



www.familylawsociety.org

Are the Family Courts Effective?

The Children Act 1989 brought in by the Conservatives is one of the best pieces of child centred legislation in the world. However, there are a number of problems with it. The Conservatives Party brought us the Children Act and The Labour Party gave us the Children and Family Court Advisory Support Service.

The Children Act 1989 removed the natural guardianship of fathers and replaced it with the concept of parental responsibility. Could this be a cause of discrimination against fathers?

CAFCASS came into being on 1st April 2001. It provides welfare reports in most cases. CAFCASS Officers are often referred to as the 'eyes and ears' of Family Court Judges but does this make Judges blind and deaf?

As it stands at the moment you cannot put a complaint against the content of a CAFCASS report. If a party to family court proceedings were allowed to it would act as a quality control measure. Litigants should be allowed to see CAFCASS reports before the trial and should be able to point out any inaccuracies of fact or content before the report is filed in court. CAFCASS has recently abandoned the key stakeholder idea, which is a backward step.

The family courts have become bear pits with false accusations abounding. A form of double jeopardy has been introduced into the family courts. Often defendants are found innocent in the Crown Courts and then later found 'guilty' in the Family Courts. The punishment is the loss of their children.

In recent years appeals have become more difficult. Restriction notices are being placed on non—resident parents forcing them to obtain the leave of the court before they put in any application. The National Association of Probation Officers, which provides the main trade Union for CAFCASS Officers operates under a anti sexism policy which promotes the exclusion of men from the lives of their children after family breakdown.

95% of resident orders are awarded to women. Most men give up and concede everything to women because they know that if they resort to the courts they will be discriminated against. Judgements should not be set in stone. There should be regular reviews to see that everyone is happy. The methodology of many court reports is suspect. Interviews are rarely taped or videoed and often the report writers are partisan and misrepresent one of the parties. Reports are often late which can disadvantage people. The British Psychological Society has a code of conduct and a set of ethical guidelines which are second to none.

The court inspectorate should hear complaints from parties in family law proceedings. Sociological research should be permitted in the family courts. The Data Protection Act 1998 should be enforced in the family courts.

As the legal aid bill in the UK for Family Law cases in nearly £500 million each year isn't it about time for an alternative model. The constituent parts of this model should be that equal

parenting becomes the norm. Voluntary agreements without the need of a court judgement should be encouraged. Both sides should be given the assistance of a separation coach.

- There should be a domicile rule and
- Domestic violence accusations should be heard in the criminal courts.

A pilot scheme should be implemented in 5 court jurisdictions before being rolled out over the UK.

Abducted children are the most vulnerable of all. But parents are given precious little help from Police Forces. West Midlands Police, for example, regards International Child Abduction as a low priority. Ministry of Justice Child Abduction Unit should be put in all Police Stations.

This article has shown that there are problems in the operation of the family court system. Parents should be able to complain about reports. The system needs to learn from its mistakes. If it is blind to complaint, how can it? It is time to stop the demonization of fathers. Finally, I suggest an alternative model, which has as its essence a presumption of equal parenting and voluntary agreements. We need to educate our society that equal parenting is the only viable form of parenting.

Brian Hitchcock.

53 James Green Road
Coventry
CV4 9SL
Tel: 02476 466064
Email: info@familylawsociety.org