

Guy, Julia (J. Gash, MP)

From: [REDACTED]
Sent: Sunday, 27 July 2003 12:28 AM
To: Gash, Joanna (MP)
Subject: Inquiry into Child Custody Arrangements

Dear Ms Gash,

Thank you for your letter of 3 July 2003 seeking responses from constituents in relation to child custody arrangements in the event of family separation.

I hereby make my submission and request that the issues I raise be appropriately considered.

1. I strongly support the proposal of a presumption that children spend equal time with each parent. This would be a fairer starting place for negotiation than that currently being used by the Family Law courts. I am a father of four children, which I lost in a very expensive custody battle in April 2002. I was the prime carer at the time and had applied to the Court for permission to relocate to Kiama from Wagga Wagga to accept a very attractive employment offer. After a 5 day hearing The Family Law Court Judge ruled that the children be returned to their mother, despite my counsel proving that the mother was mentally and physically unfit. No doubt you've already predicted the outcome - I lost my house to the mother and children, received none of the family assets (only retained my superannuation which I can't access), I pay \$650.00 p.f in Child Support and no longer have a savings capacity. Also, I am forever in the Family Law Court (now representing myself) trying to make the mother comply with the court's Contact Orders.

In hindsight, had the Judge started with a 50:50 shared care arrangement (as the Children's Solicitor had proposed in 2002), I would have not accepted the Kiama position and so I would not be in this crippling financial position today. Rather, I would have stayed in Wagga with my substantive job and requested the court for a 50:50 care arrangement.

2. The equal contact proposal would suit most stakeholders. If the equal shared care arrangement is used as a starting point in ALL custody disputes, then more fairer outcomes would result. Final determinations would then be decided upon once other circumstances were considered and weighted - such as the physical and mental capacity of each parent, the degree of risk the children were exposed to from each parent and the financial capacity of each parent. As a starting point the proposal has much merit.

3. Much research has showed beyond doubt that children (especially boys) benefit most with regular contact with their father. The role the father plays as a mentor/role model is significant in the boys' lives and cannot be substituted by other males (Biddulf et al). Yet with the Family Law ruling against the father as prime carer in most cases, these children are deprived of this irreplaceable asset in their lives.

4. In matters like mine where the parents live apart, the children could live one year with one parent and alternate years with the other parent, whilst still maintaining monthly weekend contact with the non-custodial parent. In this manner, the children receive equal input from both parents - and of greatest benefit, the father's influence is maintained.

5. Your letter also requests feedback on the current Child Support Agency formula. No doubt you've had many constituents like me complaining about its injustices. I strongly argue that the formula is far from fair as it's percentages are set too high. In my case, I currently pay 34% (less my meagre living allowance which is also far from fair) and 48% tax (less taxable threshold) on my gross income. The residual (18%) is so insufficient I am considering not working at all and returning to full time study or moving overseas. I am in a very difficult financial position and see NO light at the end of the tunnel. I love my children and I am prepared to pay my share in supporting them, but if the outcome for me is losing my savings capacity and living like a pensioner after a day's hard work then other options become very attractive.

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6. I noted recently on an internet site that the English system percentages of deduction are well below ours (I also noted that they suspend driving licences for those in arrears).
7. The CSA formula also fails to take into consideration the true cost of raising children in different geographical regions. Whether the children live in North Sydney or Wagga Wagga (with a substantially cheaper cost of living) the formula is the same. The formula should not be based on averages - it should be set according to the cost of living in each geographical region.
8. The formula also fails to take into consideration the savings strategies which the family adopted prior to separation. In my case, we were saving much of my income, while still paying off the house and car. Now after separation, my children live in the family home, their mother (not the children) receives a significantly larger proportion of my income (supposedly for the children) and this is not being banked, but squandered. The family has never had so much disposable income before and sadly, its not being spent on the children or banked. And of course I'm left with a poor savings capacity. The formula does not take into consideration established savings plans prior to separation, ie the established financial environment that the children were accustomed to.
9. Child Support Payment should be used as a deterrent for denying contact. In my case, I have not seen my daughter in 6 months and am regularly denied telephone contact with all the children. The process for me to take the matter to court is simply exhausting (self represented now). After proving the mother has regularly breached the contact orders the punishment was disappointing - a threat of gaol or a fine. Two days later I'm denied contact again. So the process starts over again. As you're probably aware, my child support payments will be used to pay for her \$4,000 solicitor's costs for the day and for any fine she may face in the future (Judges never gaol mothers I'm told). However, if denial of contact can be punished with denial of Child Support payments then the offender would think twice. This would be a more realistic deterrent than current practices.
10. The formula also fails to fully take into consideration:
 - my legal costs when faced with contact denial
 - my additional costs of having to drive to Wagga and back when the mother refuses to meet half way
 - my additional Wagga motel costs when I'm forced to travel to Wagga to when the mother refuses to meet half way.
 - my need to own a "people -mover" vehicle (more expensive than a smaller 4 cylinder car) to safely transport my children.
 - my loan repayments to my family whom I borrowed from to pay my legal bill.

My application for a variation last year was only partly acknowledged. And so I'm even further financially challenged. Furthermore, I received a letter only today from CSA advising me that my monthly payments have jumped to \$1,775.00 and so I must ask for a review for all these costs once again.

Summary

I appreciate that the CSA's role is a difficult one, but its philosophical thinking is unjust. The formula needs revision to reflect individual circumstances of parents and children and should not be based on inflexible and inflated percentages. The non-custodial parent is left frustrated, let down and continually depressed under current arrangements. The result is long term depression, anger and too often suicide or simply deserting the family - which of course is never in the best interests of the children.

I trust these matters I raise will be considered.

Regards

28/07/2003