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Reliable Parents Inc.

Submission to Family Law Review committee on Shared Parenting, House of Representatives, Parliament House, Canberra ACT 2600

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RELIABLE PARENTS Inc

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Reliable Parents Inc is a duly registered not-for-profit group advocating for legislative change in family law and social policies relating to families on behalf of non-resident parents, their children and society as a whole.

This submission is prepared in the belief that the long-term stability of the family is a fundamental part of Australian society, without prejudice to gender, marital status, religion or race.

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Preface

The relationship between parent and child subsequent to separation of parents is influenced by a number of factors. Some of these factors include –

1. The nature of the separation, ie sudden or protracted.
2. Age of child/ren and/or number of children.
3. Distance between separated parents on resettlement.
4. Length of time of any loss of contact with one parent.
5. The emotional disposition of separating parents.
6. Child/rens direct exposure to parent's disagreements preceding separation.
7. Child/rens direct exposure to parent's violence preceding separation.
8. Child/rens perception of their contribution to the separation.
9. The use of children by one or both parents as a tool against the other parent after separation.
10. The parents' capacity to cope, both economically and emotionally after separation.
11. Communication skills of parents and child/ren.

It is a rare occasion when several of these factors are absent, however only in item 7 is there a need to treat any case differently.

- IMPORTANT, the subject of violence in any form, between parents, between parent and child or in relation to abuse of a child is dealt with separately in this submission.

In all other situations, there is an immediate need to maintain and enhance the child to parent relationship. It is of paramount importance to ensure the child is absolutely confident that the relationship between himself or herself and each parent is not in anyway under threat.

The point of separation as it relates to a child is the point in which the child becomes consciously aware that a break up is about to, or has, occurred. It is at this point that the child–parent bond is most at risk.

The level or extent of a child's anxiety at the time of parental separation is determined by the length of time between the child becoming aware that his parents are to separate, or have separated, and the time in which the child is reassured of his or her place in a continued relationship with each parent after separation.

The longer this time, the more determinations the child/ren will make in the absence of one parent and without the possession of adequate maturity to assess these determinations at this time or in deed any time in the future if not assisted professionally. These determinations are likely to be life-long determinations **even despite subsequent correction of their initial considerations on the subject at a latter stage.**

The impediment to the immediate reassurance of a continued relationship between the child and each parent is the lack of any existing guarantees. Present family law legislation does not compel the parent who is at the time, the residence parent, to guarantee that the children will be permitted or encouraged to maintain an ongoing relationship with the non-resident parent.

<u>It has been to the children's detriment that such a guarantee has not been the normal legal and moral expectation on separation</u>.

Response

(a)

Given that the best interests of the child are the 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 a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted,

Shared Parenting Legislation should be introduced, implemented and enforced as the immediate default status after separation.

There should be a presumption that upon separation of parents the children of the union will spend equal time with each parent.

For so long as it is deemed appropriate for both mothers and fathers to be legally expected and entitled to share responsibility, obligations and enjoyment of raising children within a marriage or within a defacto relationship, it is aberrant to deny the extension of this to post marital or defacto relationships.

The legally defined and publicly accepted family law position on divorce has long been one of "no blame". Hence there should be a rebuttable presumption of a Shared Parenting status after separation. The current situation seems to apportion blame to the non-resident parent by default by requiring the non-resident parent to demonstrate his or her fitness to parent, whilst imposing no similar requirement upon the resident parent. The proposal that each parent shares equally in the parenting of his or her children is consistent with the original aims of the Family Law Act and compatible with the reforms of the Family Law Act introduced in 1995. This legislation and the courts that administer it have clearly failed to implement the will of the Parliament.

The argument for and against the introduction of Shared Parenting will be vigorous and extensive, backed by many statistics and case studies, some objective and some emotive. Many of these submissions will present images of men and fathers that are couched in stereotypes that are no longer representative of men in Australian society. In both genders, there are good and bad people, and good and bad parents. Some groups representing single mothers have already indicated their opposition to shared parenting supported by claims of domestic violence and child abuse by men, whilst the statistical evidence shows that both behaviours are more prevalent in single-parent, mother-headed families. Regardless of these submissions, the outcome should not be based on objections to the lowest common denominator. Such arguments have dominated previous reviews of Family Law and related areas.

In no other area of law or human endeavour is it presumed that because one person from any group or socially identifiable characteristic is guilty of a crime, that all other persons so identified are presumed guilty by default. This is the basis by which the Family Court and family laws are currently formed and this is plainly unjust.

There will no doubt be many arguments to Shared Parenting on the basis of historical data on negative outcomes from previous decisions from within Australia and from outside Australia. None of these arguments are based on the benefits of Shared Parenting, but instead on the failure of individuals. Shared Parenting is the only justifiable starting point after divorce or separation for the children of the relationship. Anything else falls under the heading of, **In what circumstances can such presumption be rebutted.**

Except in cases where non-resident parent contact is limited to less than at least one overnight stay, Shared Parenting currently exists for the majority of mutually agreed contact arrangements, whether this equates to a

50/50 ratio or 10/90% ratio, it is still Shared Parenting. The need for a presumption of equal Shared Parenting time results from the enormous inequity of the family law system to make challenging unfair ratios impossible for non-resident parents.

Non-resident parents seeking increased access to their children who have the considerable means available to mount a legal challenge in the Family Court might find some success, but litigants in person, who do not have the resources to retain legal assistance are at a distinct disadvantage

The reason for this is two fold, firstly the non-resident parent is, in 97% of cases, the father and as such is normally unsuccessful in obtaining Legal Aid assistance. Secondly as a non-resident parent they suffer financial constraints due to child support commitments and the costs of re-establishment after separation. Such legal advice as is available tends to advise men that their chances of overcoming the mother residence bias in the Family Court is very low. It is not uncommon for tens of thousands of dollars to be spent on mounting a challenge which is unsuccessful, and the father being ordered to pay the wife's costs as well.

The presumption of Shared Parenting would result in outcomes substantially different to the current position where courts will automatically favour the resident parent. If both parents are required to attend a Parenting Planning sessions where independent analysis of their proposals and counter proposals can be conducted, then a more constructive and less adversarial relationship between the parents might result. This is a better outcome for the children than protracted and expensive court action by their parents.

This requirement will also do much to encourage mutually acceptable agreements to the benefit of all involved, mostly to the betterment of the children involved. Additionally the non-resident parent will not be discouraged or impeded as is now the case with current legislation and Family Court processes that is focused less on mutually acceptable outcomes than on discouragement of further litigation in order to reduce court case loads without due consideration of the best interests of the children, which is, the maximum amount possible of Shared Parent contact.

Shared Parenting is not a question of why it should be, but a question of why a loving parent feels they have a right to deny their children that to which every child is entitled to, the right to a substantial ongoing relationship with both parents.

Legislation can never make any person do the right thing, it can only legislate for what should occur and consequences for those that do not comply. Shared Parenting is no different.

SHARED PARENTING CAN NOT FAIL, ONLY PEOPLE CAN FAIL.

Recommendation;

Shared Parenting Legislation should be introduced, implemented and enforced as the immediate default status after separation.

(a) continued

In what circumstances can such presumption be rebutted.

The purpose and intention of Shared Parenting is to guarantee that children will have the right to know and interact to the greatest degree possible with both their parents. It is of paramount importance that this is the underlying principal employed when considering a reason that could or should be deemed as a valid rebuttable circumstance.

The case can be made that domestic violence is such a circumstance, however unless this violence is or was against the child, it is not valid to conclude a parent is automatically to be assumed guilty of being one likely to be violent to a child or children. Nevertheless accusations of this nature must be considered, see the Violence and Abuse heading, in this section.

Notwithstanding clear evidence to the contrary, shared parenting should not be rebuttable on the basis that one parent is of the opinion that contact could result in conflict between parents. This scenario is a case for careful management, incorporated in a parenting plan and the existence of clear consequences for non-compliance on the part of both parents. (See also comments below, Violence and Abuse)

It is important to note here two extremely essential factors in conjunction with and parallel to, Shared Parenting. The first being, that applications for Apprehended Violence Orders are overturned at alarming rates when challenged. It is even more worrying when viewed with the knowledge that many people are not aware they are entitled to challenge these orders. The ease to which AVO's can be obtained and the role they play in undermining contact with children must not be ignored.

Additionally alarming is the frequency with which accusations of domestic violence or abuse are only raised after court proceedings are instituted, either for settlement of property or for a change to contact arrangements. Often these allegations had not previously been reported or even inferred. Some resident parents have made accusations simply to ensure that the court will then deny the accused person contact. This undermines the current legislation and will be a powerful weapon for parents attempting to thwart any future legislation on Shared Parenting.

It is imperative that measures to deal with this issue are implemented in or in conjunction with, Shared Parenting Legislation.

Ideally the single most compelling argument to the rebuttal of an application for Shared Parenting should be the following simple test: -

In the event of a death of one of the parents occurring when the relationship was intact, would a court have found the surviving parent fit to parent the child or children of that relationship.

If the answer is yes, then there can be no valid case to rebut the presumption of Shared Parenting.

However, if by this benchmark the courts would have found a parent unfit, this should not preclude some level of contact, and a court would decide the format and limitations for such contact.

It is accepted and expected by both law and society that in the event of a death of a parent, the children of the relationship are to be raised by the surviving parent. Separation does not equate to the non-resident parent becoming or being deemed automatically unsuitable or unfit to parent, any more than the death of the other parent when a relationship is intact. The exception can only be where clear evidence of risk to children from the parent is demonstrated to exist, not merely inferred or alleged.

Violence and Abuse

Allegations of violence and/or abuse should not in themselves automatically constitute a valid case to rebut a Shared Parenting arrangement. The complexities of domestic violence are such that each case must be thoroughly investigated and then treated individually without prejudices and assumptions.

The threshold of what constitutes domestic violence seems to have reached a point where almost any disagreement could be interpreted, or made to appear as being domestic violence. Additionally child abuse is so broadly defined that almost anyone can be accused of having abused a child. In both scenarios, with the exclusion of sexual abuse, there may well be instances of actual and demonstrated abuse or violence but just as clearly there will be cases of abuse or violence occurring as a direct result of the conflict that bought about the separation and as such would have, or will, resolve itself as a consequence of actual separation and resolution of matters relating to the negotiations for the conclusion of the relationship.

In relation the latter, it is the imbalance of power that current legislation bestows on the resident parent that produces much of the violence and disastrous after-effects of relationship failure. The introduction of the presumption of Shared Parenting could significantly reduce violence by removing the root cause of a good deal of it.

It is therefore incumbent on a judicial officer to ensure that when allegations of violence are put forward as an argument for rebuttal, to satisfy him or herself whether a Shared Parenting arrangement will actually promote a violent atmosphere or whether it might bring an end to the situation that gave rise to the hostilities.

While this submission does not call for or include domestic violence in its terms of reference it is imperative that it is not dismissed or excluded. The use of domestic violence and child abuse as a means of undermining Shared Parenting legislation cannot be understated, it is a tool used constantly and requires almost no real evidence in order to carry weight in the Family court.

There are two main contributing factors to domestic violence and addressing these is important to understanding why domestic violence allegations should not be grounds for rebutting Shared Parenting.

Loss

The threat of loss is the greatest emotional tool in provoking reaction from anyone. Threatening to prevent a parent from seeing their children and/or threatening to strip one party of possessions and assets in the process generates enormous emotional and reactive stress. (Arguably the basis of this is mental abuse, though this is never employed, or employable as a defence against subsequent charges of physical violence). Shared Parenting removes the substance from such threats, threats that have provoked violent outbursts and which have then been used as the bases for challenging contact requests. This, in turn, produces a life-long conflict and raises dramatically the risk of further violence.

Communication

Domestic violence as with any violence including war is often a direct result of an inability or an unwillingness to communicate. Where these difficulties do not exist conflict seldom reaches the stage of violence, and generally these relationships thrive.

Seen in this light it is clear that domestic violence is caused by failings in both parties with neither party taking responsibility for his or her own part in the problem. It is therefore incorrect to assume that a parent accused of domestic violence is any less fit to be a parent than the accuser is.

Therefore domestic violence is either grounds for disallowing both parents or neither parent from the right to share in the parenting of the children of the relationship.

RECOMMENDATIONS

The benchmark for Shared Parenting rebuttal should be, -**"Would a court in the event of a death of one of the parents occurring when the relationship was intact, have found the surviving parent fit to parent a child or children"**.

"Domestic violence between parents is grounds only for, - disallowing both parents or neither parent from the right to share in the parenting of the children of the relationship".

(a) continued

(ii) in what circumstances a court should order that children of
separated parents have contact with other persons, including their grandparents.

Assuming that the order is not for the purpose of reducing the contact time already experienced by the significant person or grandparent, then an order for contact must be considered in light of the final outcome of the parenting order that stands for the parents. If the ratio of the final order is 75/25% then the proportion of time for contact outside of the immediate family must be determined in accordance to whose time is relinquished in order to provide for outside contact.

Where for instance the father is parenting for 25% of the time it could fairly be judged that if the person or grandparent is from his side of the family that it could be expected that some of the grandparent's contact time could be allocated from the mother's 75% parenting time, though not necessarily all.

In relation to circumstances, again it needs to be stated that the benchmark for consideration should be as before, but adopted to suit the application, **"Would a court in the event of a death of both of the parents occurring when the relationship was intact, have found the person or grandparent to be fit to have contact with a child or children"**.

Additionally, where allegations of violence are made, between a parent and other person or grandparent, it should be considered that this is not grounds for refusing contact but only for better management of contact, a situation best dealt with by the courts.

In relation to allegations of child abuse between child/ren and other person or grandparent, it should be considered that this is not grounds for refusing contact but only for better management of contact, a situation best dealt with in accordance to the circumstances by the courts.

Again the complexities of domestic violence and allegations of abuse are such that consideration must be given to the possibility that such allegations are made as a means for undermining the orders being sought.

It is the view of this submission that the current guidelines within family law legislation, with the exception of the acceptance by courts of hearsay evidence, already deal with these matters. This also includes the consideration of to what extent and in what circumstances, other persons and grandparents should have contact with children of separating parents. And that this should not require any different handling under Shared Parenting legislation.

Exception

It is an unfortunate consequence of today's society that situations relating to children and parenting can result in unforseen and complex situations that are not known at the time of writing this submission and situations that can not be known, or expected to be known, at the time of formulating legislation. It is therefore necessary to make provisions for exceptions to the legislation in order to protect children from risk, emotionally or physically as a consequence of the legislation.

While these situations cannot all be predicted, an indication of the possibilities and complexities can be found from existing circumstances. In a Queensland case a child has been placed in sole residency with a man who is not the biological father resulting from deliberate paternity misattribution. In the aftermath of a relationship failure and subsequent revelations, a residency application resulted in the discovery of a conspiracy by the biological parents at the time of birth of the child to withhold this from the non-biological father. The presiding judge found in favour of residency being awarded to the non-biological father, as both biological parents were deemed unfit.

An unfortunate outcome from this is that the judge deemed it appropriate to award a contact provision to the biological father at a future time without allowing the child, who when the contact time comes up will be 12 years old, to have an input into this decision. The biological father is a stranger to the child.

As more and more fathers are becoming aware of misattributed paternity and more and more women are giving birth under the IVF program, the unusual and unexpected complexities will find their way into the courts.

Items for consideration of exemption would include or incorporate one or more of the following events:

- Cases being such, that in the opinion of the case judge, legislation could not have foreseen or expected such circumstances to arise, where in the opinion of the presiding judge, being duly informed by appropriate professionals, the outcome would be detrimental for any or all of the respondents or members of the family involved, including and not limited to extended family members.

- Cases that would produce legal precedent by way of being the first of its kind, exemption being only for the purpose of preventing harm, emotionally of physically to the child or children.

- An exemption should apply on any occasion where the application is made by any person, biological or not, where it can be deemed that the person would be a stranger to the child or children and the child or children may not be of sufficient maturity to understand the reason for contact. If, in the opinion of the presiding judge the child or children may wish to have contact with the applicant and if they were not of sufficient maturity to know this, then the judge should defer the application until such time as the

judge deems the child/ren would be of sufficient maturity. A judgement should not be made in these circumstances on behalf of the child to take effect on some future date.

RECOMMENDATIONS

Careful considerations should be made to include the exemptions as above.

(b)

Whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

Divorce and/or separation are a change of circumstances to a child's life, no more, no less than the arrival of twin siblings, unemployment or disability of the breadwinner, thus the expectation that a child should be maintained in a manner that he or she has become accustomed to is a contradiction to life's realities.

A child is not considered to have been deprived under these circumstances and any suggestion to the contrary would imply that an only child would have legal redress against his or her parents for loss of economic opportunity, or the like, should twins or quintuplets join the household, thus reducing his or her share of the families wealth.

The Child Support formula, as constructed, is seen by paying parents as punitive and simply a means of lowering the government's cost of welfare by offsetting child support payments against family payment benefits to the "primary carer". The residence parent has several lifestyle choices available – to be a full-time carer and rely upon welfare and child support, or to rejoin the workforce. The paying parent also has two lifestyle choices – to continue to work full time and pay over two thirds of his income in taxes and child support, or to also rely upon the public purse through unemployment benefits.

As blunt as this statement might be, the majority of taxpayers would understand the purpose of welfare payments to be to assist those who find themselves in temporary need of such benefits, with the obvious exclusion of disabled or permanently incapacitated persons. Therefore the long-term use of parenting payments should be viewed as a lifestyle choice of the claimant not the permanent financial responsibility of the non-resident parent.

A recent study of sole parenting payments by the Centre For Independent Studies has shown that most sole parents remain much longer than the two years that has long been claimed as the average length of dependence on the Sole Parent Benefit. The study also outlines extensive experience in the USA demonstrating positive benefits for both parent and child when the carer participates in the workforce rather than relying solely upon welfare.

The removal of the current claw-back arrangement, along with the introduction of shared parenting and the encouragement of returning parents to the workforce when the youngest child begins school, will combine to allow a number of beneficial outcomes, these being,

- Research has shown that parents in a shared parenting arrangement are more inclined to participate in the workforce. (see reference below)

- A less punitive child support formula would remove the disincentive for parents with less than 50% share care arrangements to remain in or find employment in the workforce.

- A less punitive child support formula would remove the disincentive for non-resident parents without a shared parenting arrangement to remain in or find employment in the workforce. These parents could then contribute to child support payments in greater numbers, reducing the compliance cost of the current administrative requirements.

- An increase in shared parenting and the removal of the claw back and subsequent reduction in child support payments will result in greater participation in the workforce and reduce both short and long term welfare payment costs and dependence.

Reference, <http://www.facs.gov.au/internet/facsinternet.nsf/98DAF4ABB8D56103CA2568910004F7AF/ACCFF41F57DA34AFCA2568920076C5A4?OpenDocument>
This paper was presented at the Family Strengths Conference at the University of Newcastle on 22 November 1999.

The current child support formula considers the costs of raising children in a sole parent residence situation but makes assumptions about the broader costs shared with the sole parent, i.e. accommodation rental/purchase costs and utilities and other shared aspects not specifically for the benefit of any individual.

In considering the non-residents child related costs, these factors are ignored. The result is that many of the costs associated with accommodating children must be paid regardless of whether those facilities are used for one overnight stay per fortnight or 7 overnight stays.

Accommodation suitable to accommodate one or more children is substantially more expensive than accommodation required for a single adult. For instance, although shared accommodation is cheaper it may not be feasible to bring children into accommodation that is shared with other non-family adults.

Splitting child support payments according to the ratio of care could only be deemed equitable if the base formula rate is first reduced to reflect on going fixed costs and associated permanent expenses. Both households will require basic household items such as bedding, clothing, educational and entertainment items, along with additional expenses not otherwise apparent in short stay contact, such as, laundering, toiletries and health care products.

Other expenses could include public transport, medical expenses and various activity costs coincidental to contact time, all items not normally occurring in weekend or day contact situations but constantly occurring in a shared parenting arrangement.

Reducing the child support payments by the method currently employed by the formula on the basis of a split according to the ratio of time spent with each parent is considerably inequitable, as these fixed costs are not considered in relation to the parent not in receipt of welfare benefits.

Therefore, in order to make the formula equitable in a shared parenting arrangement a benchmark would need to be established that recognised a degree of need for fixed costs. On establishing the benchmark, a base formula deduction should be applied to the amount of taxable income that can be assessed for child support payments that reflects the fixed costs associated with contact.

It is considered reasonable in the financial world to attribute 30% of income to housing costs and 30% to living costs for families seeking an analysis of their finances in the course of applying for loans. Further, the combination of income tax and Medicare liabilities can reduce gross disposable/useable income by around 26%.

It should therefore be reasonable to assume that given these figures relate to long term and ongoing fixed expenses, only 50% could fairly be attributed to costs relating solely to costs of raising children as opposed to the present assumption that non resident parents will be or should be responsible for 100% of the financial costs of their ex partners household.

Therefore it is suggested that where the benchmark is reached in a shared parenting arrangement, then only 50% of gross income should be used in the application of child support as this reflects the long term costs of both parents accommodation relevant to the long term expenses for raising children.

In line with the earlier suggestion, 100% of this should be payable without a reduction to the family payment benefit through the claw back system.

Following are actual case examples associated with the formula as it now stands. (Note identities have been removed for confidentiality, however documentation of authenticity will be supplied to the commission on request).

Our Ref , PBH3333

My ex-wife moved from Sydney to Forbes 6 years ago, forcing me to pay high costs to have contact with M (Child) (airfares, petrol, long distance phone, accommodation, airport parking), as well as having to pay for meals, entertainment, pocket-money, gifts, etc for M (Child) when she is in my care. When they moved away, I agreed to pay half the airfares for M (Child) to fly to Sydney every month and half of all school holidays, but *on the condition* that those contact costs be counted as part of my child support maintenance - however, even though my ex-wife was the one who moved away, she has never 'allowed' me to claim my contact costs as part of my child support. So for the past six years, I have paid high child support payments and high contact costs. I have rarely complained, until recently when my child support payments were increased and so my contact costs became financially unbearable.

When my ex-wife moved away it decreased my contact time with M (Child), and therefore increased my child support payments! When my ex-wife had another baby with her new husband, she started working part-time which decreased her income and therefore increased my child support payments! These increases aren't fair!

In 2000, I remarried. Unfortunately, my new wife has Cystic Fibrosis. Although she has only ever worked part-time (due to her illness), she has never received any government assistance. However she has to spend anywhere up to $10,000 per year in medical expenses.

During 2000 I lost my job, but I continued to pay child support and high contact costs. I then started my own business. During 2000/01 financial year, I earnt only $6,122 - my new wife assisted me with all the costs associated with my daughter, in which case my new wife had to give up the majority of her lifestyle enjoyments (such as holidays, wine club, magazine subscriptions, regular massages, monthly facials, hairdresser, exercise classes, new clothes, cosmetics, etc). I believe that my new wife being forced to help me pay money to my ex-wife is extremely unfair because my new wife has enough on her plate dealing with, and trying to pay for, her Cystic Fibrosis and its associated costs.

In 2001, my ex-wife requested M (Child) attend a $40,000 per year high school (starting 2002), demanding half the costs from us. Obviously we could not afford it. So my ex-wife painted me to be a bad father and she constantly told my daughter that 'your father and stepmother obviously don't care about you'.

In 2002 my ex-wife blatantly, knowingly and deliberately lied on her CSA form in order to get more money out of me. She succeeded! Due to those lies, CSA increased my current year's payments by $1,000 and my previous year's payments by $1,000, thus *creating* instant arrears of $2,000! I am now a statistic: one of the 66,000 Australians with CSA arrears - *not* because I did not meet my child support responsibilities, but simply because my ex-wife lied to CSA and got away with it. When I provided documented proof of these lies to CSA, I questioned CSA as to whether the declaration on all CSA forms regarding imprisonment for providing false and/or misleading information was an empty threat. CSA replied 'We are only a collection agency. We are administrative, not judicial. There is nothing we can do. We just *hope* people tell the truth'.

So CSA raised my payments, yet at the same time I am expected to also continue to pay high costs to have contact with my daughter. CSA will not allow me to take these costs into consideration, because my ex-wife has lied to CSA again and stated she has 'similar costs'. Although she may have paid for half the airfares, she does not pay for Sydney airport parking, lives closer to the airport than I do, accommodation, meals, travel costs to visit my daughter in the country, petrol costs, long distance phone calls and faxes.

There is no way that I can pay high child support, high contact costs, costs associated with having my daughter in my care for 2½ months of the year, plus the 'false' arrears (created only due to my ex-wife's lies to CSA) which is also accruing monthly penalties!

In 2002, at the same time that my ex-wife told my daughter that she couldn't afford to send her to swimming or piano lessons any longer 'because your father doesn't pay enough child support for you' my ex-wife flew off on a three week European holiday by herself!!!!

My daughter got upset with me and confronted me with 'Why don't you pay Mum enough child support for me?'. Against my better judgement, I showed her that I pay her mother $4,612 per year and that her mother receives approximately $2,500 in Family Assistance from the government, totalling approximately $7,000. I then showed my daughter the list of expenses her mother sent to CSA, showing she spends approx $4,000 per annum on M (Child) - so not only does my ex-wife not have to outlay any of her own money for M (Child), she is making a nice little profit out of this scam: ripping off the ex-husband and the taxpayers!!

So whilst my ex-wife is jet-setting around the world (on her own), my new wife and I are really struggling financially to pay her child support, about half of which doesn't even get spent on my daughter!

Nobody seems to care (my ex-wife the least) that our financial burdens also have a negative effect on my daughter! My new wife and I also have expenses for M (Child), such as gifts, pocket money, entertainment, groceries, toiletries, electricity - but who helps us pay for these costs? No-one! I have care of M (Child) for at least 2½ months of the year - I have to pay my ex-wife for the 9½ months she has care of M (Child), but does she have to pay me for my 2½ months? No. And the fact that I have care of my daughter for 2½ months of the year isn't taken into account by CSA, because according to them my contact is classed as 'minimal'.

As it stands now, my child support payments are not based on my taxable income (ie on CSA's usual 18% calculation) but on the lies my ex-wife told CSA. CSA won't allow me to claim my contact costs as part of my child support (again, due to my ex-wife's lies) and CSA do not care that I cannot afford to pay for my monthly payments and contact costs, let alone the arrears created from my ex-wife's lies.

Due to the burden of these payments, the major repercussions are:

- My ex-wife took my daughter from me, and I have to pay (both emotionally and financially) for the privilege of seeing her. To add insult to injury my ex-wife treats me like dirt, and always badmouths me.
- My new wife and I are seriously in debt and it is getting worse. We have been married for nearly three years and we haven't even been able to afford a honeymoon yet!
- When my daughter comes to visit us, we can't do anything that costs money because we can't afford it! We can no longer buy her clothes or gifts or take her on outings, so her visits with us consist of visiting family and friends. How boring for a 13 year old girl!
- The stresses of our financial problems, together with having to constantly deal with my whingeing and cruel ex-wife, and dealing with CSA, as well as always trying to do the right thing by my daughter, is negatively affecting my new wife's health which is gradually deteriorating. The sicker she gets, the higher her medical expenses - which we do not need in our current economic situation.

- My daughter is now having counselling, due to the way my ex-wife constantly complains about money and deals with the whole situation very badly, eg continually telling my daughter all about the associated problems with money, CSA, family assistance, etc - things my daughter should know nothing about.
- And worst: the brutally negative effect on the relationship with my daughter, which used to be fantastic.

The child support legislation is flawed. Something needs to be done before more father/children relationships fall apart, non-custodial fathers go bankrupt or, worse, commit suicide!

Yours faithfully

Our Ref; JZ22 C

I now have an extended family with two step children as well as two biological children for which 27% of my gross income is being garnished.

This leaves me with approximately $550 (after tax, CSA payment and compulsory Super Annuation payment) per week to pay for a mortgage, car registration, food, electricity, phone, heating, clothing, groceries, insurance(house and car) etc.

Because of the amount being garnished from my wage ($230) per week I have had to refinance my home for the third time in two years.

Even if I was single and paying rent (which is approximately $240 per week here in ACT for a 2 bedroom unit or flat) I would still only be able to barely survive or even think of trying to purchase my own home.

I cannot earn extra income or take a promotion as it would be reduced to the point of having no effect on my situation due to the Child Support Formula and yet having to accept the extra responsibility and workload that goes hand in hand with career progression. Please refer to the table below.

Annual	G F/N	TAX	After Tax	CSA	CSA Increase	After CSA	Super @(2%)	Net	Increase F/N
$58,494.00	$2,242.00	$590.00	$1,652.00	$460.42		$1,191.58	$44.84	$1,146.74	
$62,913.00	$2,412.00	$664.00	$1,748.00	$524.00	$63.58	$1,224.00	$48.24	$1,175.76	$29.02
$66,478.00	$2,548.00	$730.00	$1,818.00	$560.00	$36.00	$1,258.00	$50.96	$1,207.04	$31.28
$70,387.00	$2,698.00	$804.00	$1,894.00	$600.00	$40.00	$1,294.00	$53.96	$1,240.04	$33.00

In an intact family the decision of how much needs to be spent on the children is based on the net wage after tax and after other compulsory and necessary deductions such as superannuation, bills etc. To try and make such a decision based on the gross income would be impossible.

Even if the mother of my children was to obtain employment it would not have any effect on how much child support I pay unless her wage was more than $36000 PA and then the effect would be a reduction of 50c in the dollar for every dollar above this amount.

As a result, even though I am in full time paid employment, myself and my family are facing an impoverished life, once I have reached compulsory retirement age.

As well as having to face a working life of having to live from pay check to pay check not knowing about or having any say or control in the planning of my financial future.

Due to my financial situation I cannot afford access to legal services to try and obtain visitation rights to my children. I am not entitled to any legal aid and yet the Mother has access to these services as she is unemployed.

The pain and grief of not seeing my children led me to the edge of a nervous breakdown.

I am constantly concerned over where I am going to find the money for the next mortgage payment and what my Family has to go without to be able do so and not being able to see anyway forward in the near or distant future.

I am also worried on how the CSA payment that is being deducted from wage is being spent as there is absolutely no accountability for how it is used.

As I understand it, thousands of men are in exactly the same situation with thousands more either becoming unemployed or tragically committing suicide.

The formula should applied to a net income and should take into account compulsory deductions such as tax, super annuation and a fair living allowance.

It should also be based on an accurate cost of living study in lieu of the Lee and Lovering report which is currently being used.

This would result in the situation for all concerned, ranging from myself and my children through to the community and taxpayer, to be greatly improved.

This may not be the answer but I am sure that a fairer and more equitable way forward can be found.

Yours sincerely

Our Ref; Jw/jw08/7

I am writing this to help you better understand how J and I are coping with the Child Support Agency and it's decisions. I am finding it hard not to get emotional as I write this. I have no intentions to complain about parents supporting their children and having shared custody because parents need their children just as much as the children need both of their parents whether they live together or apart. I have experienced both sides of contact with CSA both as a custodial and a non-custodial parent myself, and now I am helping my husband with his situation as a non-custodial parent.

J and I married early February 2003, ever since then we have been trying to make ends meet financially as well as emotionally. Would you believe this is mainly because we are constantly filling out forms and debating with CSA to be given a fair hearing in relation to his current income?

Prior to January J was working a very stressful job with long hours little sleep and no rest periods at work, often up to 80 hrs a week. The reason behind this was that it was expected of him and he also felt obliged to continue working there to maintain these hours due to the high level of child support that was set. He was to pay $180 per week and to keep up this required payment he stayed in this employment for 7 years. He lived with his parents until they moved to Stanthorpe (my neighbours, that's how we met!) then he lived in rentals. This was both because he had no share of the previous marital home and felt unsettled in Sydney. He was unable to afford a home in this city. Rent was $260 per week adding that to the $180 child support it meant he had to find at least $440 per week to meet these requirements. When he started out on his own he had no furniture so he took out a personal loan to buy the basics eg bed, fridge, washing machine, TV etc. He had no

pots and pans and little linen only a towel, sleeping bag and pillow. His car was unreliable so he decided to borrow and bought another younger model car. On the 'income' he was earning it was easy to get a loan (on paper it looked good), however paying back the instalments added to the weekly expenses. Superannuation added to this weekly expense and now he had to find an extra $172 per week to pay it along with the loan repayments, and as you know with loans you spend years paying off the interest. This totalled approx $610 per week for these regular expenses, let alone pay for food, electricity, phone, petrol etc. The petrol expenses were high too as he lived up to an hour from work so as to live in a cheaper suburb plus the trip to see his 3 children on access visits at Newcastle. To make ends meet he used his credit cards to buy petrol and when on these access trips, food. He slept in a box trailer to save on accommodation costs. With the credit cards the same situation arose as with the loans of interest mounting, it then became for him a "cat chasing it's tail' situation, never getting ahead.

He really could not afford financially to leave this 'high paid job' however for health reasons he could not afford to stay. In financial reality he could not afford to get married however we could not afford to put off something as important as marriage. Leaving that job to move to Stanthorpe QLD to be married to me and taking his health into consideration 'opened up a can of worms with CSA'. Unfortunately because of drought conditions Stanthorpe has experienced an unusual situation of decreased jobs available during it's highest employment period, the fruit season. As an example, backpackers usually flock to the area for 9 months because it is easy to find full time work. Had it been a normal season J would have had no problems finding full time employ in his 2 fields of experience i.e. hardware, and truck driving. Many employers were very keen to have him but with the situation as it has been they were all waiting to see what would happen, some could not afford to keep their present staff let alone put someone else on. Unfortunately J had to go onto Newstart, however Centrelink was OK with him leaving a job in Sydney to come up here and get married. Had he of just up and left without a sound reason and tried for Newstart he would of been refused.

Child support payments was calculated on this income which was fair at the time.

Unfortunately it put a strain on his relationship with his children as their mother was now in a different position financially finding it hard to make ends meet, and claimed the children would have to give up their expensive musical lessons of approx $6000 per year. All along J was showing signs of health problems but thought that the rest from the stressful work and change of environment would help. In the meantime he obtained some casual work of 4 hrs week (Sat mornings) with the promise of full time work before the end of the year. This was a real credit to him as he had often approached the employer since last October. The manager actually came to J and offered him this work albeit casual however in the current drought situation with many locals looking for any work it proves that his experience is an asset to this employer. Indeed this has helped financially however Centrelink have now docked his Newstart in line with this income of $63.90 per week gross.

CSA were requested to do a change of assessment by the children's mum early this year. After mountains of paperwork and stress+++, they decided that J should not have left his job and basically accused him of trying to avoid paying child support. He had paid the previous amount of $180 per week until CSA sent him the new assessment at end of January backdating it to the 6th January. He rounded the $16.25 payments to a neat $20.00 and paid that until CSA tapped into his Newstart in May they are taking that same amount out of it, because he is not earning enough for them to take out more. It is amazing that they would set a new assessment amount of $507 per month as compared to the $16.25 previously calculated on his Newstart and penalize him for leaving a 'stressful' job and calculate a new amount based on what he "should" be earning and not what he is actually earning. However when it comes to taking out payments they cannot take out anymore because of his current income. Why they do not just base the assessment on his current income as well is beyond us. Another problem is that CSA did not in effect take into consideration the $760 he paid from one assessment to the next when in fact he was only required to pay $48.75. This happened because he did not receive his assessment details until end of January when it was in fact dated from the 6th. At the time on contact with CSA they told him to keep paying the $180 per week until the new assessment is calculated, by the time it arrived he had in fact overpaid. He has no recourse on that overpayment. He was needing most of that money for our wedding but in view of the CSA inaction I ended up paying for the whole wedding and thankfully we were given our honeymoon as a gift. See what I mean about it really was not financially affordable for him to get married.

He has never reneged on paying child support as he believes his children are his responsibility too, he loves them dearly and recognizes that it is hard to be the one rearing 3 children alone in the home as it is. That is why

he did not fight for his share in the marital home as he wanted his children to have a roof over their heads and feel safe in their own environment undisturbed.

During recent months he has been diagnosed with various health conditions which would have taken his life had he of stayed in that stressful job he had in Sydney. He was at a very high risk of a massive heart attack, or stroke or diabetic coma. He is now considered medium to high risk which has been the result of the effectiveness of various medication. This has also had a significant impact on us financially what with Doctor's fees, medications, glucometer and petrol costs in relation to the numerous appointments with dietitian, social worker, optometrist, pathology etc.

The objection process was long and drawn out, trying to prove the truth and to show how CSA's new ssessment of $507 per month as opposed to $16.25 in January was and is financially unviable, considering he earns up to $900 per month. This has put a big strain on us financially causing considerable emotional strain on his relationship with his children as they have been feeling angry about the whole lowering of their household income too. I am on a medical certificate with Centrelink being for a long term condition therefore I cannot work to help make ends meet for us. I have an established home with a mortgage and the cash I had is now all used up in meeting our everyday commitments. Recently we incurred more debt with emergency expenses like plumbing, veterinary, and of course expenses in relation to J's new medical diagnoses.
I have just had to borrow from my dad to pay these local businesses who are also trying to make ends meet in this drought. Of course the debts still have to be paid but not to the businesses themselves but to my Dad. Typical "borrowing from Peter to pay Paul" situation! Would you believe CSA are trying to get J to borrow more money from credit cards or financial institutions or privately to pay the now accumulated debt from 1 April of approx $2000? I consider this to be poor financial advice, because it just creates more debt from excessive interest and exacerbates his current situation of the 'cat chasing it's tail' as mentioned above. Especially considering that we do not feel the debt to be right anyway!

We have combined his car and personal loans with the mortgage to try to make the weekly repayments somewhat more manageable, his credit card debt is remaining much the same as it was before we were married as mentioned above.

Our recent objection fell on deaf ears although we photocopied 44 pages for their reference of our expenses, income, bank balances, Drs referrals and prescriptions etc, plus long letters explaining the situation, including reasons for leaving previous employment etc, filled out endless forms eg an asset liabilities form. This was an added expense on its own what with photocopying and postage and printer costs etc. The decision not to change the assessment has led to more feelings of hopelessness for J and he is feeling extremely overwhelmed with the CSA debt that mounts everyday! He feels that it is not worth it anymore and I am concerned with his depressed state. That is why I am doing the paperwork to take the strain off of him especially with the way he is feeling and with regards to his risky medical condition. Of course this is stressful for me and it is not healthy for our new marriage.
With my last contact CSA has finally agreed to allow him to apply for a change of assessment based on his medical condition and how it would have been affected by his work had he of stayed there and his current financial situation. CSA had informed us that court was his only option to their recent decision. However we had in fact provided so much info with regards to this in the recent objection and now we have to provide it all again as a new assessment. What they are demanding now is a letter from the Doctor to say had J of stayed in his previous job it would have been detrimental to his health based on his diagnosed medical conditions. This is not so easy to get in this 'cover your back' situation that the medical profession finds itself in these days. Because of this another visit to the doctor is evident incurring more debt although we get most of the fee back from Medicare we still have to find the money to pay upfront at the time of consultation.

Another change of assessment buys us more time to prove the truth of our situation and will ultimately incur more expense for us financially and in reality emotionally. This leads of course no doubt to an increase in expense for the mother who will have to respond like J had to when she applied for a change of assessment. It is a never-ending merry go round of expense and stress along with endless time spent on letters, filling out required forms and photocopying. This is taking it's toll on us as newly weds trying to get time together, of course getting used to each other and enjoy each other which is the normal course of a new marriage. Our dreams of a fresh start has been sabotaged by this endless CSA debate over money. There appears a situation where CSA is not at all concerned with the father's physical, emotional, financial and employment wellbeing or his relationship with his children and his deteriorating relationship with their mother, but there appears to be

a huge interest in the father's wallet. Whether it is empty and cannot be filled due to his current income combined with a high assessment based on an assumed income, is of no consequence to CSA.

Even when J paid the previous amount based on his previous job in Sydney the mother would have had her Centrelink docked as the custodial parent is only allowed to earn a certain amount therefore whatever is paid, benefits no one. Especially the children whom the whole CSA is supposedly based on being there priority.

Another problem J is experiencing with this high assessment out of such a low income and that of previously incurred debts from his previous pre marriage situation is that J cannot afford to visit his children on the assigned monthly visits. Therefore if he does visit petrol, food and expenses on his children is once again 'put on' the credit cards increasing our burden of accumulating debt. He is applying to legal aid to get access arrangements changed so the children can come and visit here during holidays and alternate Christmas etc, because he recently travelled the 8 or so hours to see them and was in effect only allowed to see them for 6 hours this was an extreme expense with little reward of time. However of course it was better than no time with them, but my point here is the stress on us financially was overwhelming. Neither he nor their mother can afford to pay for monthly visits to or from them.

This is financially crippling and emotionally hard on the children. Phone call costs to keep in touch with the children are increasing as their mother cannot afford to pay for them to ring him whether he was in Sydney or here. J recently got each child a Homelink card to enable them to contact him anytime without having to pay for their call. Both J and the children need every opportunity to maintain contact. Emails are a great way for them to keep in touch and he emails the eldest and she accesses them at school passing them on to the others. These financial burdens together with postage costs adds up and of course one might say we cannot afford them so advise us to cut down on your calls, get an STD block, cut off the internet blah blah blah. Because our children mean the world to us we cannot in effect afford to lose these forms of communication with J's 3 children and my 2 (who live away from home as they are 18 and 21). To do so would be detrimental to the wellbeing of all concerned. We noticed when our children do visit, as his eldest did recently and mine have too it is very hard to afford and provide for the added expenses of food, heating electricity and fares home for his daughter. Once again we would not complain about this because time with them is extremely valuable, I just wish to point out how hard it is for all concerned.
I feel that CSA is not interested in basing their responses on the truth of the situation parents and children are really in but is based more on paradigms (models). Truth is eternal, timeless, and unchanging - paradigms are not. The importance of clarity and certainty in matters that matter the most is what is needed here. *Paradigms are like using the wrong map to find one's way around an unfamiliar city. Wrong maps do not lead to right turns or proper course. CSA cannot alter the truth only their ways of viewing it.

I trust that this explains the position financially and emotionally that J his children and I guess their mother, myself and indirectly my children find ourselves in!

Sincerely yours
JW

(*references - Steven R Covey)