

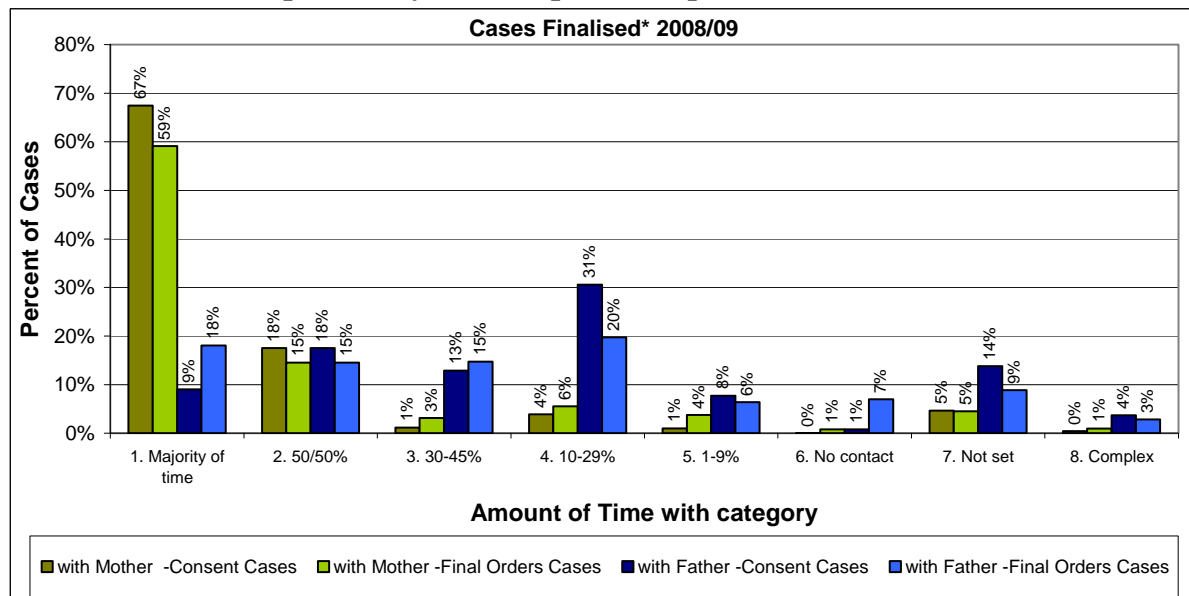
SHARED PARENTAL RESPONSIBILITY – 2008/2009

The reforms to Part VII of the *Family Law Act 1975* (Cth), introduced by the *Family Law Amendment (Shared Parental Responsibility) Act 2006* were wide-ranging. Among the most significant of those reforms was the introduction of a rebuttable presumption of equal shared parental responsibility and particular obligations placed on family courts to consider ‘equal time’ and ‘substantial and significant time’ arrangements where the presumption applies. Another important change was made to the ‘best interest’ factors – factors that a court has regard to in deciding what order would be in the best interests of the child who is the subject of a parenting dispute – which as a result of the reforms are now divided into ‘primary’ and ‘additional’ considerations.

In March 2009, the Family Court of Australia released the first report outlining the orders being made relating to how children “spend time with” their parents in both litigated and early agreement cases. The first brief covered cases finalised during the 2007-2008 financial year. This report now provides the same data for cases finalised during the 2008-2009 financial year. It is based on 1013¹ litigated cases² and 2788³ early agreement cases⁴ finalised during the 2008/2009 financial year in the Family Court of Australia. This report does not contain any data in relation to orders made in the Federal Magistrates Court or the Family Court of Western Australia and it does not attempt to compare the data and no conclusions regarding trends have been made.

2008-2009 SHARED PARENTAL RESPONSIBILITY STATISTICS IN CASES CONDUCTED IN THE FAMILY COURT OF AUSTRALIA.

Shared Parental Responsibility - Time Spent with parents



¹ A sample of 1013 litigated cases were taken from total of 4883 litigated cases finalised in 2008-09

² The term ‘litigated cases’ includes all Applications for Final Orders finalised, by agreement or judgment, in the Family Court of Australia

³ A sample of 2788 consent cases were taken from a total of 10,164 consent cases finalised in 2008-09

⁴ The term ‘consent cases’ includes all Applications for Consent Orders finalised in the Family Court of Australia

Note: 'Not Set' indicates there is no set rigid arrangement in the time split; Complex indicates where the time arrangement is too difficult to determine, such as for infants and 'hours' rather than days and multiple children with differing time arrangements etc;

CASES WHERE FATHERS RECEIVED A MAJORITY OF TIME

- In 18% of litigated cases, the Family Court made orders that the children spend more than 50% of time with their father.
- Where parents came to an early agreement, it was agreed in 9% of cases that children spend more than 50% of time with their father.

CASES WHERE MOTHERS RECEIVED A MAJORITY OF TIME

- In 59% of litigated cases, the Family Court made orders that the children spend more than 50% of time with their mother.
- Where parents came to an early agreement, it was agreed in 67% of cases that the child spend more than 50% of time with their mother.

CASES WHERE 50/50 TIME WAS AWARDED⁵

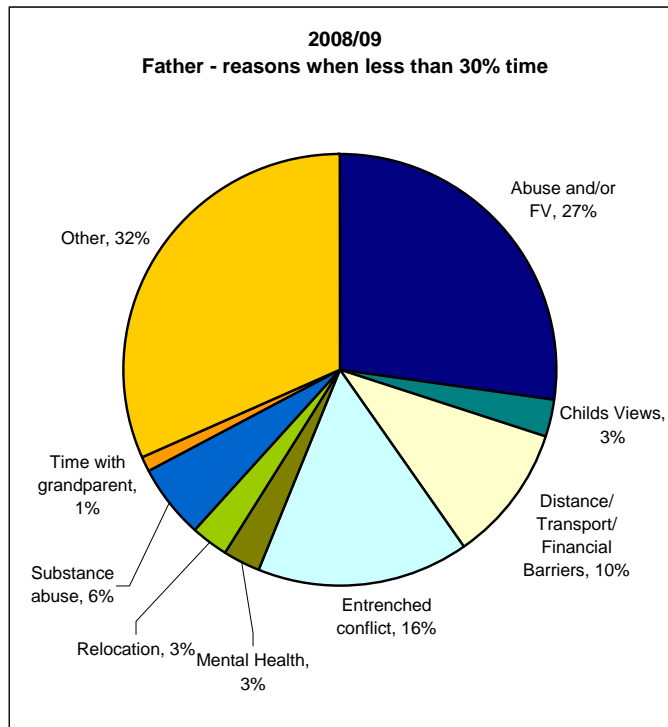
- In 15% of litigated cases, the Family Court made orders for 50/50 care between parents.
- Where parents came to an early agreement, the parents agreed on a 50/50 care arrangement in 18% of cases.

CASES WHERE THE FATHER RECEIVED BETWEEN 30% AND 45% OF TIME

- In 15% of litigated cases, the Family Court made orders that the children spend between 30% to 45% of time with their father.
- Where parents came to an early agreement, it was agreed in 13% of cases that the children spend between 30% to 45% of time with their father.
- In 3% of litigated cases, the Family Court made orders that the children spend between 30% to 45% of time with the mother.
- Where parents came to an early agreement, it was agreed in 1% of cases that the children spend between 30% to 45% of time with their mother.

⁵ For data collection purposes 50/50 time was defined as between 45 % and 55% of the time spent with a child or children.

CASES WHERE THE FATHER RECEIVED LESS THAN 30% OF TIME (EXCLUDING FULLY SETTLED CASES)



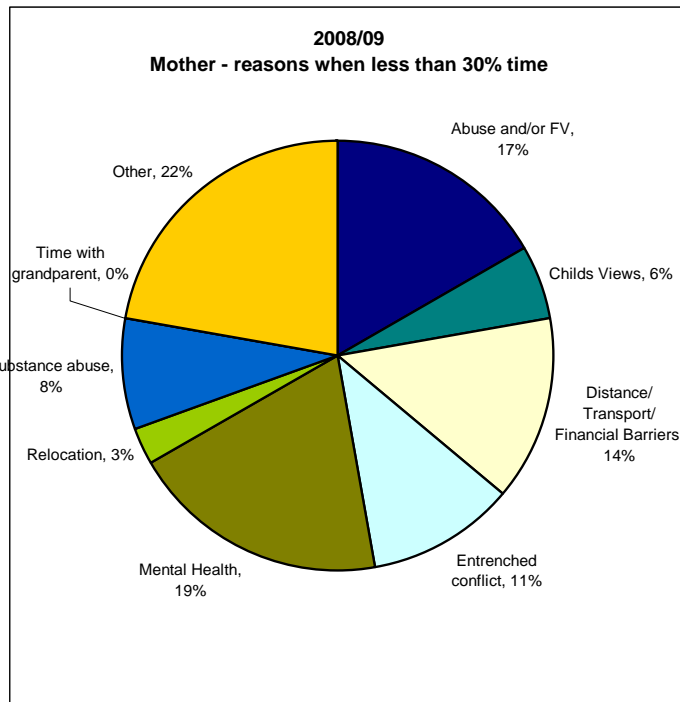
Note: 'Other' includes where the reason is unknown such as; the parties consenting to some orders during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

In a third (33%) of litigated cases, the Family Court ordered that children spend 30% or less time with their father. Of those that did not fully settle their case, the **main reasons** for the order included:

Reason	Percentage of cases*
Abuse and family violence	27%
Entrenched conflict	16%
Distance/transport/financial barriers	10%
Substance Abuse	6%
Relocation	3%
Child Views	3%
Mental Health	3%
Time with Grandparents	1%
Other	32%

* May not add to 100% due to rounding. 'Other' includes where the reason is unknown such as; the parties consenting during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

CASES WHERE THE MOTHER RECEIVES LESS THAN 30% OF TIME



Note: 'Other' includes where the reason is unknown such as; the parties consenting during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

In 9% of litigated cases, the Family Court ordered that children spend 30% or less time with their mother. The **main reasons** for the order include:

Reason	Percentage of cases*
Mental health issues	19%
Abuse and/or family violence	17%
Distance/ transport/financial barriers	14%
Entrenched Conflict	11%
Substance abuse	8%
Child Views	6%
Relocation	3%
Time with Grandparents	0%
Other	22%

* May not add to 100% due to rounding. 'Other' includes where the reason is unknown such as; the parties consenting during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

CASES WHERE THE FATHER SPENT NO TIME WITH THE CHILDREN

- In 7% of litigated cases, the father was ordered to spend no time with the children.
- Where the parents came to an early agreement, it was agreed in less than 1% of cases that the father have no contact with the children.

The **main reasons** for the order include (in litigated cases):

Reason	Percentage of cases
Abuse and family violence	31%
Entrenched conflict	15%
Distance/transport/financial barriers	3%
Substance Abuse	4%
Relocation	0%
Child Views	6%
Mental Health	4%
Time with Grandparents	1%
Other	35%

* May not add to 100% due to rounding. 'Other' includes where the reason is unknown such as; the parties consenting during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

CASES WHERE THE MOTHER SPENT NO TIME WITH THE CHILDREN

- In 1% of litigated cases, the mother was ordered to have no contact with the children. The **main reasons** for the order include:

Reason	Percentage of cases
Mental health issues	25%
Child Views	13%
Other	63%

* May not add to 100% due to rounding. 'Other' includes where the reason is unknown such as; the parties consenting during the litigation process, the reason is not covered by a category, or there is multiple and complex reasons.

Grandparents

- In 7% of litigated cases the Family Court ordered that the child spend time with grandparents.
- In 2% of cases where there was an early agreement it was agreed that the child spend time with the grandparent.
- In 3% of litigated cases the Family Court ordered that the child spend time with an 'other' person.
- In 1% of cases where there was an early agreement it was agreed that the child spend time with an 'other' person.

Additional Information

- In those cases where parents have agreed about arrangements for children to spend time with their father, 14% did not set a rigid arrangement of the time.
- In those cases that are litigated, 9% did not have a set and rigid arrangement for the children to spend time with their father.