

Submission No.

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Shared Parenting – A new vision

Secretary

1. Background

The following submission is a new vision of the importance of shared parenting post-separation. It is my attempt to (i) address views and concerns expressed in the press, (ii) move beyond the anguish expressed on web sites and mailing groups relating to the issue, and (iii) use the experience of the proceedings associated with the divorce of my ex-partner and I. I have three children (aged 20, 18 and 11 respectively), each with very different needs and responses to the outcomes of the settlement.

2. Moving away from the mantra of the *child's best interest*

I consider the use and misuse of this phrase in public debate and legal argument to be the underlying cause of much of the conflict. Once this phrase is invoked, objectivity and sanctity are confusingly bestowed on whatever arguments follow. I propose instead that we focus on the *best interests of the parent-child relationships*.

3. Why a new principle ?

We desperately need a change of focus. A change of focus does not necessarily mean that we are looking at something new, it means that we are seeing things in a different way and that we are seeing things that we might not have seen before. The concept of best interests of the parent-child relationships *is intimately tied to the child's best interest*. Simply put, of paramount importance for a child's upbringing is successful and meaningful relationships with both parents. Separation of the parents should never mean separation of the child from the parent. A child's development is intimately dependent on his/her relationship with his/her parents. To deny a child the opportunity to maintain these relationships in a successful fashion is to deny the child the fundamental human right of having parents.

4. Why equality in the parent-child relationships

Children have an innate sense of fairness. The child perceives the world as fair and a considerable amount of the child's developmental security derives from this perception. Witness the child's acute awareness of unfairness when he/she is treated differently from siblings. Children know when they are spending more time with one parent than the other. Children know when the post-separation well-being of the parents differs significantly. Perception of fairness is part of the innocence of childhood and to bring inequality into the family is to undermine the child's right to childhood. Again, equitable shared parenting and attention to the parent child relationship addresses this.

5. Children need happy parents

It is not in the best interest of the child parent relationship to impose a division of care and resources that leaves one parent significantly aggrieved. Successful parenting requires the empowerment to be a parent whilst inequitable division of resources (i.e. time and money) undermines equal parent child relationships.

6. What changes are needed

• *Family Law decisions needs to reflect shared parenting as the norm*

At present the outcomes of Family Law are widely perceived in the community to be that the mother will emerge as the significant carer post separation. This perception forms a subconscious framework within all parent-parent relationships both successful and otherwise. Family Law and Family Law outcomes need to reflect the view that shared parenting is what society expects. Hence pathways post-separation away from shared should be made more difficult for those proposing them. Whilst it could be argued that Family Law is dealing only with the most difficult of situations and those with the most antagonism between separating partners, it is clearly the case that in many separations fathers walk away from parenting obligations because they perceive that they will not win in Court because (a) it is too costly seek shared parenting, and (b) the Courts are biased against fathers caring for their children. Likewise, many mothers believe that they have rights over and above the father, and that they are the custodians of the 'child's best interest'. Family Law needs to be changed to ensure that these views no longer hold any currency.

• *Child Support Agency formulae need reflect shared parenting as the norm*

Current Child Support legislation has serious problems in this regard. First, it says that more care equals more income. As all parents knows, the cost of maintaining a child is not in direct proportion to the amount of access. Having a child to stay for a even short period of time has high overheads - the provision of transport, the provision of accommodation. In terms of the CSA formula it makes not difference whatsoever if the child is with the paying parent for zero nights or for one hundred and nine nights. Second, the payee parent has no accountability for the money received. The payee parent is effectively free to spend all of money received on himself/herself and none of it on the child. This provides a massive incentive to acquire as much access to the child as possible, and can easily be driven by anger particularly if the parent is seeking to pay back the ex-partner for whatever wrongs occurred in the past. CSA legislation needs to be changed so that shared parenting becomes the most financially rewarding for both parents.

In summary, we need to have legislation that firmly encourages shared parenting in the best interest of the parent-child relationship and thus in the best interest of the child. It should provide incentives for both parents to seek actively equal shared parenting of the children of the relationship. Allowing this vision to permeate society will have benefits not only for the children of separating parents but also for families as a whole.