

Submission No: 365

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The Committee Investigating Arrangements in The Event Of Family Separation

A. Given that the best interests of the child are paramount consideration:

(i). what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be the presumption that the children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted.

This is desperately overdue for review and is, as you are all aware highly complex. I wish I could provide some sort of solution, other than relate my personal experiences in how the current system has worked against me.

The determining factor in my case was cost. I simply could not afford to fight for greater access than I had already obtained. After gaining no satisfaction through the mediation process I went through a solicitor and eventually gained my children for three weekends out of four, one weekend being three days, five weeks per year and half of all public holidays, and one evening per week for four hours. At no stage was any consideration given to equal time for each parent by my solicitor, my ex wife or her solicitor. I believe the advice I received at the time was along the lines of you can try but the percentages and costs will be against you.

This was despite having a mother, father, sister and brother living within three hundred metres of my current residence and willing to help with looking after my children enabling me to continue working.

It is somewhat cynical but the way the current levels of access seem biased is to keep fathers employed and save the Government the money on the single parents pension and people paying maintenance. Whether it is right or wrong it is a widely held belief.

Unfortunately in the real world once I'd gained as much access as I now have, to have gone further would have involved going to court with the costs this entails and quite possibly being no better or even worse off. As I could not afford this had to cut my losses and accept that this is the way things were going to have to be.

As it stands I could provide the CSA with an estimate to allow myself some sort of life, but I work for a small company that provides overtime on an ad hoc basis in response to customers needs. My employer cannot therefore provide me with any sort of accurate information on which to base an estimate, and I cannot risk being wrong and face the CSA's punitive fines and interest for being wrong, the last thing I need is yet another bill.

My employment as a scaffolder as mentioned previously entails overtime on an ad-hoc basis, which when available enables me to earn more than my usual weekly nett pay of \$612.22 per week. The problem being that for the majority of the year there is

often periods of months without overtime being available. This means that when the CSA assess my income annually off my tax return and divides this by 52 weeks to determine a monthly payment level it has no basis on a wage I earn most weeks.

Apparently my only other option for some sort of financial relief is for my ex wife to sign an agreement which would work reasonably well, as in this situation we would agree on a weekly level of payment, not being less than current CSA levels of course, which would then go up based on the CPI or inflation. At least when the overtime was available the extra I was earning would allow me to catch up on bills and things, not be continually trying to find money to make up to what the CSA tells me I earn weekly.

What the Government and the CSA have effectively done is provide a huge disincentive to do overtime when it is available as this merely increases the CSA payment rate for the next financial year in which quite simply the overtime may not be there. Yet I cannot do an estimate with any sort of accuracy, and my ex wife will not sign an agreement. In effect it leaves you chasing your tail.

Why not base the CSA obligation on the award wage? At least then the system is no longer punishing fathers, and may allow you to pick up the pieces and have some sort of life.

Apparently neither is there any flexibility within the current system as I found when going through the CSA's review process. I offered to pay my CSA obligations based on a weekly percentage. This would have meant that when overtime was available I paid more and significantly for me when there wasn't any overtime available my CSA obligation also fell allowing me to afford to live. This would have been easily checked against my income tax return at the end of the financial year, but for reasons unknown to me the review officer determined this to be an unacceptable solution. Despite the fact that the review officer informed me there were cases of this method of payment being used within the CSA. I was unable to find out why this was unacceptable.

Neither is there any allowance within the current system for the fact that my company shuts down for two to three weeks every year over the Christmas/New Year period when annual leave is normally taken. The problem with this is that I have my children for half the School Holidays meaning that my four weeks annual leave has been taken and I am unpaid for the two to three week shutdown and the CSA still expects a weekly payment. This is on top of the fifth week I have custody of my children which is also unpaid. Again the only help that CSA can offer is the facile advice that I

should budget. This is amazingly irritating when most of the year I am living on next to nothing.

[REDACTED]

Neither does the CSA take this into consideration when calculating my weekly maintenance payment. The advice I receive from the CSA is that I need to budget, this is spectacularly unhelpful advice as with or without a budget I am still struggling on my available funds.

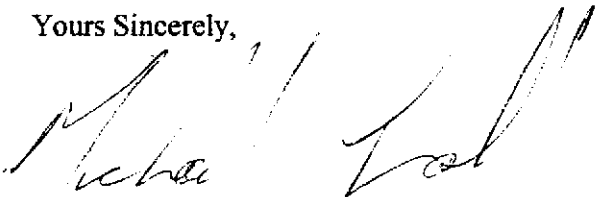
The current system does not allow for the fact that when I have my children for the week blocks throughout the year I am still paying maintenance. As it is most weeks I am struggling to provide food for children and myself. I cannot understand how my ex wife requires this money when I am providing for my children. This is particularly hard as my children are getting older they're naturally eating more, and at the current levels it is hard enough.

The CSA system bases it's calculations on whole nights towards reductions in the levels of maintenance. Again this is wrong as I am feeding my children one evening per week, which is another cost that is not considered relevant to the CSA.

If nothing about access changes, (although it should be changed), the current formula for child support is drastically unfair, as I found through the review process as my ex wife is given significantly more money each week than I earn.

As the system stands at present there is no incentive to work, when realistically I would be better off obtaining unemployment benefits. That and the whole system is so inflexible it just grinds you down. What really is the point of working at least forty hours per week to end up trying to live, pay bills and survive on a pathetic \$82.32?

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Michael Bell". The signature is written in a cursive style with a large initial "M" and "B".

cc Ms Jennie George MP Member for Throsby