



# **FAMILIES NEED FATHERS**

***How to get the best CAFCASS  
report for your children and  
yourself***

**An FNF Guide  
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## ***About Families Need Fathers***

FNF is a registered charity set up in 1974 to promote the rights of children whose parents live apart to have the full involvement of both their parents in their lives. This is what most of them want, and what most of their parents - residential and non residential want. But there may be many barriers especially if the parents are at odds.

The first task of FNF is social care work - supporting and helping parents whose children do not spend enough time with them, or who fear exclusion or marginalisation. We are the only nation-wide source of this support\_

The second task of FNF is the sort of lobbying and educational work that charities have always done. Some changes in the Law and many changes in attitudes and procedures have resulted from our work.

We, and our cause, are subject to prejudice and misrepresentation. As a result not only our lobbying but also our social care work is almost wholly dependent on volunteer effort and membership subscriptions. Please support this work by joining, making donations and recommending us to sources of funds. A form is at the end. We also welcome volunteers. The most urgent need is for people to staff our accredited telephone helpline.

FNF is an equal responsibilities organisation which respects diversity.

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## ***Abbreviations, definitions and notes***

FNF	Families Need Fathers (Registered Charity) Supports Families post separation
CAFCASS	Children & Families Court Advisory and Support Service
CFR	Children & Families Reporters
FCWS	Family Court Welfare Service, one of the services incorporated into CAFCASS.
FCWO	Former name of CFR's
GAL	Guardian ad Litem
'Sexism'	Sometimes defined (e.g. by the National Association of Probation Officers, who 'represent' many staff in CAFCASS) as something only women can be victims of, is here used in an even-handed way, as unacceptable discrimination on the grounds of sex or gender.
RP's	Residential parents
NRP's	Non-residential parents Mothers/fathers - Most residential parents are mothers and non-residential parents fathers. There are exceptions, and occasionally other categories for example, for example in combined families. In the interests in simplicity the paper tends to equate RP's with mothers and NRP's with fathers. It is important to remember the exceptions and that most of what is said about male NRP's will also apply to female ones and so on
'Contact'/Parenting time	FNF dislikes the term 'contact' as it implies a slight, brief relationship. Parenting time is the better term.
Combined Families	The term preferred by FNF for when, for example, a stepfather joins the household of a RP and her children. The currently usual term 'reconstituted family' gives an impression of the restoration of a wholesome position. Often things are worse than before, especially if a natural parent becomes excluded as result
One Parent {or Single Parent) Family	These terms as used often exclude, almost by definition, a parent living elsewhere. They may be one parent households, but there are few one parent families

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## Introduction

Many FNF members get distressed at the treatment they and their children receive at the hands of CAFCASS. Some of the ways 'Children and Family Reporters' (the title of the officers who do most of the work in the 'private' family law arena), and in particular the constraints under which they work, hinder them from providing the service that we (and many of them) would like to see. There are also, of course, examples of individual incompetence and prejudice. It is only to be expected that a government service will share some of the values and prejudices entrenched in society. In the family courts these prejudices often translate into fathers (or nonresident parents, including some mothers) being seen as at best only a source of money and at worst a nuisance or even a danger to their children. FNF exists to promote the view that the parents are of equal value to the children, to oppose sexism and to channel distress and anger in an effective way. As our membership grows in numbers and our voice is heard more and more widely, some of the obstacles to fairer treatment may be challenged.

In the short run, however, CFR's remain extremely powerful people in the lives of parents and children.

What usually happens when there is a dispute is that the court asks for an 'independent', 'professional' report on what will be best for the children. It is usually CAFCASS that is asked to write that report. What they say is usually decisive in the court hearing. If our children and their parents are not to suffer as a result, we have to learn how best to handle the CAFCASS officer to get a report that is best for our children and ourselves. This note will *end* with some suggestions as to how the CAFCASS service could be improved. The theme, however, is how best to use the service that will, whether we like it or not, have a major say, perhaps *the major* say, in the outcome of court proceedings affecting your children.

Making the best of the system that exists may involve behaving as if you accept it. To refuse to accept it may, to you, appear to be acting on principle and to be an honourable and right thing to do. It may also result in worse decisions for your children and yourself. The stance of this paper is that the educational work of FNF should tackle what is wrong with the system. Those individuals whose future relationship is being decided should put the welfare of their children first.

An example is the research by Liz Trinder (Trinder and others 2002). She suggests that 'contact' works best if there is a 'gender contract'. According to this, a mother whose status as the superior parent is acknowledged by the father may 'in return' support the children's rights to contact with him. If, in your personal situation, you have to appear to make this concession to get adequate parenting time, you should do it. Your sense of injustice at this should be channelled into work for FNF and the campaign for equality.

You may come across people who claim to have challenged the system successfully. Such people understandably, want to tell the world. People who have challenged the system and lost are less likely to say so.

In court proceedings, the judges and magistrates know nothing about the children or the parents except what they are told. The statements of the parents and their representatives will be regarded as partisan. The court will know nothing about their personalities, backgrounds or characters. A central task of CAFCASS is to investigate and make an 'independent', 'professional' report on the children's situation and on factors bearing on the children's future. Obviously such a report will carry a lot of weight. However defective the findings might be, they may still be seen, by the court, as

the best available.

If the court fails to follow the recommendations of the 'welfare report' it is more likely, in FNF's experience, to do so in accordance with the mother's objections rather than with the father's. And while there are exceptions, it is usually the mother's position that strengthens if there are challenges to the welfare report that result in appeals or further enquiries. This is for two reasons.

First, most people involved in decisions about children seem to pay more attention to the views of their mother than to those of their father.

Secondly, challenges result in delays. During those delays, the children are usually under their mother's control and the longer the situation persists the stronger her position normally becomes.

For these reasons, **the welfare enquiry for all its deficiencies represents the father's best chance to get good arrangements for his children.** While *some* fathers do get better arrangements for their children than the CFR recommends, they are the exceptions. They have to be lucky, skilled, determined and - increasingly - wealthy. While it may be possible - though even then not easy - to challenge welfare reports that are flagrantly wrong, there may be no remedy to less obvious biases and errors.

## ***This Guide***

A guide like this is a living document subject to constant amendment in the light of experience and feedback. Please tell FNF how you find it, and of experience that indicates where this note might have got it right or got it wrong. The position your children and you are in, is in part, the result of the activity and (mostly) inactivity of past and present fathers. Give future fathers the benefit of your experience and activity by staying an FNF member and giving comments on this and other matters.

Remember, however, that the test of this advice is not whether it supports you in action, that you feel ought to be justified, but *whether it results in you getting more involvement with your children than you would have done otherwise.*

No guide like this can deal with every case, situation or person. The emphasis is on requests for 'contact' and 'residence' orders with some application to 'parental responsibility' orders. It does not cover 'specific issues' or 'prohibited steps' orders. While elements of it can be adapted to those, there is too much variety in those situations for a guide to deal with them all.

While I suggest you consider what this guide says, in effect it remains only the opinions and judgement of the author and helpers. You must decide for yourself the extent to which it suits your children and your situation and the extent to which you will use it

To those professionals and others not involved with, or not sympathetic, to *Families Need Fathers* who may read this, we have this to say: people join us because they want to see things changed, either in their own situation or for children separated from a parent in general. This report is written for a particular group - those fathers who want to be more involved with their children, following divorce or separation, than the conventional arrangements and/or that their ex is willing to grant them. It reflects the experience and views of people who have attempted to 'ask for more'. As a specialist voluntary organisation in the Family Court arena we will generally not see people who are happy with or resigned to the amount of contact their children get, or the procedures they have been through.

Personality factors are also obviously central to issues as complex and emotional as the arrangements in families splitting up. Scrupulous respect for the truth is an early casualty when feelings get as strong as they do in family conflicts. We recognise this, and allowances have been made in the writing of this report for likely biases and exaggerations. An increasing number of fathers are, however, coming to us not with complaints (which may be difficult to check) about how they have been treated, but for advice on how they should proceed. We welcome this - much more can be achieved. This guide is for them. FNF involvement from an early stage also enables reflective members of society to see what happens as events unfold, and to form our own view of the factors that are in play and what weight to put on what we are told by the parties. Our impression is that fathers who wish to stay involved with their children face a whole battery of problems, social, personal, practical and financial

Welfare reports and court decisions are only one part of a much wider set of issues.

They can, however, be crucial, not only because of the formal decisions but because of their effect on the morale of fathers. The recommendations and the way people feel they have been treated, influence whether or not they feel able to cope with the other difficulties of contact, and whether or not they feel the contact they get is worthwhile for the children.

Our overall picture is of striking - even shocking - variety in the attitudes shown and the quality of the work done by the courts and of those in and around them -

CAFCASS practitioners being only one. At their best, we are impressed, although again and again lack of time and back up may lead to the sorts of distortions, which are inevitable when resources are lacking. At their worst, they are quite unacceptable. Often, to the extent that they are far from satisfactory, our impression is that they sway the balance overwhelmingly in one direction - giving insufficient attention to the needs of the children to have their father involved. This can cause psychological as well as formal damage. All too often fathers come away from the process, not only with what they feel are inadequate decisions, but feeling that their contribution has not been recognised or valued by the authorities.

As the concluding section shows, we do not want to attack the concept of welfare reports or the role of Children and Family Reporters. Rather, we wish to support those in the role who want to improve standards and, especially, we hope to encourage the highest standards. We also believe that the views and experience of fathers, who want to be fully involved in the lives of their children following family breakdown, should be given more attention than they have been given so far.



## ***The Organisation of CAFCASS***

CAFCASS is supposedly a national organisation, divided into 10 regions with separate management arrangements, which should not, however, affect service delivery. However, these represent the amalgamation of Children and Family Reporters from over 50 former probation services, as well as the Guardians ad Litem service that had local panels, and parts of the national office of the Official Solicitor. These all had different local as well as national practices. Attempts are being made to reduce these variances, in particular through the adoption of core values on childcenteredness, opposition to discrimination, transparency and respect for the parties involved. The effects of these changes are awaited with anticipation.

Nonetheless, there is significant local variation in working practices, and individual Reporters may have considerable discretion on how they tackle particular situations. Reducing variation and diffusing good practice is likely to be a long-term project. Monitoring or research into the family aspects of the work of the CAFCASS - or before it, the Family Court Welfare Service - has been, to put it mildly, a neglected area. It is just starting, with especially one very useful work, Buchanan A., Hunt J., Bretherton H., and Bream V. 2001. *Families in Conflict* Policy Press, Bristol. This type of research does not attract much funding, statistics are not kept by the Court Service or CAFCASS. CAFCASS reports rarely quote research and when they do, they do not use research consistently or objectively. **A common complaint is that a small piece of poor research is quoted which supports a personal view.** This is scarcely surprising. The law supports the idea that the 'welfare of the children' should be paramount, but does little to limit subjective views on what that might consist of.

Research into family breakdown and the consequences for adults and children is similarly of a recent and still highly incomplete sort. CAFCASS will no doubt continue to measure their performance according to how often the court follows their recommendation, a standard previously adopted by the Probation Service. This is not necessarily a healthy indicator - it can lead practitioners to try and meet the prejudices of judges. The fact is that little is known about what happens, after a Court hearing or a welfare report. It is not even known whether children get the contact ordered or recommended. Typically the file is closed when the report is written. There is usually no follow up, and no record is kept of outcomes. Individual Reporters will not always be informed what the court decided, in cases they reported on, and no-one in the service will know the longer term developments, unless or until another report is ordered. CAFCASS is committed to changing this, and a bill currently (October 2005) in Parliament may change this, but little has happened so far. at the start. This is of course good news. It still indicates a narrow agenda, and a deep prejudice in **NAPO**. The proper test for discrimination is not whether fathers are denied *any* contact, but whether they get shared residence orders and equal status as parents, including adequate parenting time. (NAPO 2005)

However, for many individual Reporters there is, alongside a commitment to advance the interests of members of groups considered to be wrongly treated, a belief that people should be treated as individuals and not stereotyped. The commitment to treat people fairly irrespective of their sex is supported officially by CAFCASS management and by the CAFCASS *Service Principles and Standards* ([www.cafcass.gov.uk](http://www.cafcass.gov.uk)) However, it would be surprising if the attitudes of CFRs were not influenced not only by the values promoted by many of their colleagues but by the impressions some of them may

have got earlier in their career. While recent recruits come from other disciplines, many CAFCASS workers came from the Probation Service of which the Family Court Welfare Service was once a part. Their background and training was in crime. The inmates of prison and those convicted of serious and especially violent or shocking crime are overwhelmingly male. While the pattern is changing slightly, women appear in the criminal justice system mainly as victims or, if offenders themselves, as inadequate people needing help. This is the image of men and women still mostly peddled in social services. As with judges too, it is only in family work that they will come across men and women as they more usually are. It is reasonable to fear that workers in the criminal justice system may be more likely to see the darker side of men and the needing-help side of women, than would be seen by people who work with a wider cross-section of society. This is compounded by the feminism that dominates social work training and their professional debates. Nowhere is this more the case than over the issue of domestic violence. Objective evidence is that extreme violence is disproportionately male-on-female, but that it is also rare. If you define 'violence' - actually the preferred term among scholars is 'aggression' - in such a way that the behaviours are at all common it is effectively gender neutral. (Archer 2000) According to the British Crime survey the ratio of male on female violence to female on male is broadly 3:2. (Walby 2004) Violence to children is broadly gender neutral. Actually some types are disproportionately mother-on-child (Cawson 2000) Nonetheless, family disputes en masse are treated as likely to involve male-on-female or male-on-children violence.

However, in your individual case, if you challenge or provoke the CFR with these views you are more likely to be seen as reactionary and bigoted, than to win a convert to your point of view. It is clearly in your interest, and in the interests of your children, to show that you are not dominant, selfish, insensitive, inflexible, and that you have an ability to control impulses etc. If you strike the Reporter as a helpful and decent bloke, the sheer contrast between this and their expectations may work to your advantage.

The culture of the other main service that went into CAFCASS - the Guardians ad Litem - was importantly different. Again there is diversity, but practitioners were (and are) likely to be better qualified, have much more experience of children and have skills and training in communicating with children. They also often had more time in which to do a proper job for the children on whom they reported and whose interests they were charged with promoting. The impact of these values on CAFCASS is broadly welcome, although few FNF members will, in the short run, have ex-GALs preparing reports on them. Mostly they will remain in the 'public law'.

Nonetheless, have serious concerns, albeit of a different sort about their values.

GALs mainly deal with cases where there are concerns, sometimes, extreme ones, about the treatment the children have had from their parents. They have been abused or neglected, or there are substantial fears for their welfare or safety. GALs may expect this. Nearly all the work done by GALs and the courts in these cases is mother-centred. Few of 'their' children will have had positive male parent figures in their lives. Their fathers are commonly absent or worse. New partners of their mothers (the most dangerous people to children, statistically shown to be more likely to cause harm) may not be stable or powerful positive factors in their lives.

GALs are much more likely to be child-centred, but are no more likely than CFRs to have, on the basis of their training or experience, positive views of fathers and father figures.

More frequently, the Courts in complex cases, will appoint the original reporting officer as a GAL. In such cases, the CAFCASS reporter takes on a more important role within the Court proceedings and has the support of their own legal representation. If there

are concerns about their previous reporting or a poor relationship has developed between one of the parents and this officer, then matters are likely to take a turn for the worse.

## ***The Role of the Welfare Enquiry***

This note should be read jointly with another paper - the *CAFCASS Service Principles and Standards*. This can be got from their website: [www.cafcass.gov.uk](http://www.cafcass.gov.uk). This section also needs to be supplemented with local information. The 'official' information should come from CAFCASS offices. Also talk to the local FNF branch or contact. Because of this it will be brief.

There is considerable variation in the situations in which welfare reports are ordered, how they are prepared and how they are used. Individual courts and judges have their own ideas to which their courts and their agents - including CFRs - will need to conform. Within these different sections, individual Reporters have considerable discretion. This paper is not a substitute for advice from your local FNF group or solicitor or someone else who knows how things are done in your patch. Once you think a welfare report may be ordered in your case, you should make enquiries about local practice.

The welfare report is prepared for the court, and at the order of the court, and must address issues that the court wants to know about. Normally, one of the parents will have applied to the court for some order concerning the children. At an initial, or 'Directions' hearing, the judge may order a welfare report if s/he thinks it would be helpful.

CAFCASS must then prepare one. The way they do so is up to them but they will try to act in a way that is acceptable to the judge. That judge is, in turn, charged with applying the Children Act, which includes the famous 'welfare checklist' on the factors that should be considered in making orders. CAFCASS will also be trying to conform to their *Service Principles*. These latter, however, are internal CAFCASS guidelines. They are ones they aspire to conform to, and which CAFCASS sections and individual Reporters could get into internal trouble for not living up to

If all goes well this is simple enough. But beware of snags. If the report is *not prepared* according to guidelines - which seems to happen often enough - that does not give grounds for *a legal complaint in the court*. For they are only guidelines for practitioners. CFRs are answerable to their seniors in the Service and not the court over *Service Principles*.

Even if the report does not conform to the Children Act, it may still be used by the court - if the court decides to do so. It might well do if, for example, it decides that delay would be against the children's interest and this report is all it has.

Most welfare reports contain recommendations. Where this is the case, judges usually follow them. They are not obliged to follow them and they can overrule them if there are, in their eyes, good reasons. The Judge relies on a 'professional' opinion and is unlikely to disregard a report willingly. District Judges, and others in your local county court rely very heavily on their relationship with the local CAFCASS Officers and are very reluctant to go against them. One of the commonest grounds for appeal is that the judge did not follow the recommendations of the CFR, especially if the judgement departed from them without giving sufficient reason. Those reasons could include deficiencies in the welfare report but, as stated above, even poor reports are usually heeded.

Our impression is that more recommendations seem to be wholly or partially ignored at the behest of the mother than of the father. Overall, it is far better to have a satisfactory initial report than to have **to** challenge one later.

A common factor is for reports to re-state allegations as if they were fact and to fail to even report the counter-allegations of the other parent.

To obstruct the preparation of a report, or to overlook evident defects in the preparation

of a report, in the hope that it can be discredited later, is to invite disaster.

## ***The Preparation of the Report***

Methods vary locally, according to the policy of the courts and the local CAFCASS office. This note cannot cover them all. It concentrates therefore on matters of your personal style and approach, which are probably the most important things anyway. They can be adapted to the local methods.

Your local FNF group should know local practice, so should solicitors. The local CAFCASS office itself should explain how things are done. A courteous request from 'a service user' (that is what they will call you) to be told what to expect will be treated as quite reasonable and will normally be dealt with correctly. Many -perhaps most - services have a leaflet on how the service works. Do not, however, try to challenge their approach for that may label you as uncooperative.

Things that vary locally are whether CAFCASS proceeds directly to making a report for the Court, or whether there is first an attempt to get the parents to resolve their differences other than by a contested court hearing. If they do the latter there are variations in how it is done and whether a judge is involved in those attempts or not. There is increasing emphasis on trying to divert parents away from contested court hearings, which nearly always require a formal report.

Sometimes the Service reckons to see the parents and/or children at home as part of their normal procedure. Sometimes they virtually never do so, and sometimes they do it if they see a need in particular circumstances.

Some may try to see the parents together, but others will see them separately. They will nearly always respect a parent's wish not to have joint meetings. Sometimes they want the children to come along to joint meetings, sometimes they do not.

The Children Act puts a lot of emphasis on the wishes of the children. There is a lot of variation in how these are assessed. This is a very difficult area, especially where young children are involved. Most CFRs are aware of this and will not (and certainly should not, unless they are highly trained, experienced and have enough time) try to oversell their assessments of what the children want. Nonetheless Judges, who know even less, may grab them and give them an authority that they do not merit.

Services also vary in what enquiries they make, for example from schools, doctors, or from the police or social services.

Sometimes the CFR will have read background papers, for example statements from the parents for the court. Sometimes they prefer to keep an 'open mind', and will know nothing or virtually nothing until they meet the parties and the children.

The Reporters vary enormously in what they know of the law. Some claim that since their reports are about the children's 'welfare' needs, legal knowledge is not needed. Others are well informed. Sometimes Reporters work in teams - perhaps one male and one female - and sometimes alone. Sometimes they have formal checklists of issues to explore; occasionally these are even scored. Sometimes they only have an implicit list of questions regarded as relevant.

The form and delivery of the report also varies. It should address the questions before the court e.g. a report for a parental responsibility order will be different from one for a residence order. It should deal at least implicitly, with the Children Act 'welfare checklist'. It should contain how the report was prepared i.e. who was spoken to or observed. It should contain background information - e.g. ages and backgrounds of the children. It will often contain summaries of the views expressed, and the CFR's assessments where appropriate. It should set out the options and the relevant arguments on each. There may be definite recommendations, but not always. If there are they may vary in how specific they are - for

example over defined contact.

The whole thing is likely to be written in 'court speak' rather than in plain language. While Reporters try to be direct and simple, they often overlook how full the 'normal' language of the service and the legal system is of words and phrases that other people do not understand. There are elaborate courtesies and euphemisms designed to communicate the intended meaning to others in the legal system and the profession while showing (perhaps exaggerated) respect and without giving offence. For example, CFRs will rarely tell judges *directly* that they think they have got things wrong or have made a mistake. At times, their style becomes 'political correctness'. Don't worry, what they are saying will make sense to you if you work at de-coding it, and the court will know what it means.

In some areas reports will be checked for offensive or biased language or intent, especially over race and gender (sex). The checking is almost invariable in our experience for anything derogatory about women, ethnic minorities, gays - no, lesbians - and disabled people, and not for stereotyped statements or beliefs about fathers or contact parents.

You are entitled to see the report, and to make your reply in your statement to the Court to any points in it you cannot accept, and to any deficiencies in it. You now have the right - thanks to FNF lobbying - to cross-examine the CFR in court on their report. Cross-examination simply to attempt to discredit reports is likely to rebound on the people doing it - unless very evident faults are found. However we are keen that our members raise these issues if they apply. (But please do not do so if it might have a negative impact on your children, perhaps by getting you the label of a difficult customer.)

If the children were not seen with both their parents in both homes, this should be raised. Where some credence or authority seems to have been given to allegations -for example of violence - but these have not been verified, this should be challenged. Where the children were spoken to, but not in a neutral way or in a neutral situation - for instance within the earshot of the respondent parent, this should be raised.

We are keen that the 'report template' always carries information about the training and experience of the officer completing it, so that the court can assess its authority. If this is not there, ask for it, although only the barest of bones are usually given.

A very common criticism, which does not seem to bother judges as much as it should, is that any recommendation should actually arise from the preceding argument and evidence. CFR's should be under pressure to justify their recommendations. On what basis they recommended this amount of contact and not more and so on...

Where there are specialist issues, such as Parental Alienation, the examination of the CFR needs to be rigorous. It is a very easy cop-out for the CFR to take at face value statements of alienated children that they do not want to see their 'other parent'.

## ***Your Response to CFR Methods***

'Tactics' to 'deal with' the various approaches of the various services - and the different practices of the individual Reporters within them will, in the majority of cases, be less important than they may seem at the time to parents in the midst of the conflict.

In the majority of cases what it comes down to is how you strike the individual Children and Family Reporter as a person and as a parent.

This will show in how you deal with whatever particular approach they present you with.

This note now deals with two topics - Parental Alienation Syndrome and Mediation, before moving on to Dos and Don'ts.

## ***Parental Alienation (Syndrome) PAS***

PAS is defined by Richard A. Gardner MD., Clinical Professor of Child Psychiatry, Columbia University, and American expert in this field, as

A childhood disorder that arises almost exclusively in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified and so the parental alienation syndrome explanation for the child's hostility is not applicable.'

'The term is applicable only when the child has not exhibited anything close to the degree of alienating behaviour that might warrant the campaign of denigration exhibited by the child. Rather, in typical cases the parent would be considered by most examiners to have provided normal loving parenting or, at worst, exhibited minimal impairments in parenting capacity. It is the exaggeration of minor weaknesses and deficiencies that is the hallmark of the parental alienation syndrome.'

One parent (generally the RP) sets the child against the other parent (the NRP) such that the child, *apparently spontaneously and genuinely* says they do not want, for example, to see the other parent. With the increasing emphasis not only in the *Children Act* but in other national and international law, on the child's own wishes, PAS is becoming much more important. Most people in the system now recognise that the interests and wishes of children can be quite different from those attributed to them by their fighting parents. The parent, who can get the children to voice the parent's beliefs and wishes as their own, is clearly in a stronger position than one who may appear to be trying to impose them.

Children (thankfully, most of the time) love and trust those who care for them, believe what they are told and that their parents know what is best. They want to please their carers and don't want to upset them, especially if it is something their carer feels deeply about and they are going to have to live with the consequences. Hence they say what their carer wants, genuinely believing it, because they feel it would be wrong to say anything different, or because they are nervous about what would happen if they did. In the nature of the situation, what they say cannot be treated confidentially, although skilful CFRs can use it sensitively. Needless to say, it is usually the parent who has the children most of the time - hence the mother - who is in the stronger position to influence the children.

It is best not to use the term PAS. There is controversy about it. In a recent Court of Appeal hearing. Lord Justice Wall (now the Deputy President of the Family Division of the High Court) said

'I have no doubt that parental alienation is a phenomenon that exists, though it is not a 'syndrome'. It is hostility and the Court can deal with that'



Also, since we will assume that you are not a psychologist or a psychiatrist, we suggest that you use simpler terminology, to explain what is going on (brainwashing, schooling or coaching the children, or simply influencing the children against you in an unwarranted way). The BPS (British Psychology Society) do not formally recognise PAS and CAFCASS officers in our experience, will often deny its existence altogether.

There are a few experts and others questioning the present role of the children's wishes but they are still lonely voices. In part the doubts are about the fairness of imposing too big, too complex and too long-term decisions on children - they should be adult responsibilities. Also, children need and want both parents - ideally together. Asking them to choose between them is not a child-centred thing to do. *It is a child-hostile question, required not by the child, but by adults and an adversarial court system.* In part the doubts are about the crudity of the ways in which children's 'wishes' are 'ascertained' and used. In particular, deep and professional studies of the bonding of children to adults, using experienced people skilled in relevant techniques may show radically different results to replies to questioning from strangers in stressful situations. In-depth studies have shown that even people who the children might be expected to have half-forgotten may feature strongly in their inner lives. When the issues are complex, as they may be over different amounts or patterns of contact, or they are hypothetical, like how the children should split their lives between their parents whom they are used to having together, it can be difficult to make the issues real to children, without biasing their replies. FNF members have claimed, for example, that judges have summoned children into their offices with no warning or preparation and baldly asked them what they wanted, and that CFRs have put their own questions to the children, only in the presence of the mother.

If your child is reported as being reluctant to see you, or you fear that, and suspect Parental Alienation is the reason, it is imperative that you raise your concern with the CFR. Typically, CAFCASS will not have access **to indepth studies**. What one can ask for is that the report is written in such a way that undue reliance is not placed on questionable findings. Mostly, you will find the Reporter receptive. They are often full of uncertainty themselves. It is helpful to understand that the CFR is not usually a "specialist". They may have a child qualification but are only generalists in their role. Another relevant tip - if you think there is a risk of no contact being allowed, do not let that become set in concrete such that you have later to re-institute proceedings for contact when there has been none for some time. Instead, ask the CFR - and the court - for their advice and support in a plan to restore contact, perhaps in a controlled or phased way. That way, instead of an open-ended no contact situation, you may end up with a programme for it to be instituted.

Focus on ways of '*making contact work*'. This is a pet phrase of the Family courts, following a Government paper on the subject and should always be the focus of the CFR. A hostile parent will always focus on the negative.

If handovers are difficult, you might suggest that you collect the children from school on Friday and return them to school on Monday morning. Not only does this enhance the time the children spend with you but it also protects them from conflict and enables them to see you having a responsible role in their schooling. The same can be done for overnight stays during the week

### ***Mediation/Conciliation***

Various approaches to getting non-adversarial outcomes to disputes may go under various names - conciliation, mediation, and 'conflict resolution' etc. There are technical differences in the approaches, There is much literature and often ill-tempered hair-splitting

among 'experts' about the best methods and the correct use of terms. In common, however, they seek to avoid, or reduce the scope of, contested court hearing. They attempt to substitute either an out-of-court agreement, or a court order to which both parties have (however reluctantly) agreed.

*FIVE cautions you against out of court agreements.* If you have complete confidence in your ex, fair enough. **But** if they are not respected, you may have to start all over again. And the court will often ignore the fact that there was once an agreement, or what it contained, or what it said about what the children were used to. By the time you are back in court, the broken agreement may seem history. In contrast, a court order *based on consent* will normally be better than a contested hearing leading to an order to which one party objects.

Attempts to get agreements can take various forms. 'In court' conciliation meetings, in which the parties, perhaps with their legal advisers, meet with a judge and a CFR and they try and thrash out an agreement seem to be increasingly common. Sometimes these can lead direct to a formal order. Sometimes there is a registered agreement which falls short of an 'order'. If this seems on the cards, give it a lot of thought and be ready with proposals and reactions to ideas from the other side. If you can, have a friend in Court. We think it is wise to ask that your agreement be made into an Order to avoid any future misunderstandings. Be careful that the wording is clear, unambiguous, detailed, etc...

In-court conciliation and negotiations just outside the courtroom, are highly risky situations. Quick deals can be struck and hidden implications or omissions are often not noticed until later. Clever lawyers can pull wool over the eyes of the innocent. Be prepared; particularly be aware of the full range of questions that need to be covered. The Department of Constitutional Affairs' Parenting Plan is very helpful here. It is a checklist of issues that need addressing. This helps you to consider how you both use your Parental Responsibility appropriately.

*Things may happen very fast and fudges may try and impose settlements in hearings they may be in a hurry to see completed.* There are accusations of bullying, sometimes of the mother if she objects completely to contact without a reason that the judge can see but more commonly, we believe, of the father about how much contact there should be or how it should be organised, on the basis that the children are less his concern. Try not to be intimidated. If the meeting is labelled as conciliation, you still have the right to go for a full, contested hearing. *You may come under considerable pressure to 'do a deal'. But a court order based on consent cannot easily be appealed. It is very easy for a stressed and inexperienced person to be stitched up. Go if you can with someone who knows the ropes. The sort of things that are often overlooked are: family events, such as children's birthday; specifying whether 'holidays' mean annual employment holidays or school holidays, overlooking bank holidays. Does weekend contact mean from Friday night to Monday morning or from sometime on Saturday to sometime on Sunday? Another example: Court orders may be deemed unenforceable if not absolutely specific about when, where and by whom, hand-overs, are to take place. For a court order to be ruled to have been breached, it must specify every detail of the handover, nor do agreements as to what the arrangements should be 'count'. It also has to say a place, etc. We recommend that the responsibility to facilitate contact is explicit in any order and that that responsibility is given to the resident parent or main carer.*

Sometimes if there is no agreement the issue is adjourned for a formal report. There may then be another attempt to get agreement, this time with CFRs alone. If it is still necessary there will be a formal report made for a contested hearing, perhaps before the same judge. In other places there may be other arrangements to get agreement, which the parents are formally referred to or recommended to try - such as Mediation, Family

Conciliation or the services of Relate. See the appendix on useful addresses. Most CFRs and Judges will take a dim view if you refuse.

You need to be clear what is going on and who is doing what. It can be pretty confusing. People, and particularly judges, are often in a hurry and assume parents know what professionals take for granted about the way things are dealt with. If necessary, try and slow the people involved down so that they can explain. For example, the links and connections between the various services are variable. The 'terms of reference' of different services may also vary. For example, issues of housing and finance and residence and contact often interact. Some services will deal with this interaction, others will not.

An issue you will have to address is how detailed you want the specified arrangements to be. Very detailed arrangements can lead to petty disputes, both about getting them agreed and then about applying them. They lend themselves to smallmindedness. On the other hand, if the parties cannot co-operate and think that the other party will exploit every loophole, they make everything clear. Do what suits you, and what you can trust yourself and your ex with, but FNF's inclination is towards being as specific as possible about as much as possible. The parties can always agree to variations later. Take advice about what can be taken back in the event of breach. For example a hand over arrangement not only has to state a date and time, but a place.

Only agreements *made in court*, and/or endorsed as *an order made with consent*, are *formal orders*. Agreements made elsewhere can, of course, be taken to the court to be turned into orders based on consent but that needs to be done *formally or they will have no official standing*. *Judges will often not wish to accept these at face value*

If you can get an order by agreement without losing too much, you will be better off with one. You need to make an ice-cool calculation of what the court is likely to give you, taking into account the probability of that being much less than you think is right. Take advice on this, and take note of what the welfare report says. If agreement will give you one inch more than you think the court will give you, take it. *Only go for a contest if you think you will win more than is offered in a deal*. A mistake often made is to reject what is offered in an agreement because it does not seem fair at all and then go to court and be awarded even less. This may be a good reason to break the rules and point out what was already on offer but it can also backfire if the Court takes the view that you were not reasonable.

You need to accept as a brutal fact that you may not get what you think is right, and therefore accept what you think is, realistically, the best for your children that they will get. Remember, however, that you cannot easily appeal against an order based on consent. You would have to demonstrate that it was not what you agreed before you could even apply to appeal.

While the process of seeking an agreement is voluntary, you should think hard before refusing it. It makes you look negative, and however 'privileged' that information might be, it tends to get out. *But do be assertive about delay. Delay works to the residential parent's advantage*. Do not, for example, agree to the formal legal proceedings being put on hold while you and your ex go to Relate or Family Conciliation. Such suggestions often come from your ex's solicitor, because while they may argue that it is 'reasonable', it undermines your children's relationship with you.. There is probably nowhere where the rule 'possession is nine-tenths of the Law' applies more than in Family Proceedings. The children are normally in the mother's possession and unless there is something very wrong with that, it is usually confirmed. And the longer it has been in place, the more likely it is to be confirmed. Certainly do not agree to any delay if you think your children are being poisoned against you. Time almost invariably makes this worse

If CAFCA5S tackles both the negotiations and the formal report, the same people cannot be involved in both. This will be formally complied with, and you will have to repeat all your arguments, but the people involved in both stages will work out of the same office and will both be talking over problems with the same superior. One reason for being 'constructive' in the negotiations is to have a good reputation if there is an enquiry.

## ***Dos and Don'ts***

Many of these listings could be reduced to two - Be a good (contact) parent and Make sure the Children and Family Reporter knows you are a good (contact) parent. In due course FNF might be able to produce a '*Contact Parent's Manual*, which would deal with general issues of good parenting in the difficult position many fathers find themselves, and with the specific problems many of us have. The lack of such a manual is the result simply of lack of resources. There is of course a wealth of writing about being a good parent, some of which is directed at, or adaptable to, the role of fathers. Some of it deals with the impact of divorce and separation too. Some of the advice books for single parents are useful, even if you may need to read some sections 'from the other end' (e.g. the powers residential parents have are the ones contact parents do not have).

The Home Office sponsored FNF book: *For the Sake of the Children* by Sue Secker is indisputably the best guide. It lays out the best emotional stance for parents living apart and has a lot of relevant, if now slightly dated, practical information.

Get in touch with the INF office for our *Parent Support Workshops*. These are the tiny beginnings of what we hope will eventually become a nationwide service. In these, non-resident parents share emotional and practical advice. There are increasingly courses, sometimes in conjunction with local *SureStart* projects for fathers and nonresidential parents, but they sometimes take for granted levels of, well, ignorance, hostility and stupidity that FNF members will find insulting.

Most good general libraries or bookshops will have a section of books on family matters. *501 Ways to be a Good Parent* by Michele Elliott Hodder and Stoughton 1996 £8.99 is an excellent and lively one by a writer (she is Director of *Kidscape*, the charity concerned with keeping children safe and well) alert to the concerns of children in less than ideal situations.

**Do** - find out how the CFR will be tackling the issue. While the CFR may decide some things on the hoof, like whether home visits are necessary or who else to talk to apart from the parents and the children, it is very useful to know what they propose. If you are not told, ask. How long the meetings will last; how many meetings/interviews are planned; who with; under what circumstances the children will be seen (i.e. with mother taking them and the children knowing she is in the room next door and will be speaking to this officer afterwards)? This gives you an idea of how to pace yourself, and what opportunities there are for you to have your say, and what you need to tell them, that they will not learn elsewhere.

**Do** - co-operate with the enquiry. As said above, the welfare report is your best chance. Assuming you have no skeletons in the cupboards, the fuller and more accurate the report is, and the better your rapport with the Reporter, the better you will do. Moreover, dealing with children, with contact/residence and the inherent difficulties, requires patience, tolerance and flexibility. It is only human if the CFR judges how you might approach these difficulties by how well you deal with the requirements of the enquiry. That may be all they have to go on

If you have skeletons in the cupboard, it is better that the Reporter hears about them from you than from elsewhere. Put your own point of view, firmly but quietly, over any incidents or accusations. Obviously you must deny false and malicious accusations but extreme and over-angry denials carry less conviction than calmer ones. Ask for any allegations you deny to be 'checked out'. If any complaints about your conduct stick, you will win more credibility by addressing them directly than by trying to wriggle away.

Remember the Reporter should be concerned with the welfare of the children. Violence against children, for example, would clearly be a serious matter. If the accusation is of violence against your ex-partner you cannot expect the Reporter to ignore it, but if you have been a good parent to the children and they have a good relationship with you, point it out as that is now the issue. Together with (if relevant) any changed circumstances, for example, that the break-up has reduced the stress between you, if that is the case. There are recent studies that claim that violence inflicted on mothers continues and may even increase after parents have stopped living together, and that the continuing relationship that contact with the children involves may provide the occasions for it. Be prepared for the CFR to be concerned about this risk, and make sure nothing in your behaviour gives them any reason to be worried. If you fear lies or false allegations, try and have a witness present at relevant times, e.g. when the children are changing hands. The best witness is a middle-aged woman who is not related or involved with you in any way.

**Don't** challenge the Reporters. They are the ones preparing the report and ultimately they have the power, not you. You need them on your side. You are more likely to get them on your side by being courteous, informative and helpful at the outset. You need to be, at all times, constructive and willing to be of assistance to the Reporters and to your children. This does not, however, involve you being a doormat, or allowing them to get away with bad practices. If the Reporters are doing something unfair - for example seeming to give credence to an accusation that you deny and they have not verified, say so. But do so politely, making it clear that the welfare of the children requires thoroughness and fairness. See 'assertiveness' below.

If they do not seem to be addressing an issue you consider important - for example the children's bonds with grandparents - don't launch into it too early or labour it too much but find an appropriate moment to flag it up and ask for it to be dealt with.

**Do - be child centred.** Remember the Brecht play, *The Caucasian Chalk Circle*, based on a biblical incident attributed to King Solomon. The judge had a child custody case to decide. The parent who wanted the child most, he declared, would have him. So he drew a circle on the ground, gave a peasant woman and the Lady an arm of the boy each, and said, 'Pull as hard as you can. Whoever pulls him out of the circle is the one who needs him most' When the child screamed with pain, the peasant woman lets go. The Lady declares herself the winner. Custody was awarded to the peasant woman. The circle was a trick to see who was more concerned about the child. *A crucial test for the CFR will be the extent to which you put the children first.*

The report should be focused not on the adults or their standing or virtues in the wider world but on the needs of the children and the *parenting* skills of the adults. The CFR is far more likely to be sympathetic to an adulterer who gets down on the floor to play with toddlers, than to a father who has never missed a day's work - even when the kids were ill. The crucial thing for you to emphasise is what *involvement* you offer the children, and the positive things, which that will bring to their lives. Qualities and vices elsewhere (such as work performance) are relevant only to the extent that they will enrich or diminish the day-to-day life of the children. Emphasise what you do with them, and the care, pleasure and benefit that they derive from it. Draw attention to things that your children do or will gain from doing with you and to things that you have done with them and activities and skill that you can share. Emphasise things that are complementary to what the mother has to offer. For example, sporting and physically energetic activities, and skill in technical things, like making and repairing equipment are things that men are more likely to be able to offer than women.

Children for their rounded development need these things as well as the things that more women can offer than men. Since the traditional allocation of tasks and skills is partially breaking down, point out what applies specifically in your family.

**Do - be 'assertive'. 'Assertiveness'** is an 'in-word' in the circles in which Reporters work and there are workshops and training in it (sometimes women-only). The idea is to be articulate, firm and effective in getting one's view across, but also how to be courteous and respectful. This is particularly important to fathers, who may have to overcome stereotypes about their role and behaviour and, often, local 'custom and practice' about what is appropriate - for example that contact every-secondweekend is what is 'fair' or 'works' or is what children want' If this does not suit your children or you, you will need to be 'assertive' of your point of view.

**Do - try to co-operate with the other parent.** Obviously, you would not have got this far had this been easy. However, both for the sake of the children and in order that the CFR gets the right message, you need to be flexible now. Neither the Reporter nor the Court will have any direct knowledge of any frustration you may have had in the past and the state of mind it might have put you in. Try again from a clean slate if you can - sometimes the other parent is more reasonable in a new situation, 'in public' and with a formal adjudication on the way. If not let it be clear who is helpful and who is 'difficult'. If your ex is being difficult try and think why and what you can do to help her overcome obstacles to her being cooperative. This might involve some sacrifices in your pride, but it is in the interests of your children and yourself.

**Don't** - spend time going over your marriage or running down your ex. By all means air your pain and anger with your friends and adults in your remaining family not *as part of the court welfare enquiry*. That is about the future of your children, and that requires you to address *their needs* not *your feelings*. This is not to say that you cannot mention feelings or things that have happened- but do not let it come across that they will interfere with the job in hand - which is *helping the children deal with their pain, and ensuring that they grow up with as little damage as possible*.

Parents often use threats to their children's rights to residence and contact as weapons against their ex-partners, as we all know. The parent who has moved beyond that stage is more likely to impress a CFR. Children need and love both parents, and since people are different, two people are likely to have more to offer than one. If you are a father fighting for contact, or more contact, a willingness to support and complement the parenting your children will get from their mother will come across as showing more concern for the children than attacking her. So if her garden is full of broken glass where the children cannot play, don't just say she does not have a garden for them to play in, say you will offer to clear it up so they can. If she refuses, she is the one who seems negative.

If you are going for sole residence, things are evidently more difficult. As attitudes stand, it is not usually enough for a father to be simply the better parent. There usually has to be something desperately and permanently wrong with the mother and her parenting. It may be difficult to get this across to the CFR who may regard allegations extreme enough to justify a father getting residence as implausible, unless there is 'evidence', such as that from police or social services. You too, will be aware that there are many cases where totally evil parents are supported in having residence of their children.

Remember the stark statistics - an absolute majority of male-headed single parent households are the result of the death of the mother. This is a reminder of how rarely men get sole care of the children. To attack your ex with accusations sufficient to get residence - *and still*

*not get it* - may simply threaten the cooperation that will help contact arrangements.

**Remember the medieval adage:**

If you would strike the King, be sure to kill *stone dead*.

**Do** — ask for a shared residence order. It is indicative of the change that FNF has been largely responsible for, that in an earlier version of this paper this was not even mentioned!

There is an important distinction first of all. An order that both parents should have residence orders does not imply any specific allocation of parenting time. Point this out to people who reply 'the children need a settled home' or that '50:50 does not work' (Everything works for some people, nothing works for everyone). A residence order to both parents signals to them, the children and the authorities that they have two homes of equal value. They need to be accompanied by contact orders to both parties that specify how parenting time is to be shared. There is nothing to stop both parents having residence orders and for the parenting time to be a long way from equality. Those people who say that shared residence orders cannot be given because children cannot be 'divided up like the CD collection' are missing the point -sometimes deliberately\_

Shared residence orders were once virtually unknown, the reason being given was that shared parenting required co-operation . This was evidently missing, if the parents were in court. This argument no longer applies, at least in the court of appeal. It still marches on, however, in lower courts and in CAFCASS. If this is mentioned, look up and use the article in *Family Law* by Lee Arnot of September 2005, where relevant cases are cited. Mention too the case *A v A* in which Lord Justice Wall stated that shared residence signals the equal status of their parents to the children. (cited in *Family Law* above). Also there is an unsupported belief that children need one home and that two homes are confusing. In fact human beings are the most adaptable creatures on earth and two homes provide more stability because the children are able to feel secure about both their relationships. Point out the changed attitudes and case law. Point out that modern gender equality attitudes expect parents to be put on an equal footing. Point out that a shared residence order has important symbolic effects especially to the children who have it acknowledged that both parents have an equal status and one is not inferior to the other. Point out finally, as stated above, that a shared or joint residence order does not mean that the children are divided into two equal parts. There will still, normally, be a contact order which specifies what amount of time they are to spend with each parent, and that this can still be whatever the Reporter/Court thinks is best for them. Point out that it does not mean that the parents have to agree everything. It is still the case that, presuming both parents have Parental Responsibility, (and that there are no relevant *Prohibited Steps* or *Specific Issues* orders) that whoever has the child in their charge can do whatever a responsible parent is entitled to do with them in that time. There is now a significant literature over what is called *Parallel Parenting*. The central thrust of this is that, except where there are very young children involved, there are no great issues involved for the children in being with parents who do quite different things with them. Indeed *parallel parenting* may more commonly lead ultimately to more co-operative parenting than the subordination of one parent to the other.

**Do - oppose No Order being made.** There is something called a "No Order" principle. This means that the Court can make an Order that there be no order with regard to a particular issue, where it is in the child/ren's best interest. But in fact 'no order' is in fact an order to the effect that the parent with physical control can do what she (occasionally he) likes. Use this argument to discourage a situation where you believe that granting residence to



one parent will lead to a position of one being able to exercise power unilaterally. If you fear this, give examples of the other parent saying: I am the main carer. I can make the decisions. I can do what I want. Don't - imply you feel the couple relationship may not be over. It is important that the CFR feels you have 'let go' and are doing what you can for the children alone, rather than perhaps clinging on to scraps of your couple relationship in the hope something can be retrieved or to get revenge...

**Don't - sling mud**, at least without working out the consequences. Children need both parents, and you will need to show that you respect that need. Mud slinging may be taken to indicate that your anger takes priority over your children's needs. If you are a father seeking contact, you do not need to attack your ex to get it. There will be a presumption that your children have a right to contact unless there is a reason why they should be denied it. (So you do need to defend yourself against any attacks from her).

Be sure that your view of mud is shared with the CFR. The relevant accusations *have to affect child rearing* and there will be different attitudes to some things, for example, to lesbianism. With the possible exception of Northern Ireland there is a consensus that lesbianism is no bar to good parenting - at least unless the mother tries to impose a highly homosexualised life-style on her children. Instead suggest the children might benefit from a range of role models

As in so many sex or gender issues, the same is not the case for men. If you are a 'gay' or bisexual man expect that to count against you, if not in the welfare enquiry, in court. Unless you offer to do everything the mother wants, expect it to come up. However unjustified it is, you may need to belittle, and if possible avoid, any 'political' involvement and be ready to counter, effectively but without overkill, widespread prejudices about gay men and their relationships with children and especially boys. Expect to hear the point it is not him, you understand, but his friends....

Many fathers are worried about their ex's new partners. If there is real cause for concern - for example about abuse - it is imperative that you bring it up. The CFR *should* make police and social service checks, but of course many abusers do not 'have a record' and checks may not be made. The dilemmas arise if there is no *evidence* but you are worried. You have to think carefully about this one. There can be no doubt that the most dangerous people for children are their mother's new partners, but danger, though more commonly from this source, is not usual. There is, however, research that the arrival of a stepparent in the lives of the children is a cause of substantial problems (Ferri and Smith, *Step-Parenting in the 1990's* and Smith and others *The Family Background of Homeless Young People* both 1998 from *The Family Policy Studies Centre*) although actual abuse is a small part of this. However genuine you are, allegations and concerns from you are likely to be seen as alarmist, (and will be described as such by your ex and her new man) and attributed to your emotional state as a result of your loss. Unless you can point to something, you may, by making allegations, merely cause the CFR to think you are not levelheaded, and that impression may affect not only this issue, but also the whole of the report. You have to be very *careful* about how to present your concern. *One way* is to say that because of your worry you want to be sure that your child has strong bonds with you and with other people with whom he or she can talk. One technique of abusers is to try and isolate their victims from people they can trust and to whom they may reveal what is going on.

On the unhappiness generally, point out that new relationships of the parents are frequently not stable in their turn: the natural parents may be the only *permanent ones*. To give priority to a stepparent over a natural one may be to create even more problems if the next relationship does not work either. But in making this point do not let the CFR think you are

either hoping the new family will break down, or trying to put it under stress.

A problem about meetings with the children present is that they may inhibit the parties saying things that are relevant but which should not be said in front of them, for example, criticism of the other parent. This is a case where you may need to be 'assertive', pointing out that you have more to say than you can say now, and either writing or asking for another meeting. It is often useful to write after a meeting anyway, this way you can put your thoughts and issues on paper and ensure that what you said cannot be misinterpreted. CAFCASS have to keep records and should refer to these when writing their report.

**Do be willing to make sacrifices.** The sacrifices that count are those of time and trouble to be with your children. If your sacrifice has been to work a 100-hour week so that your family can have a house with a paddock for their horses (or the same hours, if you are low paid, for a housing association rent) don't expect that to cut any ice. *It is time spent with them that counts.* The time and care children need hold people back in demanding careers and interfere with leisure. Recognise this, and make the necessary compromises. You may have a better life as a result - few jobs or activities bring more pleasure or satisfaction than involvement with children, and those women who accept 'sacrifices' in employment, income and 'power' to bring up children are making informed decisions about what lifestyle is better. Don't - be melodramatic. The CFR will need to believe that you will deliver on your pledges and can live with the consequences. So if you say that you will give up your job, live on benefits and devote your time to the children, you will need to show that, for you, that is viable and realistic and you can cope for as long as you need to - parenting is for life and not until your children are adults or the demands scale down.

**Don't - be petty.** Many discussions get bogged down over things like travel arrangements, usually the mother insisting that the father both collect and return the children for contact, and the father insisting that she do an equal share. If that sort of point is going to obstruct an adequate amount of parenting time, of course it is unfair, but you know what is in the children's interest, don't you?

**Do - be prepared.** Before the welfare enquiry, have some idea what you will say to the Reporters. If they try and facilitate negotiations - and that is very common, have an idea of what you want, both *ideally* - what you would really like - and *realistically*. Be prepared to answer questions and show that you have thought through how you would deal with problems - for example how to take the children to school and then get to work on time. Remember to think about Christmas, school holidays (they will come, even if your children are still babies), summer holidays, birthdays, your illnesses and theirs. It is often assumed that women will naturally take these things on board but that men will not

A most useful way of preparing is to use the Department of Constitutional Affairs *Parenting Plan*. Actually this is not a plan at all - it makes no recommendations. But it is a very useful checklist of the things that have to be covered in a plan. Use of it makes it much less likely that you will not think of something.

You will want to be firm about two things - *an adequate amount of involvement*, and that it is *defined*, but be as constructive and helpful as you can over how it is organised. You need to meet to the fullest extent possible the difficulties your ex has, and have evidently good reasons for demands you make e.g. that the children's summer holiday with you should be when the works are shut.

There is a point of view expressed in the literature on disputed child custody that fathers'

contact demands are not motivated by concern or love for the children. They are just really pretexts for re-asserting male control over the mothers. *Make sure this accusation cannot be believed of you* - your demands should be for the needs of the children, limited as necessary by the constraints in your life but imposing on your ex no more than is essential. When it comes to discussing what the parents have to offer the children, think about what you will want to draw attention to. Activities, ideas and qualities that you have. Be positive, but some candour and a little self-deprecation is human and endearing. Be much fuller on your own assets than attacking of your ex. That shows you as more generous and respectful of the children's right to a good relationship with her too. Let these points come out in response to questioning from the CFRs. If they do not, at some point most Reporters will ask you if there is anything else you feel needs saying. Mention it then. Remember that it is often assumed that mothers naturally know how to look after children, especially babies. No such assumption is made for men and this can be a problem, especially if you have been denied contact and the children have changed since you had any involvement. Mention any care you have taken of your children, experience of other children (nieces, nephews) and emphasise willingness to learn and to be responsive to advice and their needs.

**Do - mention the wider family.** Children of divorce commonly lose not just their father, but all the relatives and friends on that parent's side. Mention your parents and brothers and sisters, and especially any cousins and other children of the family, especially if of similar age. Outline what you propose to do, to support the children's bonds with them. Other members of your extended family may apply for contact independently of you, but they require permission from the court before they can do so. It is not always helpful and adds to delays and the burden for the Court. If your contact application fails, then they may need to seek that Otherwise, ask for your contact to be enough to cover the children's need to see your family.

Do not - over prepare or go in with a file of papers and documents. People who go in with full diaries of events, or sheaves of 'evidence' or tapes of phone calls or long rehearsed speeches make a very bad impression. At worst, of being obsessive nutters; at best, of being people insistent on getting their views across rather than trying to sort out what is best for the children in a spirit of goodwill. You are advised to keep records and evidence for your own sanity and reference, and to prepare exact statements and evidence for court hearings, but the welfare report will go on *impressions, skills, attitudes and personality*.

Do not - play the lawyer or legal games. The welfare enquiry is to discuss the best living arrangements for the children. It's not the place to debate the detail of the law or legal precedents. This will give the impression of being legalistic or trying to score points. If the Reporter makes statements that indicate ignorance of the law, for example that shared residence cannot or is not granted to parents in conflict, make a firm but not aggressive point to the effect that you believe this to be wrong and they need to check.

Do not - mention membership or activity in **FNF**. The reputation of FNF as a constructive, child centred, gender equality charity is spreading. However there are still corners of CAFCASS where we are thought of as a group of angry, disturbed men. If your membership gets to the 'other side' there is a substantial risk that their lawyer will say that you are trying to use the children to make 'political' points. Put your children first, do not take this risk.

**Do - be brief.** People are often tempted to explore exhaustively every incident, especially contested ones. As a result, important general points can get lost. Instead, be aware of

the basic points and keep them separate in your mind from the illustrations. For example, if your ex says she is always the one who deals with the school, do not waste precious time debating every detail. Simply say that what she says is not true; you have had significant dealings with the school. Then ask the Reporter (or the court) if they want you to go into the detail that would back up this claim. In this way you give the impression of being able to back up your points, but without losing the central issue.

**Do - seem calm and relaxed.** Easily said, not easily done. The stereotypes say men are powerful, determined, articulate, and women are intimidated and over-awed. It will probably do your ex no harm if she gets distressed or angry, indeed it might win her sympathy. *The same does not apply to you* It is likely to be interpreted as a sign of personality problems.

Whether the stereotypes are generally true or not, they are not true in family proceedings. Here, in FNF experience, it is mothers who are more likely to be confident and resolute (How many times have we heard the phrase "Why can't he just accept that they are my kids?"). It is the men who feel threatened, confused and agitated, and who display all the symptoms of the fight/flight syndrome. Do not let your feelings take control.

**Do - have a child-centred home (if you can afford it).** Nearly all CFRs make home visits. Many do them routinely. The latter group mostly say they learn a lot, seeing how the children are and whether they relate in a relaxed way or not to the parent they are with. They say it is easy to see how welcoming the home is for children. Within limits the material wealth (beware expensive and unused toys) and cleanliness of the home is less important than whether it seems a loving place for kids to live and play. There should be cheerful bedrooms with worn teddy bears and tables covered with the tacky clutter children love. There should be age-appropriate posters on the walls (but beware nude females even for teenage boys), places where it does not matter if paints get spilt and so on. Have family photos up -including those of the mother and her side of the family. That shows you respect the children's need for her too. For very young children their intimate objects - the chosen raffle or mobile or quilt - should travel with them or be *exactly* duplicated.

Think safety: keep medicines out of reach, sharp knives secure, guards for fires and cookers, etc. Place children's videos on the floor near the TV / video / DVD player and place adult videos on a high shelf. Show the visiting officer some of the favourite books you read.

***All this will be seen without any encouragement from you. It is not uncommon for the visiting officer to use the toilet and later to comment in a report that there were medicines lying around.***

In contrast, one CFR has told me of seeing one austere bedroom in which a Bible and a cane were conspicuous. She, and the court, backed up the child's declared wish not to go there and the father's righteous rage reminded her, she said, of Hellfire!

**Do - strike a balance between fun and order.** The right balance between discipline and relaxation is hard enough in any family. It is even harder in separated families. Some fathers, feeling that the mother's home is slapdash and the children are too long on their play station, get harsher and put children under more pressure. Others, desperate for their children to want to come and not to have any conflict in precious contact time, are over-indulgent. A home visit may show a CFR something of the styles; discipline is a probable topic in the conversations with the parents. It is corny but necessary, to say that there needs to be a balance and that it needs to be age-appropriate, but an important thing is the extent to

which the parents work together. Children do not necessarily bond more with indulgent parents than with stricter ones. They need to have fun, and laughter is a hugely bonding thing for babies, but what they respond to most is involvement and loving attention.

Older children know that different people have different rules, but younger children need more continuity. Try and negotiate common standards, but do not try and undermine the other's rules, even if yours would be different - another case where complementary help is likely to help your case more than criticism. You may find yourself compromising more than you would like. See this in context. It may well be less important than losing adequate contact and will help to lessen conflict.

It helps contact, and the normal and healthy development of parent/child bonds, for the father to have 'mundane' contact time as well as 'quality time with the children. FNF encourages fathers to ask not merely for contact in leisure time and in holidays, but for contact when both parent and child are going about their normal life. It must be said, however, that this is not easily obtained. Resident parents will often claim that they do not have quality time with the children because you want all the weekends. This claim will be listened to. Counter-claim that you want parenting time with your children when you are having 'ordinary' times. So that the children get a balanced view of yourself and your ex. In the longer term children should have role models of their parents as both paid workers and carers. Be realistic, however. These points are usually ignored.

**Do - think about continuity.** We hope for his sake that he is now benefiting from God's mercy and not God's justice, but the appalling legal precedents set and writings by Lord Justice Ormrod live on. In setting contact, he wrote, the courts have to balance the benefits of that against the 'repeated disruption of the child's normal life'. Happily, most lower courts and CFRs regard paternal involvement in a child's life not as disruptive or abnormal and they seek to preserve continuity. If you had a regular pattern of involvement, for example, you always took the children swimming on a Saturday morning, or took them to their grandmother, say so and ask for normality to be preserved. The burden of proof **will** be on those who want to change that sort of thing. Make the polite but necessary point that disruption is not caused by frequent changes that have become routine, they are caused by conflict, which you seek assistance to avoid. The CFR will feel valued if you ask for assistance.

**Don't - be afraid of offering to change.** Many fathers who have left most of their involvement with their children to their partners only realise how important their children are to them, and how big a mistake they have made, when the bonds are under threat. Obviously, the more involved you were, the stronger your position will be. If, following separation you want to do more than you did before, the onus will be on you to convince the CFR and court that this is what you now wish and that it will benefit the children. Children and Family Reporters will want children to have an involved father but will make a cold assessment of sincerity and commitment. Exploit this goodwill - but if you want more contact expect to have to work for it, and to earn it.

**Don't - misread CFR 'friendliness' or 'hostility'.** Part of a CFR's role is to establish a relationship with the service user. If the CFR seems to be very nice and paying attention to your point of view, this does not mean to say they will report in favour of it. Conversely, they may seem to be giving you a hard time - for example about whether you really want or could cope with residence - but if you give them convincing answers to difficult problems, you should get credit for it.

**Don't - issue ultimatums.** Diplomats understand relationships. The role of ultimatums is to offer the opponent the choice of humiliation or war. They are only used when things have got that extreme, and when the politicians issuing them think the balance of arguments in favour of the two outcomes are *exactly* balanced. Or when they know the outcome and are attempting to shift responsibility. Fathers are often tempted to force a choice - if they do not get their minimum contact, they will have none at all. *You should never do this* - for two reasons. First, your children will suffer and secondly, you will lose the war. The mother has the power, but the father is the one who will lose sympathy by making threats, not to her, but his own children. The CFR and the court will not usually be impressed by fathers trying to use threats rather than argument about the needs of the children, to get their way. The bluff will usually be called. The father has to eat his ultimatum or act out his threat, which usually involves denying his children the contact *they* probably desperately want but which *he* deems inadequate.

Negotiate hard for adequate contact, but *do not refuse any*. It is easier to increase contact later than to re-institute contact lost especially if that resulted from the father's choice. Think not only of your feelings now, but also of what you and your children will think in future years, when anger may have receded but the past cannot be changed. As the poet said: The moving finger writes, and having writ, moves on, nor all thy piety nor wits lure it back to cancel half a line Nor all thy tears wash out a word of it.

**Do - respect race, religion and culture.** Britain is now a very mixed society and minorities confront special problems. CFRs see it as important that children who may face prejudice have a strong sense of self-worth, a positive attitude to the culture from which they come and that they are equipped to deal with prejudice. A child of mixed race or mixed culture will normally be seen by the Reporter as belonging principally to the 'minority' one but as having special needs to have their mixed origins respected. They will point out that everyone should show respect for the rights and values of other groups in society, but it is particularly important that parents respect their children's rights in this regard.

There is not the same perceived *personal need* to equip children from 'minorities' to deal with the 'dominant' or 'host' culture. The institutions of the wider society, such as school or the mass media together with a self-confident child will be seen as enough to achieve that. A parent from a 'minority' culture is therefore seen as being able to meet the needs of their children in ways that a parent from the dominant one cannot.

The perceived need to respect children's ethnic or cultural origin also extends to religion, but with more ambivalence, especially in the case of religions where there may be tension between their teaching and the values of the CFRs, the court or the wider society. Many close-knit religious groups will offer considerable material and social support to people trying to keep children in the faith. Some are quite unscrupulous in how they attempt to keep children with a parent who adheres to their faith.

The need to recognise difference does not extend to sexual orientation. If the mother is homosexual this will - normally - make no difference. If the father is gay this will count against him

**Do avoid making any statement** about anything that could cause you to be labelled as prejudiced in any way, but which in particular may show disrespect of any feature of your children and their family, background and heritage. If there are any prejudices in the 'residential' family mention them (the reporter will often pick up the hints) but do not make big issue of them, - certainly not to the children -but say that they need alternative role models. And live up to them.

**Do - remember the long term.** The CFR interviews and report are only events in a saga that will go on until your children have left home. Even court orders that are obeyed are only a stage - they will need varying by the court or informally by the parents. Keep one's options open and particularly do not do or say anything that will interfere with productive negotiations later. Do remember that children are developing all the time - a complaint from some Reporters against fathers is that they may get 'stuck' in an earlier stage in the child's development, especially if they have been denied contact.

### ***The Big Question: how much parenting time to ask for***

There is no set answer. Only you can decide. But you have to do this in a context, and there are three elements to this context.

- What meets the child/rev's best interests and wishes,
- What is right for you and what you wish for, and
- What it is realistic to ask for. We believe the latter is the biggest problem.

As a good and involved parent what should be ruled out of order is your exclusive control. It is no part of FNF policy to assert the exclusive right of either parent, unless one parent poses a threat to the children putting them at risk of serious harm. Even if one parent is quite unable or unsuitable to look after the children, in most cases the children will benefit from some form of contact. This is often the only way that they can get answers to fundamental questions about their background that they need to know. Even white children born of native British parents and in Britain have dual heritages - that of both families - to explore.

Assuming that both of you, the parents, are caring and loving parents, the most you should be asking for is equality in time. In practice, this is often difficult, with two homes, school, travel etc. The question is how close to that is in the children's interest - and obtainable.

Does anyone still remember *The Hitchhikers Guide to the Galaxy*? A detail of these cult programmes was a coffee vending machine, which has such science fiction technology that it could extract from the taste buds in the noses of the customer exactly the perfect coffee flavour for them. And it then gave them the same disgusting brew irrespective of the assessment.

CAFCASS can on occasion be like that. Whatever the investigated circumstances, the recommendations will usually still be for contact every second weekend and half the holidays. There is no research or other basis for this or indeed for any other 'formula'. There is little reasoning usually of any sort, beyond the very elementary points that the children are seen to be in need of one base for the school week, and both parents should share leisure time. The little research is not easy to interpret, for some children with shared parenting feel they are passed about like parcels, but some are very positive about it.

'Over half the children regarded living in two households with some positive feelings, or with no major negative feelings. Positive feelings were associated with being given an active role in decisions about how much time was spent in each household.' (Dunn and Deater-Deckard 2001)

The conventional ration has simply become conventional. Cafcass consistently fail to recognise that multiple good homes also provide stability even if there are different rules and expectations in those homes. This is no different to the difference between home and school life and children cope with these differences without any ill effects. What does matter is that expectations and boundaries are understood, clear, consistent and fair.

In most practical situations the onus will be on the mother to show that the children should have less than the 'conventional ration' and on the father that he should have more.

There has, however, been some creeping up within this 'formula' that can make quite a difference. Exploit these loopholes. They are these.

- That the 'weekend' is not defined from sometime on Saturday to sometime on Sunday. It is a Friday pick-up (perhaps from school) to, if you are lucky, a Monday drop off, again perhaps at school. This is much more time and gives you contact with school and school friends.
- Half the holidays' is shifting from a week in Skegness and alternate Christmas days to half the *school* holidays for children of that age. Add in time for special occasions - like bank holidays, school training days, yours and your family birthdays, religious and cultural festivals, which should be fairly shared if you cannot go to them together. Add in times special to you -open days at your work, the FNF annual boat trip and so on. Ask for fair share of things like school trips and concerts and plays...all very child-centred and plausible but cumulatively 'every second weekend and half the holidays' can be doubled. Don't forget the half-term holidays.
- If people live near enough, midweek contact is also becoming widespread, say on a Wednesday after school. Gives contact with the school again. Try and press for an afternoon with you, and if you can, go further. You pick them up from school or nursery and take them back there next morning.

FNF has rejected a lot of pressure to opt for a statistical division - say 70:30. The reason for this you will encounter instantly if you mention a 'formula' about what is 'fair shares'. You will be told that the child cannot be divided like a cake or - to use a Ministerial phrase - 'the CD collection'. Mention a formula at your peril. But do mention - the FNF line - things to be achieved.

- That the child feels that she or he has two real parents both of whom are involved,
- that there is no area of the child's life that one parent is excluded from,
- that they have enough time for serious involvement in activities with both parent,
- and importantly that one parent is not simply a carer and the other an 'entertainer' or 'provider'.

Point out that the children should not learn outdated views about gender stereotypes, for example that only mothers are responsible for caring for children and father's for providing. That was one of the fundamental changes The Children Act [1989] sought to address.

Arguments to be deployed are these: that children in general want more and your children in particular do. There are, however, tricky arguments in citing the children's feelings. They should not be drawn into adult quarrels. If you try and do so, they may feel that they are under pressure, and the CFR may feel that you are pressuring them. Moreover, you may provoke your ex to put the children under pressure to say what she wants. And she usually has more power over them than you do. But the general pattern is that they do want more time with the parent they see less of. Usually they want more say in how it is organised than they are allowed. Except in special situations, such as Parental Alienation, your children are likely to be your best allies in getting adequate parenting time. Make sure to the fullest extent you can that your own demands are led by the needs and wishes of the children.

You may wish to go gung-ho for equality. Just as there are those in the shared parenting movement saying that we should go explicitly and vehemently for equality. it is true that only when equality has been achieved will FNF activists feel that we can close down our lobbying and go to the beach. In the short term, however, there is too strong opposition



either generally or in individual cases for equality to be achieved. Be more circumspect. The way FNF introduces 'equality' is to say that this should be *the starting point*. So that departures from it are the ones that need to be justified. This is in stark contrast to what CAFCASS and the Courts practice now - that departures from occasional visits are the ones that need justification. One argument we would like to see used more. That to the fullest extent possible, the children's relationship with their contact parent should be at least as full as it was before the family divided. So children who had previously fully involved fathers are permitted to keep them. The Equal Opportunities Commission data is now that fathers provide nearly a third of childcare. When the family splits this may be cut by two thirds. it cannot be right to do this to children when there is so much disruption and stress and their mother may have less time to spend with them too.

Conversely fathers who were not as fully involved as perhaps they should have been, should say the following. That they had implicitly at least done a deal with the children's mother that the father contributed most to meeting the families needs economically, and the mother the family needs for child care. Now the family has split, that deal is off. You want more of what you were prepared to sacrifice before. Both of you are now contributing to the economic provision and both of you should be seen and understood by the children to be contributing to their emotional development, education and routine care.

Secondly, that given the known needs of children, that where the division of their time is under discussion, there should be a rebuttable presumption that changes should be in the direction of more balance

What is obtainable is, sadly, very variable. Judges and CFR's have their own prejudices. Unless there are special circumstances, it is unlikely that they will depart in your case radically from the portions they routinely dole out.

Find out what they are, and press them to give your children that bit more.

## ***If Things Go Wrong***

First, some brutal facts

The CFRs are preparing reports for the court, and are employed by CAFCASS. They are not accountable to you and have no duty to please you. The business of 'justice' regularly includes things that are highly distressing to 'service users'. Many of those whom the courts deal with (especially on the criminal side which dominates their work) are highly manipulative, seeking to exploit any real or technical irregularities in order to avoid or soften decisions that they would rather avoid. The behaviour of such clients may - even if it should not - affect the atmosphere in which any complaints or protests from you will be heard.

You need the support of CFRs; they do not need yours. Whoever is responsible for anything that goes wrong, you and your children are the ones likely to suffer, and it is in your interest to get things back to where they should be. Think of this like being a pedestrian. You are at a zebra crossing, with a right to cross. A lorry is approaching too fast to be able to stop. You might want to 'take his number' and denounce him.... But you do not insist on 'your rights' and walk into its path do you? Still less tell your children to cross. Yet people do the equivalent things in the family courts! Being in the right does not stop you - and your children - getting run over.

Forget pride, your strategy should be to think at every point - what *outcome* do I want? What is the route to that outcome? Your final objectives are (I assume) to preserve and develop your relationship with your children. The immediate ones are the orders from the court. Unless you think it will help with that, do not get into sideshows, such as tangling with the CFRs over how they draw up their report or particular things they said or did.

You will have no say in who is allocated to your case. While isolated individuals have achieved this, you will not normally be able to get the person changed or a second report done except in unusual circumstances, the most usual of which is the lapse of time or change of situation since the previous one.

The Welfare Report is often transmitted direct to the Court, and to you or your representative from there, although it is increasingly happening that you may be given an opportunity to comment on or correct a draft. Ask beforehand, what the local situation is. However, if you do get a chance and there are errors of fact or visible biases, there is no reason why you should not ask the author to correct them. S/he may, however, say that your points should be addressed to the court and not to the CFR

Under The Freedom of Information Act and The Data Protection Act the CFR has a duty to provide balanced information, giving both sides of the story. It is the CFR's duty to provide such information to the Court and it is no excuse for the CFR to say the report is the property of the Court, address the matter to the Court. The CFR has the option to address the issue by amending the report before submitting it or, after submitting it, to withdraw it and submit another, to write an addendum report, a letter or memo or even e-mail to the Court. There is no excuse for any failure to provide such information to the Court. Issues about the opinions, judgements and recommendations in the report are matters for the court.

If things go wrong, there are ***four levels of complaint***.

**The first is** to reason with the Reporter. If you are firm, but not angry and have a case this may work - for example, you have not had a chance to say all that you wanted and want

a further meeting, or that they should check allegations made with the school or the doctor. The **second** stage is to go to the CFR's superior. Again, be firm, brief and courteous. Writing may be better than calling - it is under more control, and there is a record. Draft it carefully, and get advice if possible. *Remember that the test of this letter is whether it has the right result, not whether it expresses your feelings* If the letter has to be a long one, try writing it in two parts - the first part making the central points, which should be read in full, and the second providing the supporting argument and evidence. *These two moves - reasoning with the Reporter and senior - are probably the only options that may make a difference before the report is sent to the court.* Ask them to consider one of the options as outlined in the paragraph (Under the Freedom of Information Act) above.

Note: If the CFR is to attend Court for cross-examination, require the CFR to bring files and correspondence complete with contemporaneous notes. The CFR cannot then deny that the issue was brought to their attention. Have available (served and filed) your copy of the letter with proof of posting (free at any post office on posting a letter over the counter).

**Third**, is what you say about the report in your written and verbal statements to the court. Again, do not seem angry or extreme or over-long. The best phrase is perhaps to use 'court speak' and outline certain *limitations* in the report and to put to the court what the report *might* have said if certain things had been done or not done. The courts are used to such euphemisms. If you use them, it might make it easier for the courts and the people around them to think of you as a 'balanced' person making reasonable points rather than someone voicing the indignation they associate with criminals.

A regular complaint of FNF members, to which there seems to be no easy answer, is that things said by the mother tend to be reported by the CFR as true, but things said by the father as allegations. A fair report should clearly distinguish between what the CFR was told, and those parts of the report which reflect the CFRs own comments and judgements. Both parents should feel that their point of view was fairly reported, even if they disagree with each other. Those parts of the paper, which are the CFRs' own assertions, should not show bias and should be fairly and accurately reported. If there were a bias towards believing women, it would accord with what is said in some of the literature and training for Reporters and other social workers that the claims of women are to be 'believed'. FNF thinks that the views of both parties should be *taken seriously* and be *subject to equal scrutiny*. In the long term, one would hope FNF's educational work might combat bias. In the individual case, the only thing that can be done is to be forthright about it, and to make formal complaints, in the hope that future reports will be fairer.

Legally, the report is a court document and the CFR a Reporter of the court. This special status in some places and some time ago was used to justify its contents and recommendations not even being revealed even to the parents or their representatives. The Act of Parliament which set up CAFCASS also specifically permitted the cross examination of CFRs. FNF claims the lion's share of the credit for this change. There is, however, a protocol between the Family Division and CAFCASS which attempts to minimise the time CFRs spend in court. If you need to cross-examine the CFR, insist on your right and get it on the record.

We are still learning, however, the best ways to use this right to cross examine. In extreme cases, where the report is clearly wrong-headed there is a case for trying to discredit it overall. In the majority of cases, however, it seems that a more cunning approach may yield greater dividends. This is to challenge selected aspects of the report with a view to bolstering your case for your children to enjoy more parenting time with you than was recommended. An example might be whether the reporter had thought of the need for you to have sufficient contact with the school, which would be met by some time in mid-week.

In particular cases specialist representation may be indicated, such as where there are fears of parental alienation. CFR's are prone to take any reported resistance of children to see their 'other parent' at face value and overlook evidence that they may have been influenced. An obvious example is children asserting that they do not want to see their father in language more mature than their age. Many CFRs will argue that 'PAS does not exist' or 'is not recognised'. They have been misleadingly lobbied to this effect. It is certainly true that some experts dispute whether 'Parental Alienation' meets the tests for being classified as a medical 'syndrome'. But these arguments are technicalities for experts. The fact that children can be turned against formerly loved parents is not.

**Fourth**, there are formal complaints. These will follow a procedure different from the court's. They will often take even longer and only if you are lucky will they be of any use to you when it comes to court orders. Get the CAFCASS complaints procedure and follow it. ([www.cafcass.gov.uk](http://www.cafcass.gov.uk)) There are two references, 'feedback and complaints policy' which is a short overview. There is a full booklet 'How to make a comment, compliment or complaint'. This is the one you will need if you are to make a formal complaint investigation. There are time scales to the stages. For example the problem solving stage should be completed within 20 days of the complaint arriving. To date we have many concerns that even at the highest stages, the timescales are not adhered to.

There is, however, a huge ambiguity in the complaints procedure. What can you complain about? What should be argued about *in court* by way of the recommendations being mistaken, and what can also be taken to *the CAFCASS complaints procedure* as bad practice? Commonly the first is because of the second, but there is a strong likelihood that CAFCASS will refuse to accept such complaints because it belongs to the argument in court. The complaints procedure fudges this one. Make sure you base your complaint to CAFCASS on their poor practice, if possible departures from their 'service principles'. The second reservation is that CAFCASS has discretion to block access to the final stage in their complaints procedure which involves an independent person if they think there would be no purpose served. This is wrong, it allows them to block inconvenient complaints\_

The procedure is too new (Sept 2005 for us) to have much feedback although some recent woeful failures have come to our attention. However, we suspect that you are *unlikely to get public satisfaction*. As with all closely-knit organisations, there is a sense of solidarity in CAFCASS and 'supportive management' is what is valued. *There may, however, be more plain speaking behind closed doors than you are aware of* and complaints, provided they are well made, may have a cumulative and long-term effect on the culture of the Service. The author knows of one case where a complaint was 'publicly' rejected, but it triggered on only semi-voluntary early retirement of the officer concerned. In another case an officer who wrote on appallingly biased report has been 'sick' ever since the complaint started to make headway. BUT -

CFRs get extraordinarily little feedback on their reports and what happens as a result of their intervention. They might like to learn from their successes and mistakes but they have no means of knowing which is which. A mother could convince the CFR and the court that she would be fully cooperative with contact, and then shut the door on it totally, and CAFCASS may be even less likely to hear that a misjudgement was made than the court, for it may not be involved in subsequent hearings. The file is closed when a report is written and stays that way unless another is ordered. Such a second report, especially if it is some time later, in a different area or done by a different Reporter, may never be linked with the first.

So, find the time when and if things have calmed down, to write to the regional manager in your area, about how you found things and what became of the children and how their

procedures and attitudes could have been better. These will get attention and the blood dripping on the stone might wear it down.

AND

Make sure FNF knows of your and your children's experience. In this way we can help develop good practice and combat bad.

## ***What to Tell the Children***

It is easier to say what *not* to do than to advise on what is best in a painful situation for you and the children.

Many parents say nothing about parental separation, leaving their children to work out for themselves that something deeply disturbing is happening - or sometimes has already happened - and giving them the impression that they have to cope with it alone. Clearly that is not a good way to deal with the issue. Research shows that this worsens a situation that is already distressing. The children need to have the situation explained to them in ways that they can understand and be helped to express their feelings and fears. If it is possible, they should be reassured that they will keep both their parents and that they will both go on caring for them.

The alternative other parents use is to voice their own feeling about their partner to their children and try and enlist their support on their side. While tempting, especially if a child notices you in a state of distress and asks what is wrong, or if your ex is doing something that is quite unacceptable, this too ought to be outlawed. Whatever your feelings about your ex, the children are entitled to a healthy relationship with him or her and their future depends in part on their feeling good about *both* their parents.

Children also readily think that conflict between the parents must be their (the children's) fault, and that can be very bad for their sense of worth. Sense of personal worth is highly correlated with health, growth, development, school performance etc, and lack of it with later problems such as mental illness, deviance and so on. Children need firm and frequent reassurance that the problems their parents are having are because of their relationship with each other, and not because they have ceased to love their children or because the children have done anything wrong.

Adults in distress, and perhaps with a lot of practical problems too - like looking for a new place to live - easily overlook what their children must be feeling. It is important not to forget them and, if you can, spend as much time with them as possible. If it is really unavoidable to disrupt their regular routines, make sure they know what is happening.

Quite how to achieve these objectives is another matter, and depends on the ages and personalities of the children. A common mistake is to under-estimate their ability to understand. It is very rarely true that a child is too immature to understand at all. Even toddlers can recognise that their parents may not love each other anymore, and are not going to live together any more, and that they cannot agree on how the children will live. For example, that Mummy thinks it best if Daddy did not see them and Daddy disagrees, so are going to see people called judges who will decide for them etc. Obviously with older children much more complex discussions are possible. But to repeat - **do not leave the children alone and frightened, do not try poisoning their relationships, and do not let them feel they are to blame.**

Fathers in particular should note that most children want to spend more time with the parent that they do not see much of. This is the case even if their primary bond is with their mother. Situations of parental alienation apart - and most of these take some time to develop, and mainly develop when children do not have enough contact with their other parent - the children are likely to be your best allies in getting and preserving a good relationship. However, and this is particularly true of older children, they want to have a say in how contact is organised. This is often overlooked by parents, and maybe more by fathers who, having had a battle to get contact, feel that any changes in the arrangements made - often with minimal regard for the wishes of the children - will impact to their disadvantage. We suggest you be very firm in

defending their need and your need for a proper relationship, but that you respect and develop the wishes of the children as to how that is achieved and organised.

## ***Contact before the Welfare Enquiry or Court Hearing.***

If you expect CFR and the Courts to act in a fair or non-sexually discriminatory way, you are living in a dream world and if you are living in a dream world, you are unlikely to achieve the best you can in the world that actually exists.

Nowhere is this clearer than in the contact that does or does not take place pending the welfare enquiry and the hearing. In sum, if your ex denies or harasses contact, her resistance will be interpreted as something that has to be taken into account. The CFR and the Court are likely to bend over backwards to see what she will agree to. If you, on the other hand take 'direct action' it will be interpreted as indicating personality problems that should be held against you in deciding whether you are a fit person to have contact or residence. That applies even if it is action to obtain contact ordered, e.g. at a Directions Hearing. Put another way, it is in your ex's interest to stop or harass contact, for that will indicate strength of opposition that needs to be conciliated. But if you, the father, are anything but 'reasonable' - and that includes being outraged or indignant, that will be interpreted as showing an inability to control yourself in a socially acceptable way. Sometimes of course this may have already occurred. You will need to overcome it. In at least some courts, there will be sympathy. Lord Justice Wall commented on behalf of himself and Lord Justice Thorpe, at paragraph 55 in his Judgement Neutral Citation Number: [2005] EWCA Civ 759, of parents: "but more commonly litigants in person are nervous, anxious or upset. Sometimes, as a consequence, they are less coherent and less self-controlled than they would be in other circumstances." Obviously this has particular value if you were acting as a litigant in person (without a lawyer).

An anecdote told to the author at the time by a father with contact problems who is now a senior manager in the Probation Service (and hence remained on the criminal side when CAFCASS was set up) illustrates the point. He had had his child on contact, in accordance with an order, for just a few minutes when the mother marched into his house and seized her by force. This, he was told by his solicitor, would be interpreted as a loving mother unable to endure separation. And if I took the child back?' The father asked. That, the solicitor said, would be seen as an intemperate man taking the law into his own hands.

As a stark matter of fact, the person who has the physical control of the child decides what contact there will be with the other parent. If it is your ex, the only sanction or right you may have if access is denied or made difficult is to set out your arguments against this continuing to the CFR and the Courts. In the normal case, they will be verbally sympathetic but may not do much. They will feel the primary problem is to conciliate the mother. If it is you, the father, that has control, and you hope either to keep the children with you, or get generous contact, it is imperative you allow liberal contact with the mother. If a father does not allow that - unless there is a very good reason for it- the apparent lack of child-centeredness it shows will be a further argument against his retaining residence. This is of course sexist double standards, but it is a fact. And, of course if the mother does end up with residence, she may reciprocate the treatment she has received.

If there has been continuing long-term contact denial, there are now a few cases in which judges have switched residence to the father. FNF welcomes these warmly. But most of the cases so far have involved fairly extreme situations and longer periods of denial than this note can deal with.

An argument that deserves more attention than it at present gets is that the parent who is most concerned to allow the other to have proper involvement with the other is the better parent and should be put in charge. Although, we would prefer a



situation where there was a residence order in favour of both parents, with defined periods for their authority and control. So neither can dominate the other or the children.

You may be offered parenting time of an amount, or under conditions, you think are unacceptable - for example under supervision. You may well be worried that this will set a precedent, and be inclined to refuse it. And yes, you may be right and your ex may well try and turn it into a precedent. You will want to go on record as objecting to unwarranted restrictions and make sure that the CFR knows of your counter-arguments. But in the majority of cases it is better both for you and, more importantly, for the children to have "less than satisfactory contact" than none at all. If you refuse contact that fact is likely to be reported to the CFR and to the Court with, possibly, rather less prominence given to your reasons than to the fact of your refusal.

If there are objections from your ex to contact, or to unsupervised contact or to contact at your home or with particular people (like your new partner), or she refuses direct dealings with you, you may wish to consider using a *Contact Centre*. These are centres run mostly by volunteer organisations to meet just such needs and related ones (such as parents who have contact way from home and have nowhere to take the children.) The address of their national network through which local centres can be contacted is in the Appendix. It may be useful in certain circumstances, to ask that the reason for using a contact centre is put on record, especially if it is specified by Court Order and distance from your home is the reason.

Contact centres are abused, and they know they are. They should be used when the alternative is no parenting time at all. In fact they are used to harass parenting time when there should be no restrictions. Argue firmly against being required to go to a contact centre, but do not refuse to see your children if that is all that will be allowed. It is likely to be several months between your first application to the court and the final hearing.

One material respect in which CAFCASS is *worse* than the FCWS is that it does not even have public targets for the time in which reports have to be written (it used to be 10 weeks). Fathers may find themselves with very little or no contact for substantial periods, and during that period many mothers consolidate their position - for example getting the children 'settled' in their new school, signing the children up for an attractive programme of activities in the time contact would normally take place, and presenting the new position as the normal one which should not be changed by the court. And they will spin out the legal procedures so that the concrete sets over all this. Frankly, it is difficult to stop this. One simply has to keep up the pressure to ensure that your side is not responsible for any delays, and prepare oneself for it. But do use two arguments. It is in these periods of no contact, where the children hear what their mother says about their father (including why he is not seeing them) and they cannot check this against their direct experience of him, that Parental Alienation sets in. Argue that this must not be allowed. Also argue for 'compensatory contact' - the paying back to the children of the parenting time that they should have had, when contact is finally ordered. But be prepared for the other side to say that the relationship has been broken, and now has to be re-introduced in a slow and 'carefully monitored' way. The argument that the bond has been broken is nearly always bunk. The memory of you and the good times will still be there - only very tiny babies 'forget'.

If you have contact before the Welfare Enquiry or the Final Hearing, what should one do with it, or say to the children? Obviously it is important that it 'goes well', but this is not always

easy. You have the children perhaps for three hours or less, for the first time in perhaps six months; you suspect your ex has been saying vile things to them about you, and you may not see them again before the Reporter does - and both you (and they) are likely to be pretty hyped up. You have to make up your own mind what to do, but my feeling is that you should keep things low key and 'normal' (no Disneyland trips, it looks like 'bribery'). Activities should be simple and relaxing - no complex travel arrangements etc., because you will probably be in an unfit state to drive, or cope with the train being late. And do things that involve interaction (i.e. play monopoly rather than go to a film). If you used to do something regular with the children that they enjoyed, do that, but check that their tastes have not changed if you have not seen them for a while. Make sure you conform *exactly* to any requirements laid down by the Law or your ex (about return on time etc). A home cooked meal which they help prepare or a fast food outlet which they enjoy are all viable.

It may be important to have a friend or family member along, to support you if you get too tense, and to be a potential witness if you think your ex may try to misrepresent what you did or how the children were. The best witness is a middle-aged woman who is not a member of your family or involved with you emotionally in any way.

What to say to the children? They may well have been, or be about to be, coached in her point of view. Or even if she has not tried that, the mother may have had difficulties, which seem to be your fault'. You should not try and counter that by coaching of your own, or by trying to poison them against your ex. First, it is morally unacceptable and secondly, it will not work. You would not have sufficient time to cause such influence in any event. The best counter to poisoning is for the children to experience positive things from you, and to be supported in saying so. Thus the best response to a child saying

"Daddy, Mummy says you are a wicked man" Is not to say

That shows how wicked *she* is

But

"Mummy just loves you and wants you to take her side. How do *you* find me?",

" If you love me and want to see me, make up your own mind and be proud to say what you think" etc.

The children should be encouraged to give their own point of view, and to express their own needs and wishes, and not feel any obligation to parrot either your, or your ex's feelings. This is not only more respectful of the children, but more likely to work to your advantage than making them feel they have to cope with conflicting demands.

In the long term the children will give you credit for being the one that respected their needs.

## Reforms Needed

### The Problem

A.H.Halsey, Emeritus Professor of Sociology at the University of Oxford has written: ".... The children of parents who do not follow the traditional norm (i.e. taking on personal, active and long-term responsibility for the children they generate) are thereby disadvantaged in many major aspects of their chances of living a successful life. On the evidence available such children tend to die earlier, to have more illness, tend to do less well at school, to exist at a lower level of nutrition, comfort and conviviality, to suffer more unemployment, to be more prone to deviance and crime, and finally to repeat the cycle of unstable parenting from which they themselves have suffered." Conventionally these consequences are attributed (but not by Halsey) to the poverty in which many such children are brought up. This must indeed be part of the problem - material deprivation is indisputably bad for children and is the experience of many following family break-up. But that cannot be the *only* cause, for many of the mothers of split families improve their economic life by finding employment and the social performance of their children continues to deteriorate, or they form a new relationship, *and the social performance of their children then tends to deteriorate even further.*

Britain has the highest rate of divorce in Europe. The causes of this, and what might be done, is beyond the scope of this paper. The damage has been done before the parents get to the CFR. However, there could be a relationship between the following points. Divorce is still an adversarial process and, as far as children are concerned it still rarely departs much from a winner-takes-all outcome. The winner is nearly always the mother, and a common outcome is the total rupture of the children's relationship with her ex. Now, almost the entire increase in divorce petitions over the last forty years has been in wife-initiated petitions. It does not follow they are responsible for the marriage breakdown (if the notion of responsibility is applicable at all) but it seems that the *process and outcomes of the divorce procedure itself* is one that women far more than men, see as being advantageous to them. Such disproportionate use of procedures should perhaps raise questions about them. Whether the economic, social and financial consequences of divorce are fair between the parents.

Everyone loses, following a break-up of a relationship but mostly it is the children and the father. It is perhaps worth considering whether a *child-centred divorce* policy, which recognised the rights of the children to retain two closely involved parents might signal to parents (and especially mothers) that neither party can expect to *win the children outright nor get rid of the other* if there are dependent children.

Could that awareness help reduce family breakdown and divorce?

Families Need Fathers members find that the current methods of deciding the future of our children are an obstacle, and not a help, to those fathers who wish to retain a real involvement in the lives of their children. *Since we exist to enable children to continue to have healthy bonds with both parents after separation, our experience should perhaps be considered to have special authority.*

It does not follow that FNF has any blueprints for improving things, not least because of the low level of attention given to this question by experts, and the poor quality of the information available. FNF has no firm or fixed policy on most of the issues raised below, but they are questions raised for debate.

## ***The Law.***

We give a high priority to there being a presumption of shared residence. Ironically, this was the intention of the *Children Act*, according to the advice given to Members of Parliament at the time as to the implications. It was after it became law that the Department of Health (the Ministry then responsible), sent circulars to judges that shared residence orders should not be given unless the parents were in full agreement.

FNF would say, in agreement with Lord Justice Ward in *re H* (1995) 2 FLR 883 that "Shared residence has a different psychological impact from residence to one, contact to the other.... Here it was necessary for the children to know that they lived with their father [when they were with him] and that they did not just visit him. "

Unhappily the circumstances of the case, which produced this remark, were unusual. The judiciary do not seem willing to follow the spirit of the law in most cases. We note, however, with great pleasure that the Court of Appeal is softening its line against shared residence orders. Try to access the case of *D v D* in which Dame Elisabeth Butler Sloss, the recently retired President of the Family Division, significantly shifted her position on shared residence orders, allowing that they should be granted much more liberally than had been the case. However, the implications of this decision still have to be properly taken on board by the lower courts and of course by CFRs. Even five years later we still hear of CFR's who say that shared residence 'does not work' or that it depends on co-operation between the parents (*D v D* was a case of high family conflict). It is even the case that judges simply will not grant it!

We support the idea of the **welfare of the children being paramount**. Contrary to popular belief, this has always been the law. *The problem is what interpretation is put on their 'welfare'*. By and large, what is seen as good for them is based on the prejudices of the time. A hundred years ago someone who had committed matrimonial offence was seen as an unfit parent - the *welfare of the children* required that they be brought up by the *fit* parent or be put in a home. Today, things seem to be decided mainly on the sex of the parents, it being assumed that their mothers should bring them up. It is very difficult to get the point across that children need both parents and that divisions between the parents should not involve separating children from one of them. Many of our judges, especially perhaps the older ones, seem to have very traditional views. Many, possibly, had little involvement with their own children (*otherwise how would they have got so far in their careers*). They may see it as natural that children have minimal contact with their fathers. The younger and more modern ones may feel that they ought to pay attention to the wishes of the women who appeal for their help. There needs to be more variety in the orders made. The role of fathers in families now varies from some individuals who still leave virtually all the day-to-day involvement to the mothers, to others where the men are quite as involved, and often more so, than the mothers. Despite all the calls for men to do more childrearing, the experience of our members is that those who wish to do so cannot expect the support of the courts or CFRs, who seem mostly locked into either traditional views, or some rigid custom-and-practice, such as every second weekend. There is little flexibility in the face either of social change, or of individual situations.

If advocates of sexual equality want more male involvement in the 'oppressive' and 'exploitative' work of child care, a modest start might be made if the coercive apparatus of state were not brought to bear to *force unwilling men to conform to the stereotype of not being interested in children*.

***Prohibited Steps Orders* forbidding parents from moving in such a way that**

**shared parenting cannot take place** need to be made routinely where parenting arrangements require that the parents live nearby. Few things make the 'winner takes all' stance of the family courts clearer than the universal understanding that the residential parent has an unfettered right to move the children in any way that suits her (or occasionally him), and that the children and the father simply have to lump it. The making of a Prohibited Steps Order will not of course prejudge the result of any hearing about whether it should be lifted if one of the parents wanted to move. But it would make an important statement to both parents - *both* of course would be stopped from moving - and allow hearing of arguments that if either parent wants to move, a switch to sole residence of the other parent would enable the child to stay in the same school, keep their friends, stay in the familiar neighbourhood etc. The importance of preserving as much continuity as possible in situations of stress is often underestimated. For many children whose family is breaking up, the main source of support is not their parents, teachers or any services, but their friends. They should not be denied those relationships too.

There needs to be better sanctioning of defiance of **contact orders**. At the time of writing (October 2005) there is a Parliamentary Bill being debated which may help with this. It is primarily the work of FNF over several years. FNF is promoting amendments to strengthen it, our political opponents are proposing wrecking amendments. The important thing is that children should actually get the contact ordered by a court, having heard arguments about their welfare. To those unfamiliar with the arcane and unacceptable world of the family courts, this point might seem obvious. To a residential parent determined to stop the children seeing their 'other parent' a court order that they must be allowed to see them is, at present, no more than a setback that they can overcome, if they are determined enough. There ought also to be orders for compensatory contact. When a child has wrongfully missed out on contact the residential parent should make up the time to him or her by additional contact. In this way a parent's wish to frustrate contact would be unproductive - it could only be postponed.

Conversely, there needs to be discussion about appropriate **sanctions against irresponsible fathers or mothers who reject their children's needs for them to be involved**. At present such parents usually get away without either legal or social condemnation. In France, the equivalent of parental responsibility can be removed from parents who do not perform their contact duties. One of FNF's suggestions for changes in the Child Support provisions is that there should be a provision in the calculations for the child-rearing costs of contact parents. If that were the case, parents who did not stay in contact would lose this allowance. This was rejected, but the debate on the C5A is only temporarily in abeyance.

We are very concerned about the presumption of there being no orders governing the life of the

**children**. The reasoning behind this was plausible - it leaves the parents 'free' to decide for themselves what is best for the children. In practice it leaves the parent who has the physical control of the children free to do whatever s/he wants, and in many cases that means disregarding the children's needs for a relationship with the other parent. The *presumption of no order is often a barrier for the contact parent to overcome*. The steady increase in the numbers of orders made under the Children **Act** may indicate that the judiciary is itself moving away from the presumption of no order.

We are concerned about the **position of unmarried fathers**. FNF achieved a very helpful move here - parents, both of whom sign the birth register jointly will now both have Parental Responsibility, even if they are unmarried. The proportion of fathers who will

have PR should rise from about 60% now to over 90% possibly. But the change in the law was not retrospective - many fathers of older children will not have PR, and some 8% of current children are still not jointly registered. Many complaints are still received by us from fathers who were not told of the registration appointment and are not able to amend that registration later. These are all caring parents, denied equality by the law. We would like to see all parents granted PR, but with provision for it to be denied or withdrawn from those unworthy to have it. We are concerned about mediation. To the extent that seeking an agreement is substituted for conflict, this is wholly welcome. But there are four problems.

Students of mediation, arbitration and analogous procedures in industry and diplomacy comment that the outcomes usually mirror the *relative power* of the parties. As present mediation has as its background what will happen if negotiations break down i.e. the mother gets her way? *Unless the relative power of the parents in divorce is equal, the outcome of mediation is unlikely to be fair.* Mediation will only work in the context of a fair law and that is not the case at present.

The second problem is that mediation is adult-centred. The need in family proceedings is to downgrade the needs of the adults, who are both likely to want to control the children themselves, and upgrade the need of the children for **both** their parents. What is needed is not brokering between the adults, but **forthright advocacy of the children's needs.**

The third problem is **delay.** In principle, one ought to be in favour of time for calming down and discussion. However, Children and Family Reporters and the Courts are usually reluctant to change whatever arrangements are in place for the children already. This means that 'temporary' arrangements tend to become permanent. The longer the gap between the initial break-up and the 'final' decision, the more likely it is, that arrangements made at the point of break-up will become set in concrete. Since the children involved **in** a break-up are often seized by the mother at the point of separation, or she is put in charge in a hurried interim hearing, more paternal exclusion may well result.

Finally, the new practice whereby some lawyers are approved as mediators is quite ludicrous. These are professionals, trained in fighting over a period of years. A brief course of a few sessions in basic mediation is not capable of overturning such entrenched training nor is it compensation for a three year practical degree course as a therapist.

**Reforms** in CAFCASS.

This section will - we hope - date quickly. A consultation paper 'Every Day Matters' was published by CAFCASS on 15 October 2005 with a view to possible implementation by April 2007.

At present CAFCASS write reports on the parent and make recommendations to the courts when asked, by the courts, to do so. The first port of call of a parent at odds with their ex is usually a solicitor. That solicitor does not have an interest in the welfare of the children - they want fees from the parents and the best way to that is to try and help the parent get what they want. Complicated letters, adding to the arguments and making use of the slow process of the Courts, means more fees. Few solicitors and fewer barristers will be keen to achieve an Order at a first directions hearing.

Very often the dialogues get even more acrimonious than they were already. A father who seeks a residence (or even a contact) order has to show the mother is an appalling parent. A mother who wants to stop her children seeing her ex has to show him in a bad light. The easiest way is to accuse him of 'violence' and there is too much anecdotal evidence that solicitors encourage allegations of this for them all to be false.

What are urgently needed are non-adversarial approaches to the issue. They should be based on the assumption that in the overwhelming number of cases both parents are

loving and competent, and that the children want a full and continuing relationship with both. Naturally, there has to be provision for the occasional exceptions.

FNF wishes to see CAFCASS recast, not as a cog in a system based on - and encouraging - conflict between the parents. It should be primarily a preventative and support service. Its job should be to take its brief from the needs of the children and work with the parents to get a child-centred plan for joint parenting. CAFCASS, not a lawyer, should be the first port of call for parents. Only if the parents cannot be persuaded to agree on an appropriate plan would they go to court. CAFCASS would then, as now prepare a report and make recommendations. This requires a seismic change in CAFCASS attitudes, training and role. For example their training would need to be about the needs of children, communicating with children, and negotiating skills with adults. There would also need to be a substantial expansion of their funding. Happily there is a ready source of this. The legal aid budget. At present this huge expenditure is actually counter-productive. It is spent on fostering conflict between the parents. There will still need to be a small role for legally aided advocacy in family disputes - where one of the parents has special needs for example - but diverting this money to preventing disputes, will promote good parenting instead of poisoning relationships. There would also be useful savings in court time and cost, because of the fall in the number of cases needing formal adjudication. Thus all the other issues of having insufficient judges, persuading other judges to take on family tickets against their better judgement, having insufficient court time available, the rising cost of legal aid, the resultant unavailability of legal aid when it is appropriate, etc, would fall away. It is cost efficient, the money is available and it puts the best skills to the best use - for all the professionals involved. In that role, with such training and given appropriate policy and practice directives, CAFCASS could indeed be recognised as professionals and even experts in Family proceedings.

Children and Family Reporter attitudes

Despite all the prejudice our members feel they have encountered, Reporters are probably *more* accepting of male involvement in childrearing than legislators and judges are, especially if that can be presented as move towards a more sexually equal society. However, that it is a move towards a less sexist society *needs to be pointed out*. We suspect that the instinctive stance of many Reporters (as elsewhere in society) to family matters, instilled by their training and re-enforced in their work environment, is pro-mother, even if her demands imply it is a **mothers right** to monopolise children and the father's duty to pay for that. The contradictions between this position, and anti-sexism, need to be highlighted.

We think there should be more reflection in CAFCASS about whether they perpetuate sexual discrimination. The knowledge that prisons contain disproportionate numbers of black people caused the Probation service and the trade union and staff association, NAPO (which still claims to represent most CAFCASS CFRs), to its credit, to take action to prevent and counter, possible racial discrimination in its own activity. Unfortunately they do not address the male/female issues with the same candour or vigour but prefer to support the status quo of inequality. The outcomes of legal proceedings over children also show extremely skewed results, also by sex. We think there should be the same commitment to ensure that the "professionals" are supported in avoiding this and that training and provision is made available to counter this discrimination, equal to the efforts over criminal work and race. FNF is in no way opposed to campaigns to ensure that women get fair treatment in work, in public life etc. Indeed equality between men and women in the economy should help Shared Parenting. With men having better prospects in earning, and a family-unfriendly employment and social security system, it is difficult even for the most egalitarian

couple not to divide their roles. The father is forced to specialise in meeting the family's economic needs, and the mother the child-care ones. With more equality at work and better provision for parents to be workers and for workers to be parents the purely economic need for gender segregation at home will be reduced.

However, the ambitions of most people in the economy and public life - the areas that feminists have prioritised - are limited. A happy family life is most people's principal aspiration, whether they are male or female. Their relationships with their children are central to that life. The most important area of struggle for gender equality is in that area, namely family life, which is important to most people. We do not think that the CAFCASS, or social policy makers at large, have recognised this. We are alarmed and disconcerted by the complacency in this area of at least the staff association of Probation Officers, NAPO whose policy statement was cited above.

There is no sign of present CFRs taking the stance that we see a need for, that is moving away from conciliating and reporting on *the parents* to a **proactive advocacy of the children's needs**.

### ***Early Interventions***

**FNF** supports the piloting in the UK of a model that works well in Florida, USA and which has been promoted in the UK by *New Approaches to Contact*. **The** idea is that very early following an application to the courts the parents are required to attend sessions at which they are informed about, and urged to agree, parenting plans. In default of this, and unless special circumstances are shown, the courts will apply a formula for shared parenting. Speed is of the essence. In many cases, stable and permanent arrangements are in place within days of separation.

Time and resources

Decisions about children are made in haste, both in CAFCASS and in the courts. A regular complaint of our members is that while they might have to wait for a long time to get the attention of the courts or CAFCASS, once they do, all the pressure seems to be to dispose of the case in indecent haste. Probably this is a factor in the extreme results found, whereby women always get residence, men rarely or never either sole or joint residence, and where contact is commonly lost. Of course, allowing mothers to monopolise children is 'safe'. It corresponds to socially-approved stereotypes, and in the majority of cases she will have had the main responsibility and *if the assumption is that one parent has to have exclusive rights* she is the one to which they should commonly be given. It saves time and effort not to explore the exceptions, or to try to fit more flexible arrangements and/or shared parenting arrangements on the infinite variety of people and situations.

It is unreasonable to expect better procedures with fewer resources. Getting the best for children is a long and complex business. The CAFCASS and National Association of Probation Officers should be supported in their bids to be able to do the job better. Crucial to this is staff time and training. In the short run improving professional standards will cost more.

However, there may be savings if there is a specialised service.

Mitigating the consequences A.H. Halsey referred to, is not *public expenditure*. It is *social investment* of the most worthwhile kind.

Research

Only a minority of the children of divorced or separated couples are the subject of court hearings or welfare enquiries. This does not mean the others are unaffected - the private and hidden arrangements made *in all cases* are come to in the knowledge of what happens when there are a formal contests and decisions. The future of maybe a third of our children is at stake in the hundreds of contested cases. It is extraordinary how little is known about an



issue of such magnitude. A major research programme, in particular into how and why so many children lose the real involvement of one of their parents, would surely be of immediate practical value.

There have been some useful starts. Ann Buchanan and others (2001) *Families in Conflict*, Liz Trinder and others *Making Contact* and various works by Carol Smart and Brenda Neale are all most helpful. The last two are most interesting. Prof. Smart was once implacably hostile to any mole involvement in parenting and certainly to FNF. As a result of encountering the issues, while her main sympathy is still with mothers, she has dramatically softened her position.

### ***Openness***

One understands the concern for the privacy of children and family life. However, FNF is aware of things being done in secret, which would cause outrage if known. It is vital that if the quality of justice in family matters is to be improved, that they are opened up to more public scrutiny. Criminal proceedings involving children or rape can be reported, provided particular people are not named. The same should happen over family matters. The proceedings should be open, and the papers public, but reporting of anything that would enable individuals to be identified should be forbidden.

## ***Support for Families Need Fathers***

FNF is the only national support service for the rights of just under 4 million children living in lone parent households to have *both* their parents involved in their lives and for the estimated 2-2.5million parents (nearly all fathers) living apart from one or more of their children. We ought to be one of the strongest and largest charities in the land. Our helpline and related services handle more calls from male parents than the 'flagship' parenting support service, funded by the state and other agencies to the tune of £3.7m. We also handle a higher proportion of enquiries from women than they do men. Our helpline, however, is wholly voluntary, although Lloyds TSB kindly purchased our equipment.

We are however, small and weak. We have just four staff in total. Two of these-neither full time - are funded by the Department of Education and Skills. All the rest of our services are provided by volunteers or funded by membership subscriptions. At times of need many of our new members struggle to find our membership fee.

In the long term we want our social welfare work - helping parents and children - to be supported in the same way as most other other voluntary social care organisations. By the state and charitable grants. Our membership subscriptions would then be wholly devoted to lobbying. This position is still, however, some way off. Most grants are still awarded at the discretion of committees. Most committees contain one or more supporters of the exclusive rights either of women or of residential parents. At present both our caring services and our educational work is dependent on the subscriptions of members. Please join, please renew, please give more than the minimum (which is based on trying not to exclude contact parents with lithe money). If you know of any possible corporate or institutional support, please contact Nadia Singh, FNF resources development manager.

Thank you.

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Comments please to me at: School of Applied Social Science, Brighton University, Falmer, Brighton BN1 9PH or FNF National Office, 134, Curtain Rd, London EC2A 3AR

## ***Appendix: Useful Addresses***

### **National Association of Child Contact Centres**

Minerva House  
Spaniel Row Nottingham, NG1 6EP  
Helpline Tel (Mon - Fri 9.00 -1.00): 0845 4500280  
Fax: 0845 4500 280  
Email: [contact@naccc.org.uk](mailto:contact@naccc.org.uk)  
Website: [www.naccc.org.uk](http://www.naccc.org.uk)

### **National Family Mediation**

Alexander House  
Telephone Avenue  
Bristol B51 485  
Tel: 0117 904 2825  
Fax: 01392 204227  
Website: [www.nfm.u-net.com](http://www.nfm.u-net.com) (For a paper on mediation and about local services)  
UK College of Family Mediators Website: <http://www.ukcfm.co.uk/>

### **NYAS (National Youth Advocacy Service)**

99-105 Argyle Street  
Birkenhead  
Wirral CH41 6AD  
Tel 0151 649 8700  
Fax 0151 649 8701  
Email: [mainOnyas.net](mailto:mainOnyas.net)  
Website: [www.nyas.net](http://www.nyas.net)

### **Parentline Plus**

(National charity offering help and information for parents and families)  
520 Highgate Studios 53-79 Highgate Road London NW5 1TL  
Helpline: 0808 800 2222  
Email Helpline: [parentsupport@parentlineplus.org.uk](mailto:parentsupport@parentlineplus.org.uk)

### **Relate (ex-marriage guidance)**

Herbert Gray College,  
Little Church St.,  
Rugby CV21 3AP  
Tel 01788 573 241  
Fax 01788 535 007  
Website: [www.relate.org.uk](http://www.relate.org.uk)

## **References**

- Archer J., 2000 'Sex Differences in Aggression between Homosexual Partners; A Meta-Analytic Review' *Psychological Bulletin* Vol 126 No 5
- Cawson P and others 2000 *Child Maltreatment in the United Kingdom* London. NSPCCC
- Dunn J., and Deater-Deckard 2001 *Children's views of their changing families* York: Dr Richard Gardner '*Basic Facts about the Parental Alienation Syndrome*' etc. <http://www.rgardner.com/refs/>
- Joseph Rowntree Foundation
- Trinder L., Beek, M., and Connolly 1, 2002, *Making contact, How parents and children experience and negotiate contact after divorce*. York; Joseph Rowntree Foundation.
- NAPO 2005 *Family Court and Parental Contact* London: Napo
- Walby 2004 *The Cost of Domestic Violence*. London; National Statistics/Women and Equality Unit.