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## **Managing shared residence in Britain and France: questioning a default 'primary carer' model**

*Alexander Masardo*

### **Introduction**

The past forty years have seen major shifts in the demographic constitution of families and households, in particular with regard to aspects of their formation and dissolution. A growing diversity in family forms has meant that increasing numbers of children are growing up in households that do not include both biological parents. Much of the research and policy interest surrounding these changes has focused on the growth in lone motherhood, where the ratio of lone mothers to lone fathers has remained remarkably consistent over many years, at roughly nine to one (Duncan and Edwards, 1999). As a result, inasmuch as fathers have been portrayed at all, they have been considered largely in their role as 'separated' or 'absent' fathers, living apart from their children. This focus has tended to mask the substantial differences that exist in the nature of their contact, care and residence arrangements, where many fathers endeavour to play an active and engaged role – emotionally and instrumentally – in the lives of their children, despite the parents' separation.

An increasingly favourable social and legal disposition towards the continuation of parent–child involvement, allied to notions of the welfare and 'best interests' of the child, has meant that despite the parents' separation '[t]he notion of a biological family which transcends individual household boundaries and in which children retain both parents in their lives ... is a lived reality' (Neale et al, 1998: 16). Not only are fathers involved in forms of ongoing and regular contact but for some an arguably distinct model of post-separation family life in which both parents share the day-to-day care of the children can be discerned – 'shared residence'. Here, children reside with each parent for roughly equal amounts of time by alternating their home life across two households; in effect – for the children – a 'dual residence' (Maccoby and Mnookin, 1992; Neale et al, 2003).<sup>1</sup>

Definitions lack precision but arrangements may typically involve upwards of 30 percent of the child's time throughout the year being spent in each household; usually designated by the number of overnight stays. Baker and Townsend (1996), for example, drawing on the American divorce literature suggest that this 30–70 ambit of care is appropriate as a general rule, and Bradshaw et al (1999), in their seminal study of non-resident fathers, use a similar definition, setting a slightly lower minimum threshold of 104 nights over the year for the 'shared care' group they identify. While this spectrum of residence may appear somewhat arbitrary, it nevertheless provides a useful framework within which to explore the intersection of resident and non-resident parenting.

Why is it important to do this? Because at present, parents are divided upon separation into two discrete entities – one 'with care' (the resident parent) and one without (the non-resident parent) – which results in the establishment of gendered roles of 'carer' and 'provider' (via child support). However, where the care and residence of the child is shared in more or less equal measure, a 'non-resident' status may not only be inappropriate in this instance, it may also lead to multiple levels of disadvantage, not only for the non-resident parent and their children but also for any other members of that household. As Giddens (1998: 104) warns us: 'Exclusion is not about gradations of inequality, but about mechanisms that act to detach groups of people from the social mainstream'.

In many respects a lone-absent or resident-non-resident parent dichotomy, which runs as an undercurrent within institutionalised social structures at practically every level, may be acting as just such a mechanism, serving to obfuscate the realities of a shared residence model of family life. Here, there exist two family units, indeed households, where neither parent is *de facto* 'lone' nor 'absent'; where both require recognition, perhaps for a variety of reasons, as legitimate family forms with concomitant needs. These needs may be particularly acute within low-income households and may, additionally, serve to discriminate against this model of family life taking place at all.

The issue of shared residence has of late moved up the political agenda in a number of jurisdictions around the world, driven in some measure by an increasingly vociferous

– and international – fathers’ rights lobby (Collier and Sheldon, 2006; Rhoades and Boyd, 2004). Yet despite the substantial interest in the concept of shared residence this focus has generated, relatively little is known within the European literature about how it functions in practice; in particular, with regard to the relational and structural dynamics that exist in its negotiation and management. By *relational* I refer to the roles of and relationships between the various social actors involved; and by *structural* I refer specifically to the legal and policy frameworks within which it operates.

In the course of this chapter, I provide some insight into how these relational and structural dynamics are played out and, in this way, throw some light on an evolving *practice* that has received very little attention to date. In addition, the nomenclature of a lone-absent parent divide is brought into question by asking where a shared residence model of family life can be situated. In order to do this, I am going to draw on ESRC-funded cross-national research that uses qualitative methodology to compare and contrast fathers’ experiences of negotiating and managing shared residence in Britain and in France. I begin by taking you briefly through the methods I have employed; outline some of the central respondent characteristics; look at the various patterns of care that have been adopted; then provide you with some key findings from an analysis of the data which set out some of the main challenges fathers face when parenting in this type of multi-residence situation.

## **Methods**

Between June 2005 and August 2006, qualitative (semi-structured) in-depth interviews of between 60–90 minutes duration were carried out with 20 British and 15 French fathers, who at the time of interview had at least one biological child under 19-years-of-age in a shared residence arrangement. Participants were accessed using a snowball or ‘network’ sampling technique, which relies upon the social contacts between individuals to trace additional respondents. The main criterion for inclusion in the study being a minimum of 30 percent of the child’s time spent resident with each parent over the year. Crucially, this 30–70 ambit of care meant that some respondents were likely to span the resident–non-resident parent divide in the sense of being both officially ‘resident’ as well as ‘non-resident’ parents and thereby give a

clearer indication of what might be happening at this intersection. A qualitative approach was used primarily in order to capture these complexities and the multiple realities of this form of family life.

The rationale for a comparative approach derived from a belief that ‘we can understand social phenomena better when they are compared in relation to two or more meaningfully contrasted cases’ (Bryman, 2001: 52). The rising interest in and practice of shared residence is an international (social) phenomenon. For this reason, a ‘binary’ comparison was chosen in order to increase our knowledge of two different systems while simultaneously contributing to an understanding of this phenomenon more generally (Dogan and Pelassy, 1990).

The choice of Britain and France as the two countries for comparison was not made primarily on the basis of their traditionally different approaches to welfare (Esping-Anderson, 1990) and family policy (Gauthier, 1996) as might be expected. But rather, upon the similarities evident in their respective levels of social and economic development, levels of divorce and cohabitation, roles of women and the changing expectations and behaviours of men, together with similarities in jurisprudential thought – albeit this last being highly influenced at the supranational level. By focusing on a relatively homogenous field in this context, causal relationships could be best-appreciated and marginal differences evaluated, creating an increased capacity for in-depth analysis.

### **Common features of respondent characteristics**

There were striking similarities in respondent characteristics among the two sample groups, which may indicate a stronger propensity for shared residence to take place where certain fundamental or ‘core’ criteria are met. Taking care not to extrapolate too strongly from the qualitative data, some common patterns could be identified. On the whole, fathers in both groups were aged in their 30s and 40s, were in paid employment and currently single. The only notable difference was that, in contrast to the majority of British fathers who had been previously married to their children’s mothers, slightly more of the French respondents had been cohabiting.

The number of children parents had and their ages at the time of separation also appear to have been strong contributory factors in facilitating such arrangements, as was the geographical proximity of homes. This was reflected in the fact that nearly all the children had been under the age of 11 when they first began alternating their residence, that respondents rarely had more than two children and that parents tended to live within a five-mile radius of each other – many of these within ‘walking distance’. Also of note, was the high proportion of fathers in both samples claiming that the mothers had initiated the breakdown of the relationship. Although we do not have the mothers’ accounts from which to compare these reports, they are significant nevertheless, since fathers would generally discuss the evolution of arrangements based on these terms. This could suggest that the manner in which these partnerships ended may have played a part in any consequent consideration and negotiation of care arrangements; specifically, with regard to the mothers’ amenability towards shared residence.

Finally, the overwhelming majority of fathers in both sample groups claimed to have played a central role in the day-to-day care of their children prior to the parents’ separation. This must lead us to ask whether shared residence is a more likely outcome where the father–child relationship has previously been imbued with high levels of active parenting. It is notable that strong care roles were reported regardless of whether subsequent arrangements had been made privately or through a legal dispute mediated through lawyers or the family courts.

### **Parenting schedules and cycles of care**

The analysis revealed that parents had adopted a variety of care patterns. In the main, these centred around a one- or two-week cycle of care that tended to be broken over holiday periods and according to the degree of flexibility parents demonstrated towards each other and towards their children’s own wishes and needs. In order to summarise these, I have used a schematic representation over time in which each shaded block highlights the number of overnight stays the children make in each respective household, where M = with mother and F = with father. In addition, each week is shown diagrammatically as starting from Sunday.

*The one-week cycle:* Chris (Fig. 1) provides us with an example of a one-week cycle of residence, where his two sons are with him from Wednesday until Saturday evening, and then spend Saturday evening until Wednesday morning with their mother.

**Figure 1** British respondent: Chris (age 36) and Sue – Joel (age 7) and Sam (age 4).

M	M	M	F	F	F	M
Sun	Mon	Tue	Wed	Thurs	Fri	Sat

*The two-week cycle:* Jacques (Fig. 2) gives us an example of a two-week cycle of residence, where his children alternate their home life each week by spending every Friday evening until the following Friday evening resident with one parent.

**Figure 2** French respondent: Jacques (age 44) and Mari-Lou – Julian (age 12) and Sophie (age 9).

Week 1							Week 2						
M	M	M	M	M	F	F	F	F	F	F	F	M	M
Sun	Mon	Tue	Wed	Thr	Fri	Sat	Sun	Mon	Tue	Wed	Thr	Fri	Sat

Variants of this alternate-weeks approach (*résidence hebdomadaire*) were practised by over a third of French respondents, making it by far the most common pattern of residence among this group. Other patterns in the French sample included a four-week cycle, where children would alternate between both homes every two weeks (*la quinzaine*), and a model of care known in the UK as ‘nesting’, where it is the parents who alternate their own residence to accommodate the child’s one home. Where this occurred, it tended to take place in the initial stages following the breakdown of the parental relationship; in one instance, this model of care took place over a period of six months, in another for just over a year.

French parents tended to adopt significantly longer blocks of time with their children than their British counterparts. While the most common arrangement among the French sample was an alternate-weeks pattern of care, in Britain they were more often split into a series of shorter two, three or four day blocks of residence. This could be

explained, in part, by differences in attitude regarding the psychological wellbeing of the children: in the main, the French parents appeared desirous of avoiding the constant toing and froing for the children that shorter periods of residence would entail, while the British parents appeared more concerned about the effect overly long absences from either parent would have on them. From what evidence there is available, these differences in care patterns are also borne out in wider British and French research (cf. Bradshaw et al, 1999; Moreau et al, 2004). While fathers revealed a great diversity within these cycles of care, not only in the days on which the changeovers occurred but also in their timing and logistics, in the main, they reflected the needs of all family members for consistency and a comprehensible rhythm.

Crucially, parenting schedules were not static, often evolving through their own dynamic and occasionally involving several different formulations over time. Respondents could also have separate arrangements for different children. Family recomposition, in particular, meant that some parents were subject to a series of parallel commitments and could have several residence arrangements running concurrently for different sets of children and/or step-children. Nevertheless, despite the dynamic nature of arrangements, that would often stem from a process of trial and error and in accordance with the changing needs and wishes of the various social actors involved, the levels of care and overnight stays children had with each parent tended to remain consistent across both sample groups – that is, shared in the sense of continuing to operate within the residence criteria used within the study. There were exceptions to this rule, for example, where one parent had initially taken on the sole care of the child(ren) following parental separation and contact with the other parent had been minimal or where a particular child had gone to live with one or other of their parents on a permanent basis.

### **Negotiating shared residence: personal histories**

Two factors appeared to contribute, in particular, to the successful negotiation of shared residence between parents: first, a mutual respect by each parent for the other's parental role, which included a recognition that each would continue to play a central part in the children's lives; and secondly, an acceptance by both parents that their



former partner now had a separate life and that any ongoing relationship between them would centre solely around the upbringing of the children. Nevertheless, despite a mutual acceptance of the involvement of the other parent in a care capacity, shared residence does not appear to require unusually high levels of cooperative working among separated parents. Of central significance in the data were the two major differences in parenting relationships that could be discerned among respondents: first, *cooperative co-parenting*, reflected in some form of working parental relationship; and secondly, *parallel* (or disengaged) *parenting*, where little or no communication took place between them, each essentially doing their own thing (see e.g. Maccoby and Mnookin, 1992).<sup>3</sup>

Fathers found that, in general, good communication between parents was healthy not only for practical reasons but that it could also have a knock-on effect on their children's wellbeing. However, while more parallel parenting approaches could suggest greater underlying conflict or tension between parents that might act to militate against 'working' arrangements, for some parents it represented a useful means by which to facilitate shared residence through reducing the opportunities for flashpoints and thereby avoid any potential conflict. In this sense, parents could be seen to be acting both rationally and responsibly, reducing any adverse affect of the parental relationship on the child and thereby acting in their children's best interests. In this context, we should be wary in assigning any underlying 'good' or 'bad' status to one approach over the other. Moreover, these approaches were not set in stone, with parallel parenting often leading to more cooperative parenting relationships over time, highlighting the need for a period of time – or 'bedding down' – within which parents could come to terms with the nature of events without setting parents in opposition to each other.

Other important and related aspects of the findings included striking a balance in the extent to which children would integrate the two halves of their home life. It appeared to be of particular importance to fathers that the children had a sense of ownership over their two worlds and that any integration should generally be led by the children themselves. This required that parents be open and responsive to their children's needs, which could change over time. Fathers also identified consistency in arrangements combined with an ability to be flexible where needed and remaining

committed to establishing shared residence where it had not been in place from the outset.

Where fathers had repartnered in the context of further children and/or step-children, they often identified a need to nurture the core biological family unit within the, now, wider one. Providing time and space for each genetic set of siblings to establish their own unique identity could act to dispel any sense their children might have of being 'visitors' in the household, where respondents' own children might spend less time resident with them than their new partners' children. The point was also raised that where two families had 'come together', having different arrangements for different sets of step-siblings could also help to facilitate the arrangement, in the sense that the children were not constantly getting 'under each other's feet'. This was seen as healthy and thereby worked to sustain the arrangement. There was a general sense that relationships between these groups of children had to be handled with tact and care.

The levels to which children were actively engaged in decision making with respect to their care arrangements appeared to be minimal. This can be explained, in large part, by their very young ages at separation. However, fathers also claimed that children needed to feel included in the way events unfolded. The British sample revealed a greater willingness to let their children participate in decision making as they got older and talked of the potential need to reassess arrangements in light of their age and circumstances. However, while French fathers talked less about these issues, they were no less prepared to involve them in decision-making processes. It is also possible to speculate that the longer periods of residence that the children were subject to in France, meant that more satisfactory arrangements had already been met, thus negating the need to alter them as they got older.

Given the highly individualised personal histories of respondents, an absence of any striking cross-national differences in the data with regard to the relational issues discussed here had not been surprising. It should, however, act to draw our attention in greater measure to the similarities that have been drawn out from the fathers' narratives.

## **Private agreements and legal proceedings**

While three-quarters of the British sample had arranged things privately, without recourse to lawyers or the family courts, the French sample was more evenly split.<sup>2</sup> However, many more fathers in the British sample indicated that they were unsatisfied with arrangements as they stood and that although they had been made privately, this did not mean that they had necessarily been worked out amicably or indeed that they had been in any way negotiated. These fathers tended to be those with weekend residence and were generally unhappy about their lack of involvement during the school week and in decision-making processes more generally.

Fathers felt vulnerable in ways they considered mothers did not have to. A particular concern fathers held was that the mothers of their children might decide to move away from the area, thereby making it difficult to maintain a shared residence arrangement. This vulnerability was often reflected in ‘defensive measures’ such as record keeping and in the desire for some form of concrete court order, which, they felt, could provide them with a sense of ‘certainty’ and security in the arrangements they made.

In terms of their awareness and understanding of their respective systems of family law, it became clear that the majority of respondents across both samples had felt unsure of their legal standing in relation to their children and had little knowledge of how any legal process might play out. Indeed, there were clear disparities between what fathers – and apparently mothers – thought could be achieved in law and the law as it really stood. While the British fathers felt that solicitors had generally been unhelpful, in particular, in terms of ‘ratcheting-up’ the tension, the French sample were not as disparaging about their *avocats* (lawyers). However, several still found that they could be anything but helpful with regard to pursuing shared residence, often actively advising against it. The idea that shared residence was ‘just not an option’ among lawyers and the judiciary was prevalent in fathers’ accounts across the board. Indeed, no shared residence orders were made through the family courts within the British context, even where such orders had been agreed upon by the parents themselves.

It should be noted here that the majority of French respondents' accounts do not reflect first hand experiences of the changes that have taken place resulting from the 2002 reforms of 'parental authority'. Shared residence is now an explicit option for separating parents within the French Civil Code. The fact that it has been placed, symbolically, as the first option in a list of possible post-separation residence outcomes (Art. 373-2-9, para.1) is likely to influence the perceived reticence of judges to make such orders as well as the amenability of lawyers seeking such orders for their clients.

A fine line appeared to separate those parents who managed to make arrangements privately from those who went to court. Fathers would invariably become involved in the legal process as a last resort. This was particularly the case where fathers felt that their children were being used as a point of control and that the fundamental rights of the children were not being respected. This would be reflected, for example, in no holiday contact, by imposing what they saw as unreasonable conditions on where and how they could see the children and in the arbitrary refusal of access.

Where fathers do go to court, there appears to be a tendency to think of these cases as being somehow deviant. What fathers reveal in these accounts is that the key element in determining their approach appears to rest on whether or not a full and ongoing relationship with their children can be established. In this sense, many fathers who go to court vary very little from those who have made arrangements privately. More generally, while legal proceedings did not necessarily help respondents to increase their contact with their children where this had become an issue, they nevertheless felt able to establish some certainty and control over their lives in respect of their relationships with their children.

Finally, a third 'conciliatory approach', exemplified in the process of family mediation, could also be identified in fathers' accounts. Despite highlighting a series of drawbacks associated with such approaches – for example, mothers refusing to attend or perceiving that the mediator had taken sides with the father – respondents nevertheless felt this environment offered them a forum in which their voices and opinions were listened to and valued, and a venue in which they felt they were treated as equals. Some fathers appeared to find it helpful in enabling them to move on, in

emotional terms, from past relationships and what, for many, had felt like a bereavement. This could feed into the way arrangements developed and thereby indirectly act to facilitate more shared care approaches.

### **Shared residence and policy**

Respondents in both Britain and France revealed that the registered address of the child could vary according to the particular welfare mechanism or policy measure under consideration. In this sense, the ‘official’ residence of the child was dynamic and could be held by both parents simultaneously. For example, while one parent might receive family benefits, the other could be the resident parent for the purposes of their child’s schooling or have their child registered at their address for the purposes of healthcare registration. Equally, as in the French case, tax breaks could be offset or ‘traded-off’ against family allowances making the official residence of the child both fluid and managed in light of certain, often complex, negotiations that were perceived to be of mutual benefit in the care and upbringing of the child. Where parents were able to negotiate to work their respective systems to their own advantage, this could facilitate the arrangement both directly and indirectly. However, where this was not possible, an administrative apparatus that was unable to accommodate the lived reality of families’ lives could act to disadvantage the non-resident parent in a multitude of ways and thereby act to hinder the management of such arrangements.

Issues of housing and social security benefits emerged as particular dilemmas for fathers and, indeed, for mothers where they were the non-resident parent for the purposes of childcare recognition. Several respondents highlighted how a non-resident status could cause particular problems where they were either not in receipt of family benefits (e.g. Child Benefit, or in the French case, *allocations familiales*) and/or had lost access to the family home, for example, through a divorce settlement. Respondents also highlighted how non-resident parents on low-incomes may find the practice of shared residence particularly hard where large families are concerned.

Very real issues of affordability appear to exist in relation to the practice of shared residence given the fact that suitable accommodation needs to be found by both parents. The receipt of benefits and child support maintenance can confer a real

benefit on the parent who is treated as the main carer. However, it is of note that over half of all respondents in both sample groups were not paying any maintenance and where they were this could often be a nominal amount. Nevertheless, a central resident–non-resident division among separated parents in policy terms could act to influence the way parents proceeded, inasmuch as needing to establish themselves as the primary carer. In this sense, such a division can act to militate against shared residence and hinder the swift resolution of residence issues more generally.

Finally, fathers' work practices appeared to enable them to prioritise family life over and above work commitments. Indeed, most fathers had actively tailored their employment patterns to suit their childcare responsibilities. Moreover, fathers were reluctant to use childcare facilities, preferring to care for their children personally where this was possible. Where the reverse was true and fathers worked their care arrangements around their working practices, this could lead to high levels of stress and act against the quality of care provided and consequently the shared nature of the care arrangement. Fathers appeared to prize being there in a care-role capacity above financial stability; which could often involve a certain amount of (financial) risk taking. For these fathers, a breadwinner role would appear to be a somewhat hollow exercise if not part and parcel of a broader family life. This must make us look again at notions that fathers' lives are centrally located in the public sphere.

Indeed, on this note, we should be mindful that the desire of parents to establish good contact arrangements with children in the wake of separation do not take place within a vacuum of care but rather within the context of a broader 'family life'. For the most part, whether parents have played a greater or lesser role in the day-to-day care of their children they are, nevertheless, both part of a much broader social fabric that ties them into wider communities such as kin, school and friendship networks. What is at stake when parents separate is often more than a loss of day-to-day contact with their children. In addition, a whole host of other daily interactions that make up aspects of their social and psychosocial identities are called into question. The same may be said for children of separated parents relative to wider kin and friendship networks. As such, it may be useful to start thinking about post-separation care arrangements within these broader social contexts.

### **Shared residence: a presumption or an option?**

As indicated earlier, fathers' accounts within the French sample often depict experiences that predate *la loi du 4 mars 2002* reform of 'parental authority'; specifically with regard to the now explicit legal option for separating parents of choosing shared residence as a preferred post-separation care arrangement. It is important, therefore, to contextualise the qualitative data and subsequent analysis in light of this change. While no presumption of shared residence exists, it is nevertheless now recognised within French family law as a legitimate option, challenging the very heart of post-separation family practices through explicitly questioning a 'default' primary carer model. Parents now have the right to ask specifically for shared residence as a preferred arrangement, even when one parent is not in agreement, with the judge able to order *un titre provisoire* or 'trial period'; the duration of which will, generally speaking, not exceed six months.

In addition, this option is now also supported through radical policy measures aimed at underpinning the notion of *coparentalité* or 'co-parenthood', which lies at the heart of the 2002 reforms: for example, through introducing a greater recognition of the housing needs of both separated parents; requiring parents to register the addresses of both parents at the start of each school year; modifying the legislation on *securité sociale* (national insurance) so that children may benefit from social health insurance through both parents, rather than a single allocation, as has been the case until recently; and culminating in the possibility of sharing *allocations familiales* (family allowances) in cases of shared residence, the first payments of which were made in June 2007.

Given these changes, it is likely that, over time, we should start to discern differences in the make-up, characteristics and experiences of both fathers and families opting for shared residence in France. We would, for example, expect to find an increase in the numbers of younger parents and those on lower-incomes. It is also possible that the numbers of children with such arrangements in any one family group may also increase, given that the pro-natalist approach adopted in France more generally is now extended to post-separation situations.

This now explicit option, contrasts starkly with the infrequent use of such orders within the British context and the emphasis that is placed squarely on private ordering alongside a primary carer model. By setting this option on an equal footing to a primary carer model, a ‘no one size fits all’ philosophy still prevails in France, yet simultaneously undercuts any discrimination that may exist against a shared residence model. This arguably allows for a period of ‘bedding down’ without setting parents in opposition to each other, for example, by taking up opposing positions in order to establish themselves as the resident parent. It also sends a clear message that no one parent will automatically become the primary carer, which may lead to an increase in parents considering shared residence as a realistic option in France and, as a result, be less likely to embark upon a dispute about residence. It is of note, that recent figures from the French *Ministère de la Justice* reveal that a request for shared residence now represents one in ten of all contact and residence procedures concerning children (Moreau et al, 2004).

In France, debates prior to the 2002 reforms were centred on whether shared residence should be afforded the same legitimacy as other models of contact. In the British context, by contrast, debates were framed in an altogether different way, instead centring around whether or not a presumption of shared residence should be made in law (*Parental Separation: Children’s Needs and Parents’ Responsibilities*, DfES, DCA and DTI, 2004; the *Children and Adoption Bill*, 2005). Framing the argument as a straightforward either–or solution to such a complex set of dilemmas has arguably not been helpful. Rather than addressing any long-term issues – or finding any long-term solutions – surrounding this practice, they have instead been bypassed, focusing instead on greater enforcement of contact orders, with the likely consequence of storing up problems for the future. As such, within the British context, shared residence is likely to remain something of a proverbial ‘elephant in the room’.

In the British context, a shared residence model is not yet being considered as an acceptable addition to a residence–contact or ‘primary carer’ model, even where the differences between these modes of post-separation family life are becoming increasingly marginal in practice at the intersection of a resident–non-resident parent divide. In large part, this reluctance can be seen as due to the desirability of such arrangements being tied to high levels of cooperation between parents, which belies



an assumption that shared residence will be difficult for adults (and their children) who do not conform to a very specific notion of a cooperative co-parenting ideal. However, as we have seen from an analysis of the qualitative data, such cooperative working is by no means a defining feature of shared residence families. Moreover, the rejection of such a model is also due to the overriding principle of non-intervention through private ordering, making the use of such orders somewhat moribund. At best, they will continue to be used in moderation, thereby specifically undermining what fathers themselves appear to wish for, namely, a sense of legitimacy as equal partners in the upbringing of their children through the ‘certainty’ they feel such orders can bring.

It is not surprising, therefore, that of the total number of respondents in the British sample, of whom roughly one quarter had followed some form of legal proceedings, nowhere was an order for shared residence made, even in situations where parents had agreed to one. Rather, there were indications that consent orders – more usually associated with settling financial matters without the need to go to court – may be becoming more widespread with respect to the organisation of where a child is to live. A preference for consent orders over shared residence orders – where they are not imposed – is likely to mask the levels to which parents are desirous of shared residence and the extent to which *de facto* shared residence is taking place. In this instance, the infrequent use of such orders may continue to influence not only the perceptions of the variety of family professionals engaged in such matters, for example, legal advisors and welfare officers, but also parents themselves.

It is also likely that, in the British context at least, any moves towards the sharing of benefits in cases of shared residence will continue to prove highly controversial and problematic. The issue does not exist solely within a vacuum of care or indeed welfare. If benefit-sharing were facilitated further, it may not only require levels of expenditure that may be deemed unacceptable, but any government introducing such moves would run the risk of being accused of providing perverse economic incentives for families to split up.

It remains to be asked, therefore, whether the practice of shared residence brings the nomenclature of a resident–non-resident parent divide into question in any meaningful

way. When attempting to respond to this point at issue, it is important to recognise that these demarcations are, in the majority of cases, still reasonably clear-cut and that despite the growing consensus that parents should retain strong ongoing relationships with their children after separation, patterns of contact nevertheless remain variable. However, although still a minority practice, shared residence can no longer be seen as marginal.

### **The prevalence of shared residence**

Though data on the actual prevalence of shared residence remains somewhat inconsistent and partial – given the non-comparability of studies, the disparity over definitions and the lack of data measures over time – there are indications that such practices make up a significant proportion of the population of separated families across many Western societies. Skinner et al (2007), in their international study of child support policy within 14 different countries, asked specific questions of national informants about ‘shared care’ – defined as being ‘where the child spends roughly equal amounts of time living with each parent’ (Ibid.: 3) – and found that, with the above caveats squarely in mind, reported levels varied from between 7–15 percent. Peacey and Hunt (2008), in their recent study of problematic contact after separation and divorce, found that between 9 and 17 percent of parents shared the care of the child equally, or nearly equally, with the other parent.

Finally, Toulemon (2008), drawing on figures from the *ERCV* survey – the French part of the EU Survey on Income and Living Conditions (EU-SILC) 2004 – tells us that a total of 12.2 percent of children whose parents live apart share their time between them and that, of the roughly equivalent number of children living in father-headed lone parent families – a total of 11.9 percent – ‘half of [these children] are in fact also living with their mother in another dwelling’ (ibid.: 18–19). These figures are highly significant since they suggest that the number of children with *de facto* shared residence in France is actually much higher than previously thought, given that the proportion of lone fathers and lone mothers may have been overestimated by as much as six percent respectively. Moreover, a rise in the numbers of non-resident mothers (Kielty, 2005), is a trend that I would like to suggest may additionally serve

to influence the development, growth and acceptance of a shared residence model of family life.

## **Conclusion**

Within this chapter, my intention has been to provide the reader with a clearer picture of the ways in which shared residence manifests itself and identify areas of complexity within which such models are becoming established. Key findings from an analysis of the qualitative cross-national data have been outlined that point to some of the main challenges of parenting in this type of multi-residence situation. While it has been fathers' narratives that have been privileged within the research and consequent analysis, their accounts nevertheless hold wider purchase.

There are likely to be consequences for the lives of children and those charged with their care. Shared residence clearly relies on certain material conditions being met. Where this proves difficult, issues of child poverty and exclusion loom large and will need addressing. Where a resident–non-resident parent dichotomy lies at the heart of policy management, this may be particularly challenging. Such a division can act to discriminate against those currently managing shared residence as well as those families that would wish for such an arrangement but are prevented from doing so by the structural barriers such a divide creates.

A growth in such practices will require a refiguring of the ways in which traditional notions of carer and provider are conceived within law, policy and practice alike. Such a model may require a new approach that affords some recognition of the childcare needs of both parents, thereby legitimising families on a needs criteria rather than whether or not they hold a primary carer status, which at present can act to support one family group while simultaneously disenfranchising another. It becomes important, therefore, that attention is paid by policymakers and through research into such arrangements, thereby challenging the boundaries that may unwittingly discriminate against this model of family life as a viable option for separating families. Drawing on the French policy experience could help to cast some light on the policy challenges ahead.

## Notes

<sup>1</sup> This definition is used here in its most generic sense. There are also instances in which it is the parents who alternate their own residence around the child's one home.

<sup>2</sup> The analysis here refers to the total numbers of fathers involved in each process relative to residence and contact only, and not in respect of divorce proceedings and/or financial issues.

<sup>3</sup> Maccoby and Mnookin (1992) have identified four post-separation co-parenting patterns: cooperative; conflicted, disengaged; and mixed.

## References

- Baker, A. and Townsend, P. (1996), 'Post-divorce parenting – rethinking shared residence', *Child and Family Law Quarterly* 8 (3), 217–27
- Bradshaw, J., Stimson, C., Skinner, C. and Williams, J. (1999), *Absent Fathers?* London: Routledge
- Bryman, A. (2001), *Social Research Methods*, Oxford: OUP
- Collier, R. and Sheldon, S. (2006), *Fathers' Rights Activism and Law Reform in Comparative Perspective*, Oxford: Hart Publishing
- DfES, DCA and DTI, Cm6273 (2004), *Parental Separation: Children's Needs and Parents' Responsibilities*, London: HMSO
- Dogan, M. and Pelassy, D. (1990), *How to Compare Nations: Strategies in comparative politics* (2nd edn), NJ: Chatham House Publishers
- Duncan, S. and Edwards, R. (1999), *Lone mothers, paid work and gendered moral rationalities*, Basingstoke: Macmillan
- Esping-Andersen, G. (1990), *The Three Worlds of Welfare Capitalism*, Princeton: Princeton University Press
- Gauthier, A. H. (1996), *The State and the Family: a Comparative Analysis of Family Policies in Industrialized Countries*, Oxford: Clarendon Press
- Giddens, A. (1998), *The Third Way: The Renewal of Social Democracy*, Cambridge: Polity Press
- Kielty, S. (2005), 'Mothers are Non-Resident Parents Too: A Consideration of Mother's Perspectives on Non-Residential Parenthood', *Journal of Social Welfare and Family Law* 27 (1), 1–16
- Maccoby, E. E. and Mnookin, R. H. (1992), *Dividing the child: social and legal dilemmas of custody*, Harvard University Press

- Moreau, C., Munoz-Perez, B. and Serverin, É. (2004), 'La résidence en alternance des enfants de parents séparés', *Études et Statistiques Justice* 23, Ministère de la Justice
- Neale, B., Wade, A. and Smart, C. (1998), '“I just get on with it”: Children's Experiences of Family Life following Parental Separation or Divorce', *Working Paper 1*, Centre for Research on Family, Kinship and Childhood, University of Leeds
- Neale, B., Flowerdew, J. and Smart, C. (2003), 'Drifting towards shared residence?', *Family Law* (33), December, 904–08
- Peacey, V. and Hunt, J. (2008), *Problematic contact after separation and divorce?: A national survey of parents*, London: One Parent Families/Gingerbread
- Rhoades, H. and Boyd, S. B. (2004), 'Reforming Custody Laws: A Comparative Study', *International Journal of Law, Policy and the Family* 18, 119–46
- Skinner, C., Bradshaw, J. and Davidson, J. (2007), *Child support policy: An international perspective*, Research Report No. 405, Department for Work and Pensions: HMSO
- Toulemon, L. (2008), 'Two-home family situations of children and adults: Observation and consequences for describing family patterns in France', Paris: *Institut national d'études démographiques* (INED). Available at: <http://epp.eurostat.ec.europa.eu/pls/portal/url/ITEM/4EC0934EBE3225ECE0440003BA9322F9>