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SUPPLEMENTARY SUBMISSION TO PARLIAMENTARY INQUIRY INTO THE CHILD SUPPORT SCHEME

28th July 2014

This submission supplements an earlier submission that was written while I was away.

OVERVIEW

This submission describes how child support systems that are suitable for cooperative couples can produce adverse outcomes when separated parents remain in a high conflict relationship and behave in coercive or violent ways. It is proposed that the Child Support Agency CSA requires access to specialised processes for couples who are in high conflict relationships, so that CSA repairs relationships rather than accentuating tensions between separated parents.

Ongoing exacerbation of tensions between separated parents leads to the development and exacerbation of mental health problems in parents and children. While these adverse outcomes go undetected by CSA officials, they are evident to psychological therapists.

This submission outlines ways that parents are able to coercive their ex-partners under current CSA procedures. As current CSA assessments focus only on financial and administrative topics, assessments do not identify parents in high conflict relationships who use coercive methods. The current CSA assessment system is too inflexible to distinguish cooperative post-separation relationships from high-conflict relationships. Parents of both genders participate in conflictual and coercive practices.

Change is required to protect parents in high conflict relationships from actions of an ex-partner, so as to minimise mental health problems.

Current powers allow CSA officials to change decisions of Family Law Courts without being able to access information that influenced decisions of the court. This dis-linking between CSA and Family Court systems allows coercive parents to manipulate decisions made by CSA officials, leading to high levels of distress for parents and children, and to clients experiencing a strong sense of injustice resulting in depression producing referrals for psychological therapy and hospitalisation.

The situation is complex. This submission proposes ten steps to improve integration and collaboration between CSA and Family Law Court systems to benefit families. Changes are proposed to assessment processes used in both CSA and Family Courts to improve integration between the two systems. Further proposals are made to update guidelines for assessors, to review confidentiality provisions, to recognise that mediation is unsuitable for high conflict couples, to introduce a new item in Medicare for focused family therapy, to review thresholds that restrict Family Law Courts from reviewing cases, and to introduce a new quality assurance system for assessors.

SUBMISSION

Personal

I opened a group practice of psychologists in 2007 following 30 years of working as a psychologist in government and non-government agencies.

I have worked with families my whole career, and my practice receives referrals for family members with diagnoses of anxiety and depression who have a case before a Family Law Court. My clients include both parents who receive Child Support payments and parents who make payments, as both groups of parents become distressed by aspects of the Child Support system.

SOURCES OF PROBLEMS

The aim of the Child Support Agency CSA is to ensure that each child receives an adequate income from both separated parents who contribute according to their means.

Separated parents can receive income through four sources:

- their own earned income
- the other parent's income via the Child Support scheme
- income maintenance from Centrelink including rent relief
- Family Tax Benefits that are paid to parents who care for a child for 35% or more of the time, and that is split in shared care arrangements.

A change in one income source affects entitlements to other payments. To maintain a consistent income for a child, CSA inter-links payments. This inter-linking provides an avenue for high-conflict couples to disrupt the income of their ex-partners by asking CSA to change its assessment. A disruption in income may be motivated by a desire for financial benefit for themselves, or to ensure that funds are used to benefit a child, or to disadvantage an ex-partner financially, or to distress an ex-partner.

In my view, current CSA assessment processes do not adequately distinguish separated couples who want a negotiated settlement from those who aim to distress their ex-partner. In my view, a change in CSA assessment processes is needed to improve negotiation between separated parents over payment topics, to minimise coercive practices between ex-partners, and to improve coordination between processes used by Family Law Courts and CSA.

Family Court Assessments

Family Law Courts obtain assessments from professional assessors who address both topics that are listed in the Family Law Act, and topics that are identified by a judge. The interpersonal relationship between separated parents is assessed, including occurrence of family violence. Topics such as unsubstantiated allegations and attempts by a parent to alienate a child from the other parent are assessed when required.

A Family Law Court then makes orders on a range of topics including access times a child will have with each parent.

Current CSA Assessments

Current assessments by CSA officials focus on two ***administrative*** topics of:

- ***parental income*** as declared or reflected in taxation returns, and
- the percent of time a child ***actually spends*** in the care of each parent.

Disputing parents are able to challenge both topics in CSA assessments.

CSA identifies ten administrative issues that can be raised when a parent asks for a change of assessment. The CSA topics do not include special circumstances such as a parent's mental health status or relationship issues, so officials proceed without this information that was available to a Family Law Court.

I submit that CSA officials do not have investigative approaches that are adequate to identify high conflict couples, leaving officials susceptible to accepting biased information and making determinations on the basis of biased information.

High-conflict parents are those who are unable to agree on a binding parenting plan, who continue to dispute matters for more than a year after their separation, and where there is concern that one or both parents use coercive methods.

I distinguish two types of high conflict ex-partners:

- one group wants to negotiate or bargain over the balance of access and payments, and is amenable to skilled therapy and mediation
- a second group wants to be controlling and coercive, become accusatory, adopt entrenched positions, and continue to try to change agreements.

Those high-conflict parents who want to negotiate can be motivated by a skilled therapist to reach a binding agreement with their ex-partner about children's matters, in the best interests of their child, if given an adequate opportunity to do this.

Currently, CSA officials have limited powers to investigate claims about non-financial matters, leaving them reliant on information provided by competing parents who have vested interests. It appears that information is often provided to officials in phone conversations. CSA officials are exposed to receiving misleading and unsubstantiated information that is provided by competing parents. This reliance on unsubstantiated information provided by a party with a vested interest is a concern when parents are in a high-conflict relationship and when children are in a shared care arrangement.

Shared Care

Family Law Courts encourage children to be in shared care arrangements where they spend significant time with both parents. Judges specify times if parents are unable to agree on this.

Financial supports are provided to parents who provide shared care, using thresholds that adjust remuneration according to the level of care provided for the child:

- a Family Tax Benefit is provided to parents who care for their child for 35% or more of the time.

Setting the threshold for the Family Tax Benefit at 35% of nights provides a financial incentive for parents to focus on this threshold, which is 5 nights per fortnight. I note that 5 nights per fortnight is disruptive for school children as children go to school from a different household on one day each fortnight, and this disorganises many children.

Clients tell me that lawyers encourage them to seek 35% access due to the financial incentives.

Scenarios

Scenarios are outlined that occur with high-conflict parents.

Scenario 1

A parent disputes claims about the actual time a child spends in each household by claiming that the child is with them more than ordered by a court. If a CSA official accepts this claim and determines that actual access has been different for a period of 14 weeks then the official can change the determination, leading to the Family Tax Benefit and Centrelink payments being changed retrospectively for one parent, resulting in that parent incurring a debt to a government department.

Scenario 2

A parent expresses concern that their ex-partner is abusing their child and withholds the child rather than returning the child to the care of the other parent, without reporting the concern to child protection authorities. The withholding parent then reports the change of circumstances to CSA, seeking a change of payments.

In these two scenarios the CSA official makes a determination that changes an access arrangement that was ordered by a Family Law Court, without reference to the court.

Scenario 3

One parent informs CSA that their ex-partner stopped working to reduce child care payments, and informs the child that the ex-partner does not care about them, discouraging the child from speaking to the other parent. This is viewed as alienating the child from their parent.

Scenario 4

One parent withholds access from the other parent, and makes decisions about the welfare of the child without regard to opinions of the other parent, despite a court order for shared parental responsibility. The second parent feels alienated from their child and becomes depressed that they are required to make payments to a parent who initiated the alienation and who defies court orders, when they are not even involved in making decisions about their child they are paying for.

Scenario 5

One parent has primary care of a child who has limited contact with the other parent. However the parent with primary care finds the child difficult to manage so arranges for the child to spend significant time with a grandparent. The parent with primary care does not inform CSA about the change of arrangement and continues to receive child support payments. The second parent does not inform CSA for fear of having access denied.

Information available to CSA

CSA officials commonly are unaware of the family dynamics in the scenarios described above. When one parent alleges that the other parent behaves in a coercive manner, CSA officials have no effective means for assessing what is really happening. The limited investigatory powers leaves CSA officials exposed to becoming included in coercive practices by one parent, resulting in a government agency taking sides in a family dispute.

My clients complain that it is easy for ex-partners to misrepresent information such as the time their child spends in each house. Clients comment that some ex-partners are motivated by money or by a desire to

distress the client rather than by what is in the best interests of their child, and that ex-partners make repeated requests to CSA to review determinations.

Clients complain that the parent who first raises a complaint with CSA usually has the official on their side, and does not need to employ a lawyer. On the other hand, defending parents commonly do need a lawyer to answer allegations, especially if the responding parent feels vulnerable. Responding parents with a mental health condition may meet legal definitions of being a vulnerable witness, and might be considered for special support. Clients feel that the respondent has the burden of proving that allegations are wrong, where it is difficult to obtain evidence.

The power of CSA officials to change decisions made by family law courts causes considerable distress to clients I see, resulting in exacerbations of mental health symptoms. These clients report a sense of injustice and powerlessness, and experience a sense of disillusionment about how systems operate in Australia. Some clients are suicidal on referral.

Some clients consider that the CSA system for changing determinations is too flexible, rather than being accountable and just.

Clients comment that the current CSA system encourages an adversarial approach especially when one person makes repeated complaints, and does not promote shared decision-making between parents.

I conclude that assessments made by the CSA system are not always objective and are not linked to decisions of the Family Courts that are based on an analysis of evidence.

Appeals

Clients report that it is difficult and costly to appeal against a determination made by CSA officials. As CSA officers both conduct limited investigations and then make decisions, clients doubt the impartiality of the investigations and consider decisions to be arbitrary and uninformed.

Powers of CSA Officials

It appears that CSA officials have authority to:

- make a new assessment, then
- determine their own assessment, then
- adjust payments between parents based on their determination.

CSA officials can update determinations on two topics:

- what they believe is the **actual time** a child spends with each parent, after listening to a parent, and
- the income **earning potential** or actual income of a parent.

The outcome is that, instead of CSA officials enforcing orders made by a Family Law Court, CSA officials can change orders made by a Family Law Court without regard to information that was available to the court.

The impact of a CSA official changing a determination is significant. If a CSA official determines that a change has occurred for a period of 14 weeks or longer, then the official can make retrospective changes

to one parent's entitlements, leading to that parent incurring a significant debt to Centrelink. This power of CSA officials distresses clients who have a mental health condition such as anxiety or depression.

It appears that some CSA officials also make their own assessments of the motivation of disputing parents, and apply stereotypes about parents. These assessments made by CSA officials remain undocumented, leading to a perception that the CSA system lacks transparency.

I submit that communication between CSA and Family Law Courts is not adequate, and that changes are required as both children and parents are being harmed by the current system to the extent that both parents and children are referred for prolonged psychological therapy, and some parents are hospitalised.

It appears that systems currently used in Commonwealth services produce problems for families where parents dispute access and child support, or is iatrogenic.

I propose that the assessment procedures used by CSA need to change and that collaboration between CSA and Family Law Courts needs to improve.

PROPOSED SOLUTIONS

There is an opportunity to improve assessment systems used in both CSA and Family Law Courts, so as to improve coordination between these agencies and to benefit families whose difficulties are managed by these agencies.

I submit ten proposals to address this complex situation:

1. improve assessment systems used by CSA and Family Courts, using specialised assessors
2. separate the roles in CSA of conducting assessments for high conflict families and making determinations
3. improve guidelines for assessors who provide reports to CSA and Family Courts
4. authorise CSA to obtain expert assessments when an allegation is made that one parent uses methods of coercion or family violence
5. review confidentiality provisions used by both agencies
6. authorise CSA to refer disputing parents who do not communicate amicably to skilled therapists who provide both treatment and reports to CSA, with recommendations
7. introduce a new Medicare item to support skilled psychological therapy for vulnerable families
8. review access thresholds and financial incentives that maintain disputes between parents
9. review thresholds for re-opening cases in Family Law Courts
10. increase accountability of assessors by introducing a system of quality assurance for expert reports submitted to Family Law Courts and CSA to ensure a uniformly high quality of reports.

Each topic is discussed in turn.

1 – Improve Assessment Systems

Current assessment systems for distressed families used in Family Law Courts and CSA differ unnecessarily, reducing compatibility between the two systems.

The amended Family Law Act highlights topics that must be considered by judges when making decisions about a child's access with separated parents. The Family Law Act refers to clinical topics such as family violence, and views expressed by a mature child. Family Assessors provide written reports to courts

covering these topics. Clinical topics such as family violence are given considerable weight when judges make orders.

On the other hand, assessments by CSA cover only administrative topics and do not include clinical topics.

It appears that assessments conducted by CSA officials focus on views presented by parents, with no focus on the views of mature children who are affected by their determinations. The current CSA assessment procedure is not child-focused.

I conclude that compatibility between systems used by CSA and Family Courts would be enhanced by expanding the CSA assessment format to include clinical topics as well as the current administrative topics.

2 - Separate Roles of Assessment and Determination

At present CSA officials make assessments and then make determinations based on their own assessments.

The blending of assessment and decision-making roles contributes to clients viewing the CSA system as arbitrary, as unfair, and as favouring the parent who lodges a complaint leaving the respondent parent defending allegations and feeling the burden of proof. Clients complain that the assessment system currently used by CSA is too easily influenced by one party.

It is proposed that the roles of assessment and decision-making be separated.

3 - Improve Assessment Guidelines

The Family Court of Australia in 2000 adopted Practice Guidelines to assist assessors who provide family reports to judges. These guidelines are under review to ensure that they remain updated and reflect current legislation and collaborative practices.

Assessments for both CSA and Family Court can be improved by incorporating recent changes from four major sources about:

- enhanced shared parental responsibility
- types of family violence
- National Framework for assessing parenting, and
- professional practices

There is an opportunity to ask family assessors to prepare reports that are relevant for CSA as well as for Family Law Courts by addressing topics of concern to CSA.

Enhanced Shared Parental Responsibility

The 2006 amendments to the Family Law Act produced two changes aiming:

- to promote shared care arrangements between parents, and
- to introduce a presumption of shared parental responsibility so that both parents make joint decisions about their child in place of an earlier presumption that the parent with custody also made all major decisions.

Difficulties between high-conflict parents often centre on the second topic of authority to make shared decisions. Child-centred parents want to continue to be involved in making decisions about their child,

and feel they are dis-enfranchised when they have no access with their child and no opportunities to join in making decisions.

Disputes between high conflict couples involve arguments about decision-making as well as about access times.

Types of Family Violence

The Family Law Act now distinguishes coercive and controlling behaviour from family violence where physical force is used.

Coercive controlling behaviour is defined as an ongoing pattern where one person uses threats, emotional abuse, manipulation of finances, repeated complaints and other coercive means to unilaterally dominate a person and to induce fear, submission and compliance.

Both parents in high conflict relationships might use coercive methods.

It is important for Commonwealth agencies to adopt a uniform definition of family violence, such as the definitions provided in the Family Law Act. CSA could adopt descriptors from the Family Law Act to distinguish coercive behaviour from both physical violence and collaborative parenting.

CSA could introduce distinctive methods to manage cases where either coercion or physical violence arises so that:

- Coercive people are not given power to influence the finances of their ex-partner, and voluntary arrangements are discouraged
- Violent people are not given opportunities to participate in prolonged mediation with their ex-partner.

Skilled assessors can assist CSA officials by:

- assessing reasons a parent wants to change a CSA determination,
- reporting whether coercion or violence is a factor in a case,
- reporting whether claims about coercion and violence can be substantiated, and
- making recommendations.

National Framework to Describe Parenting

COAG in 2009 adopted a "National Framework to Protect Australian's Children" which identifies four categories of parenting for administrative purposes. The categories are:

- **adequate** or competent parents who provide good-enough parenting and who receive universal supports that are available for the whole community
- **vulnerable families** who receive focused early intervention support on a voluntary basis to address shortcomings that are identified in a family assessment
- **high risk** families where children are removed from the care of a parent while rehabilitation occurs
- **unfit parents** whose parenting right is permanently removed.

Adequate parents are able to make their own agreements about child maintenance payments.

Vulnerable parents require specific arrangements.

If CSA adopted the National Framework when dealing with disputing parents, CSA may find that a high proportion of its clients fall in the category of being vulnerable.

CSA could introduce case management methods that are suitable for vulnerable parents, as outlined above.

Professional Practices

The international professional body Association of Arbitration and Conciliation Courts AFCC publishes documents about collaborative practices that enhance the welfare of families after parents have separated.

AFCC documents and other sources recommend psychological therapy for high conflict parents who remain distressed by the separation process, to ensure that their hurt and anger does not disrupt the welfare of their children.

AFCC documents ask family assessors to assess the rehabilitation potential of vulnerable clients.

Australian family assessors might adopt recommendations made in AFCC documents.

4 - Authorise CSA to obtain Assessments

At present, CSA officials obtain information to review assessments from competing parents who dispute information provided by the other party.

Determinations by CSA would be better informed if CSA were able to request independent professional assessments by skilled practitioners on points being debated by parties.

If assessments were provided by registered professionals, then greater accountability for assessment reports could be introduced.

One option is to authorise CSA officials to receive a copy of assessment reports that have been provided to a Family Law Court.

A second option is for CSA officials to be able to request an updated assessment that is provided by a skilled assessor, funded by the Commonwealth Government.

5 – Confidentiality Provisions

Confidentiality provisions of both CSA and the Family Court reduce collaboration between the agencies.

CSA Confidentiality

Confidentiality provisions used by CSA impede the identification of vulnerable families, as CSA insists that all sensitive personal information provided by one party be passed automatically to the other party. When a couple is in a high-conflict or violent relationship, this provision for un-confidentiality deters respondents from submitting sensitive personal information, as they know that a coercive ex-partner may use this personal information to harass them in ways that go undetected by CSA staff.

In my experience, both genders are capable of harassment. Harassment can be commenced by both payers and payees.

I recommend changes to the CSA confidentiality provisions to provide more protection for vulnerable parties.

Family Law Confidentiality

Family Law Courts commonly declare as confidential both assessments they receive and orders they make. Consent of the court is then required before confidential reports can be passed to other bodies. However making assessment reports confidential impedes collaboration between agencies, and allows suspicion to be introduced about the objectivity of assessment reports.

I propose that Family Law Courts routinely permit parties to provide a copy of assessment reports to nominated people who are bound by confidentiality provisions.

6 – Effectiveness of Mediation: Authorise CSA and Family Courts to refer Vulnerable Couples for Psychological Therapy

The Commonwealth Government funds counselling and mediation services under the Family Support budget by allocating block funding to Family Relationship Services FRS.

Clients who are referred for psychological therapy commonly report that they have not been helped by the FRS system, making three comments:

- FRS staff do not want to discuss links between payments and access times as they do not want to become involved in bargaining between parents, and they do not want to give advice about the financial implications of different access arrangements, saying this is not child-centred.
- FRS staff want to be advocates for children and to talk only about impacts of arrangements on children
- FRS staff are not well equipped to deal with the strong and enduring emotions expressed by disputing parents about access to their children.

FRS services appear to identify high-conflict couples as being unsuitable for mediation, and provide these couples with a certificate to exempt them from participating in mediation, allowing the couple to take their disputes directly to a Family Law Court for resolution. FRS services rarely adopt the option of referring high-conflict couples for focused and individualised psychological therapy. Family Law Courts issue an interim order to allow parents more time to resolve their disputes before making a final order.

A proportion of parents then participate in therapy on a voluntary basis, after a long delay and expense.

FRS staff do not prepare reports for Family Law Courts, so they do not pass on information about any coercive practices they observe during mediation.

AIFS report

A report by the Australian Institute of Family Studies AIFS in 2009 evaluated the FRS system. The AIFS report found that FRS services assist about 40% of separated families who are able to reach agreement on parenting plans without going to court. About 20% of parents became estranged as one parent withdraws from contacting their child. About 20% of parents were described as being high conflict couples. This submission focuses on the 20% of high conflict couples who place their children in vulnerable situations, and who are not well served by the FRS model.

The AIFS report indicates that the FRS model provides efficient group education for separated families. It was noted that mediation works well with cooperative parents as mediation relies on mutual good-will from both parties. However mediation does not work well and can introduce risks when parents are in constant high conflict. It is concluded that the FRS model is less efficient for families with complex needs who require individualised interventions.

The AIFS report identified complex issues that produce ongoing concern for family court judges. Judges sought high quality assessments to aid their decision-making with complex topics which included: a parental mental health condition, family violence, parental mis-use of drugs or alcohol, and high conflict between parents.

The AIFS report suggested that family assessments be viewed as initial screening reports that identify topics requiring further specialised attention. The AIFS report recommended individualised early intervention for vulnerable families with complex needs.

AIHW report

A report by the Australian Institute of Health and Welfare AIHW titled "Child Protection Australia 2010-2011" made the following findings and recommendations:

- only 15% of children identified by mandatory reporting need to be removed from the care of their birth families, while many of the remaining 85% of children and families were likely to benefit from early intervention services for the family
- the prevalence of different types of substantiated abuse was: emotional abuse 35.4%, neglect 31.0%, physical abuse 20.5%, and sexual abuse 12.0%.
- that funding be provided for early intervention services for vulnerable families in the period 2012-2015.

The AIHW review indicated that the FRS model is not well equipped to deal with issues that are found by family law courts as being complex. Complex topics identified in the AIHW report include: adult and child mental health that impacts on parenting, family violence, illicit drug use that impacts on parenting, allegations that one parent is attempting to alienate a child from another parent, children with a diagnosed behavioural disorder or disability that affects attachment, and parents in high conflict relationships.

The AIHW report noted a need for more specialised service providers to address these complex issues and to provide targeted therapy and reports to decision making bodies.

7 - Introduce a new Medicare Item for Vulnerable Families

One pattern in high conflict couples is for both parents to portray themselves as being a victim who reacts to harassment from their ex-partner, leading to ongoing mutual negative interactions. While these parents are commonly motivated to change and to behave in ways that are best for their children, they want their ex-partner to change as well.

Often children of high conflict parents misbehave in response to the constant arguments they are exposed to, and then develop diagnosed mental health conditions.

Skilled therapists are able to address mutually negative interactions if they are funded by an item that supports sessions where both parents are seen individually and together. Individual therapy for parents assists parents to find new ways to manage their own emotional reactions of hurt and anger associated

with the separation. Joint therapy sessions focus on coordinated changes from both parents, ensuring that interactions do not harm children.

Effective therapy for high-conflict separated parents addresses topics including:

- strong emotions arising from the break-up of the relationship
- different perceptions between ex-partners about reasons for a break-up and implications for future parenting
- building trust between separated parents
- accepting the end of an intimate partnership relationship while continuing in a parenting relationship with the same person
- reducing mutual negative interactions and introducing reasonable negotiations
- discussing child-centred practices
- cooperative and parallel parenting as two acceptable forms of collaborative parenting.

Therapy is less effective when one parent adopts an entrenched position and declines to change. The entrenched pattern becomes evident very quickly, as entrenched parents decline to participate in therapy aimed at change for the benefit of their child. Entrenched parents do not move past an approach of making accusations and being derogatory about their ex-partner.

Therapy for high conflict couples can be provided by skilled private psychologists who are supported by a new item in Medicare's universal Better Access scheme. The current Medicare scheme supports individual therapy and is not suitable for family therapy as the allocation of 10 sessions per year is insufficient for high conflict couples who have multiple issues, and the requirement for the primary client to be present in all sessions prevents focused family therapy.

A Medicare item suitable for family therapy when vulnerable couples have complex needs would:

- permit a therapist to see relevant members of a vulnerable family
- permit a therapist to contact relevant services such as schools to enhance therapy
- permit a therapist to provide treatment reports to relevant services such as CSA and Family Law Courts.

An allocation of about 24 sessions in a year is identified as a suitable number of sessions to treat high-conflict parents in a complex family situation that is being addressed by a judicial body.

8 - Review Access Thresholds

The three agencies of CSA, Department of Human Services DHS and Family Courts all take an interest in the percent of time a child spends in the care of each parent (time-allocation). While CSA and DHS now use the same framework for assessing percent of care, the Family Law system does not use the same framework.

The Family Law Act encourages parents to participate in shared care arrangements, where a child spends substantial time with both parents as specified by a judge.

The time-allocation threshold before parents can claim a Family Tax Benefit requires a child to spend 35% or more of nights in the care of the parent. This threshold is 5 nights of care per fortnight. This 5-night threshold is disruptive for school children as they do not go to school from the same house on each day of the week, and children can become disorganised on the day when they are in the care of the second parent.

Clients report that lawyers often encourage them to seek access arrangements to benefit from the financial system, even if this causes some disruption for their child.

The threshold for the Family Tax Benefit leads to some parents arguing about whether one parent actually meets the threshold. Allegations are made associated with this threshold about whether:

- one parent is trying to deny the other parent access to the child to keep their access below the threshold, and to improve their share of the benefit

The threshold for the Family Tax Benefit provides a financial incentive for high conflict couples to put their own financial benefit ahead of the interests of the child when debating access times.

It would be beneficial if all Commonwealth agencies were aligned and used one clear threshold for access when calculating financial benefits, where that threshold promotes the best interests of the child.

9 – Review Thresholds for Re-opening cases

Family Law Courts are guided by a principle that, once a final order has been issued, a case will be re-opened only if a party can demonstrate that there has been a significant change in circumstances. Many judges set this threshold at a high level so that children are not exposed to continuous litigation.

However the high threshold for re-hearing cases deters people from bringing disputes back to a family law court, and appears to contribute to increased decision-making by CSA officials.

CSA officials receive reports from one parent who alleges that access arrangements have changed in reality, and these parents ask CSA to adjust payments to fit the new reality.

Two suggestions are made to address this dilemma:

- that final orders issued by Family Law Courts be stated more flexibly as Five Year plans, rather than as a single order that can soon become outdated
- that disputes between parents about a change in circumstances be referred to an assessor who is skilled in this area, and who reports to an agreed authority.

10 – Accountability of Assessors

At present, assessments conducted for Family Law Courts are declared confidential by the court that receives the report. While the emphasis on confidentiality is intended to protect clients named in reports, the confidentiality also protects report writers and does not reduce suspicion about the objectivity of reports.

At present, no agency in Australia accepts ongoing responsibility to audit the quality of assessments provided for family law purposes.

It is proposed that Australian Family Law Courts accept a role of conducting regular quality assurance exercises on reports that are submitted to them, using a system that evaluates reports against Practice Standards that are agreed with relevant professional bodies.

It is further proposed that overall results of these quality assurance exercises be published both to ensure public confidence in assessments, and as a resource for continuing professional development for interested professionals.

Sincerely,

Dr Don Tustin

Clinical Psychologist and Director