

Equal shared care of children and child support



Where parents agree exactly equal shared care in relation to their children then this will result in there being no child support payable by the paying parent, often but not always the father, to the receiving parent. This rule applies to child support cases that entered the system following the introduction of the 2012 scheme, known as the “gross income scheme”. Where these circumstances exist neither parent can be treated as the paying parent and, on this basis, the Child Support Agency will not have jurisdiction.

This constitutes a significant change from the rules under the earlier schemes, which specified that even though the care of the children may be shared to the same extent, one parent will still be considered to be the paying parent and will be liable to pay child support albeit at a reduced rate. This rule often resulted in unfairness where a paying parent would be forced to pay child support for their child even though the child spent 50% of their time with them. On this basis, this rule was changed, as above, when the gross income scheme was introduced.

Whilst the introduction of this rule was intended to reduce any injustice may arise where there is equal shared care the rule is not without its problems.

For instance, if one parent lives in modest circumstances but the other parent is extremely wealthy then, where the care of the children is shared equally, is it fair that there should be no child support payable by the wealthy parent?

The other repercussion of this rule is that some parents may seek to make decisions for their children not by reference to what is best for the child but by reference to financial issues. A father may, for instance, try to negotiate an equal shared care plan in order to prevent the Child Support Agency from becoming involved in his case and being liable to pay child support over the lifetime of a child support liability. For instance, a father who earns £100,000 a year would be liable to pay approximately £13,664 per year in relation to two children.



Assuming the child support liability lasts for 16 years an equal shared care arrangement would bring about a saving of £218,624. The stakes are, therefore, high.

The other side of the coin is, of course, a mother who may resist an equal shared care arrangement, even though this may best suit the needs of the children, in order to avoid losing child support.

It is a well established principle of family law that decisions concerning how much time children should spend with each parent, should be made by reference to what is in their best interests as opposed to any financial advantage/disadvantage that there may be to one of the parents. Whilst the equal shared care rule resolves a number of problems that arose in the old child support scheme, it certainly does not provide the perfect solution and has the very real potential for creating problems for other parents in the gross income scheme.