

Mr Philip Ruddock MP
Attorney-General
Commonwealth of Australia
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Philip,

Alistair Brown, Warwick John, Phil McNaughton and myself would like to thank you for giving us the opportunity to speak to you about the submission made in relation to the discussion paper "A New Approach to the Family Law System - Implementation of Reforms"

As we mentioned, submissions on various matters that gave rise to problems were made to the former Chief Justice of the Family Court and copies of these submissions are enclosed. The relevant statistical figure which eluded us when speaking to you was less than 0.5% over a 20 year period at the time the first of the enclosed submissions was made.

A particular concern to us is that problems that have been encountered are not exacerbated by the amendments that may be proposed to give effect to the discussion paper proposals. Rather, while we fully realise it may not be possible to address our concerns directly in the framing of the amending legislation, we do feel there would be some scope in the amendments to ensure that some factors are relevantly taken into account in particular circumstances in a way that will in fact be beneficial to the wider community.

For instance, as mentioned, the concept and effect of a parenting plan under the amendments will be a crucial issue. The amendments should address the relevance of the parties having entered into such a plan. For example, why shouldn't the fact that a parenting plan has been adopted by the parties (even before any discord has arisen) be a factor that the court is expressly directed to take into account in determining issues relating to parental responsibility? Or could there be some presumption arising out of the fact that a parenting plan has been entered into?

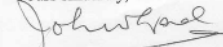
Another issue is the circumstances in which the proposed presumption of equal shared parental responsibility can be rebutted. We submit these should be wide enough to cover appropriate cases where there are clearly irreconcilable differences, so that an innocent spouse is not put to a disadvantage.

Further, the amendments, including the parenting time amendments, we submit, should be drafted to ensure that a child is not subject to a radical lifestyle change without compelling reason.

We certainly would appreciate seeing the legislation in draft form if this were possible and note that there is a possibility that the draft legislation may be publicly released for comment.

We look forward to making some further positive contribution to the resolution of the issues being addressed and are sympathetic to the considerable complexity and difficulty that the issues in the discussion paper raise for the Government.

Yours sincerely,


John Gaal

PO Box 421, Epping, 1710
25 Bruce Dale Avenue, Epping, 2121
Phone: (02) 9876-1587
Fax: (02) 9869-7523
3 May 2005

Priority A (date.....) Reply by Ruddock
 Priority B Reply by Ellison
 Priority C Brief required
 Information Reply by COS

RECEIVED 05 MAY 2005

Reply by AGD Action Area
Init: JTG
Date: 02/5/05

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H6
for naly
Tim