples. "The parents have to be committed to the welfare of the child," she says. "If they are, they can hate each other's guts and still make it work. If they believe in the importance of both parents to the children, they make huge sacrifices to make it happen."

Many people are making these sacrifices. I talked to one woman who spent years struggling to support herself and her children yet still found money to contribute to Dad's travel from interstate to see the children. There were women who'd gone without a car on Dad's access weekend so he would have the means to ferry the children around. And many women were frustrated by the fact that Dad wasn't as involved as they would have liked him to be. I also spoke to women who had experienced violent, abusive marriages yet were still quite sure it was in the children's interests to remain close to their father.

When both parents are committed to making it work, there are all sorts of possible arrangements which enable them to share parental responsibilities – from the most casual drop-in plans to the various split-care arrangements where children spend equal time with both parents, either splitting the week, or week or fortnight about, or even having one year with one parent, the next with another. It appears to be a trend for more parents to seek such shared care arrangements, which are often frowned on by people in the Family Court used to dealing with the fallout when such schemes break down. But there's a strong body of research suggesting that when such arrangements work, they provide the best environment for children by maximising the desired contact with both parents.

The key to all the successful approaches is flexibility, adapting to children's individual and developmental needs. There is substantial research to help people make appropriate decisions for sharing parenting after divorce, as shown in a recent paper prepared for judges in the Los Angeles Superior Court by the court's Family Law psychiatric office.

According to Dr Mary Lund, the author of the paper, research points to definite conclusions about appropriate parenting arrangements. For instance, she argues that fortnightly contact with fathers is totally unsuitable for babies under 12 months of age. She suggests that if infant children are to bond to fathers, a schedule of up of three hours contact every other day is advised, with one overnight per week. Research shows fathers who are deprived of such contact are unlikely to remain involved in their children's lives.

Lund points out that while some people feel joint custody is inappropriate for pre-schoolers because they need a primary attachment to one parent, an equally strong argument can be made that split custody is ideal for these young children since it enables them to bond to both parents before school commitments complicate matters. Lund gives detailed information as to how desirable arrangements change as children grow older – with increasing school requirements and need for weekend time with friends, many older children prefer larger blocks of time with each parent to “ping-ponging” between them. In adolescence, there's particular need for flexibility as many young people start to vote with feet, choosing to stay with one parent or the other. Lund reports that children who have been deprived of one parent often express a strong need to live with that parent – this is particularly true of boys who have been deprived of access to fathers. Children need to try living with Dad because basically they've been starved of a relationship with him and they've got some making up to do. At the end of the day, if it doesn't turn out, they tried it, got to know Dad and found out what he has to offer.

Prior says it is worth fathers maintaining whatever contact is possible – phone calls, letters etc – until adolescent children are ready to make their own decisions. “Play for the long haul! It's like shark fishing. You have to have a lot of patience and a long strong line.”

One Canberra man I spoke to suffered through years of occasional weekend access to his son until the 15-year-old boy managed to persuade his mother to take him for counselling. He convinced the counsellor that he'd benefit from living with Dad, she worked on the mother, and now the boy is living with his father.

It doesn't always work out. I also spoke to young people who found that Dad really wasn't around much when they did move in with him, or they didn't like his new wife, or competing with new step-siblings. But there's no question that adolescence is the time when many children start to make their own decisions about what's best for them – as the court increasingly recognises. Luckily, many men don't need to be quite so patient. A year or so down the track, many women want a break from their children and realise Dad can be useful to have around. And vice versa.

After the break-up of his marriage, Wollongong academic Professor Harry Beran started off with his son Stephen living with him but after a few years, he was ready for a change: “I ran out of steam. I was tired of being a single parent.”

Stephen moved from Sydney to Melbourne and lived with his mother until into his teens when mother and son were no longer getting on quite so well. Between them all, they all decided it was time he returned to live with his Dad. Stephen looks back on his unusual childhood: “I quite enjoyed it. I liked moving around, I get itchy feet. I thought my parents were quite sensible about the whole thing.”

But whatever the motivations, post-divorced parenting is never easy. David is a Sydney man who has spent the last four years in constant delicate negotiations with his ex-wife as they shared their three children week about. Now that two older children have hit their teens, he's reluctantly deciding they may have to move to a more flexible plan as his children's friendships and school commitment make

regular changeovers more difficult. He knows his children need more choice in their lives but having worked so hard to remain close to them, he's reluctant to let go.

"When you are under the same roof you know what's going on for them. The little joyous and sad occasions just pop out. Let's face it, when do kids ever think, 'I must remember to tell Dad about that'?"

He's bound to lose out in giving his children the independence they need, but such a sacrifice is par for the course in making up to children for the losses they suffer through divorce. The good parents know that well.

Putting A Brave Face On It

AS SEPARATED parents, Melissa Gibson and Michael Woods appear to get on remarkably well. They share care of their two children, divide all child-related expenses and even split the family allowance.

But four years ago, it was a different story. Gibson says: "I thought he was a louse, a total write-off. If I'd acted on the basis of my emotional instinct it would have been, 'You can get lost. You'll never see the kids again.' "

So how is it this couple ended up with such an amicable arrangement? Well, for a start Gibson was faced with the knowledge that Woods was determined to fight. "Nothing was going to take my kids away from me. I would have spent every cent I had on legal fees to achieve my aim," he says.

As is typical, Gibson initially wanted to seek the custodial mother role, leaving Woods with just Santa Claus-type access. But when she was threatened with a custody battle, it made her reassess his importance to the children.

"Thinking about how a judge would decide between us forced me to acknowledge how much Michael had to offer as a father," she says. "He has incredible patience and ability to join in with the children. In the end, it seemed best to try to work out a way of sharing them."

It took time to sort through the teething problems in setting up their split-week scheme.

"It was extraordinarily difficult for the first 12 months," Gibson says. "We'd split up because we couldn't manage conflict and now we had these battles over who was going to take time off work to get the kids a haircut."

But they are now doing well. Gibson considers herself very lucky because Michael's time with the children has enabled her to get her career in the NSW public service on track. And the children? Oh, they are very happy having two homes, the parents assure me. "Except when a favourite toy is left at the wrong house," Woods says.

WHEN Mum told me they were splitting up, my reaction was, 'About time, Mum, why didn't you do it before?' I was sick of Mum and Dad fighting so much. But I couldn't imagine what it would be like if Dad had just left and we hadn't seen him any more. I love my Dad dearly and I couldn't imagine life without him."

Rachel, now 18, is one of four children affected by the separation of Lindy and John Hampshire eight years ago. Joel and Brodie are now 16 and Blythe is 12. Rachel acknowledges it was sometimes a pain having to be available for access visits and phone calls from Dad, "I'd tell the kids 'pretend I'm

not here' when I didn't always feel like talking to him." But overall she's very glad her parents made such efforts to keep her Dad in touch with his three children.

Very special efforts. Lindy even let John stay in her home on occasions when he'd travelled from Sydney to visit the children, who live in the Blue Mountains. "In the marital bed?" I asked. Oh no, on a couch in the living room, Lindy explained with a laugh, adding she would often visit friends to give John time alone with the children.

The couple have worked out all sorts of flexible arrangements – regular visits, trips to stay with Dad in Sydney, split holidays. Joel even spent eight months living with John three years ago.

And John counts himself as very lucky. "I know how many women deny access to the kids to hurt their husbands. But in the end, it's the children who suffer."