

Submission No: 251

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Secretary:

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Dear Members of the committee inquiring into child custody arrangements in the event of family separation,

In the hope of providing another perspective on this issue, I write this submission. As some of the examples I give are from my own experience with the Family Court, I ask that where it is not legal for this information to be published, you do not publish it.

Over eleven years ago my son's mother and I separated. After having no success in negotiating an arrangement with my ex-partner for contact with my son outside of Court, I submitted myself to the process of the Local and Family Courts.

Our path through the Family Court of Australia took several years. During this time I represented myself in all matters, from Local Court (where it had its beginnings) to the Family Court at Parramatta.

While I was forced to do all of the work and homework myself, it was my experience that there were many 'professionals' who were more than happy to provide my ex-partner with assistance in the matters. This assistance took many forms, free advice/help in preparing documents, 'counselling' for her and my son, advice on how best to inhibit my son's relationship with myself. I will example some of these for you.

- The local Guneedoo 'child protection centre' interviewed my son (in relation to bed-wetting), always in the presence of his mother, often discussing and reinforcing the mother's negative perspective of me. This group made a submission of professional opinion of my relationship with my son to the Family Court in the matter regarding my son's contact with me. They did this without ever having spoken to me (other than to neither confirm or deny that they were seeing my son over the phone). When their opinion was considered by the Court's counsellor it was found to be flawed as my son had never been interviewed in my presence or on his own. When he was interviewed alone or in my presence, he was found to give a very different opinion. While the Court was able in my case to see Guneedoo's methods as flawed, it may not have in every case. There is also the point that for the time before I was aware of the sessions with Guneedoo, they were reinforcing my ex-partner's view of me for my son, making his life that much harder. My relationship with him is now strong, but it has taken time to undo the harm they helped created.
- Earlier in my dealings with the Family Court, when I had brought my ex-partner before the Court for non-compliance with previous Orders, we went before a Court counsellor. This counsellor advised me that as my ex-partner "held all the cards" I should do what she (my ex-partner) wanted, in the hope that my son would get any time with me. The counsellor also advised me that the Court could not force my ex-partner to comply with the Orders. This counsellor was wrong. My fear is that the

next father she 'counselled' may have taken her advice, and their relationship with their child may end there.

I would like to add that a subsequent counsellor was much more professional and in depth. I would not have ALL of the Court counsellors tarred with the same brush.

You will no doubt receive much evidence to suggest that Apprehended Violence Orders are grossly abused in Family Court proceedings, and I can attest to that. While one was not given to my ex-partner after the matter was given time for a proper hearing in our Local Court, she was awarded an Interim AVO. As at that stage my ex-partner would not let my son see me anywhere but at their house, the interim AVO prevented me seeing him for some time. It is my view that this is a very common use for AVOs. I have spoken to many fathers who stated similar experiences.

The 'no fault' concept also allows for many similar strategies. Due to this and the unwillingness of the Family Court to punish perjury, many things may freely be said in Court simply to hamper the other's case. Parties may do this without having to show any evidence and without fear of punishment. The weapons of accusation of alcoholism/other addiction, and accusation of abuse (of any sort against the other party or child) are commonly used. For example, it was inferred I was a drunk (I in fact don't drink at all), and that I had attempted to break my son's arm (the Court found the accusation to be a misrepresentation of a self-defence lesson). The Family Court must be more strict, in fact prosecute SOME parties for such unwarranted claims and perjury if this behaviour is to be stopped, without preventing actual cases of such things from being dealt with.

Working from the position of the "presumption that children will spend equal time with each parent" helps to solve many of the issues in these matters. A parent that was less likely to spend time with the child/children post separation will then have to show reason why they should not. Parties would be less likely to go into Court with the attitude of 'getting what they deserve' (as I believe is often the case). The current imbalance of father/mother custody arrangement would be addressed. The impact of unfounded allegations (on Court outcomes and pre-outcome conditions) would be lessened. The time that the Family Court needed to devote to each case, I believe, would be (generally) lessened.

It is my belief that children, except in rare circumstances, are much more stable after a family breakup when they have plenty of contact with both parents. I find that this is evidenced by my own son, and in other people's children I see around me.

I believe that the child's contact with the extended family is also valuable, although have less experience in Family Court proceedings relative to this issue.

On the matter of Child Support, I believe it is necessary that there be a Child support Agency, and that child support be collected in a manner similar to the way it is done at the moment. It is unfair however that the formula for Child Support be applied before the paying parent's tax is taken out. The current method can lead to the payee retaining barely any of their income.

When the Child Support Agency does a non formula based assessment, it can take the cost of living into account. These details are submitted by the parties to the Agency. It is my experience that on receipt of deliberately misleading information, the Agency does not take any action against the relevant party. This is despite the Agency having the power to do so. On receiving information that my ex-partner did deliberately mislead the Child Support Agency in one of her main cost details (by a factor of 2-3), they did nothing. I am not even sure if they used the correct amount in their assessment.

Also in relation to child support, I believe that it would be a simple tool to assist the Family Court to convince a child's custodial parent to provide the child for contact. That is, if a parent is being problematic in providing the child for contact, as per Court Orders or agreement, that some or all of the payment of child support be withheld/cancelled for that period.

I find so many people, of both genders, but mainly men, that run into major difficulties when their family separates. Without addressing the faults in the Family Court, we are allowing large sections of generations of children to go without their fathers. These children are being denied so many things by this action, especially the greater chance of emotional stability and love, that it amounts to child abuse. In addition to this, thousands of non-custodial parents are being denied that which is held to be one of the greatest opportunities in their lives. The opportunity for a positive relationship with their child. This leads many of them to depression, and suicide. There are so many repercussions of the failure of the Family Court and it's associated systems (i.e. the welfare groups), that they must be addressed.

I hope that you find my submission useful and succinct enough.

Yours most sincerely,

