



# Families Need Fathers

Keeping children and parents in contact since 1974

## Legal Presumption of Equal Parenting

Speech to Conference “The Future for Families in Scotland”  
Edinburgh, 7<sup>th</sup> March 2006

Dr Martin Crapper  
Vice-Chair

Thank you for inviting me to address this conference. The title originally given to me was “Legal presumption of equal contact”, and I shall work around this, but I am not going to use the word “contact” in quite the way suggested, because it is offensive to describe one of the two most important relationships in a child’s life solely by the term “contact”. Contact means staying in touch, and that is why it is in our strap line, but I want to talk to you about parenting, not just about staying in touch.

I shall keep it simple. I shall talk about rights, I shall talk about Equal Parenting, and I shall talk about what the Family Law Act will do for fathers – which will not take long. Then I shall spend rather longer looking at what needs to happen to protect children who are caught in the middle of family break-up. I shall endeavour to goad the legal establishment to the best of my ability!

Some people think of Families Need Fathers as a “Fathers’ Rights” organization. This is wrong, because we are a child-centred organization, but it is also insulting, because “FNF Dads” are not pathetic victims who need to appeal for rights. They are heroes. In my seven years of involvement with the charity, I have met countless men who are prepared to make astonishing sacrifices – to forsake intimate adult relationships, lose their home and their career, to suffer countless humiliation and to carry on in the face of overwhelming opposition, in order to do what they know to be right for their children, which is to ensure that they have some kind of continuing parent-child relationship. These men have only FNF and family members for support. They are automatically condemned by social services, police, psychologists, judges and some other charitable organizations as in some way “dangerous” to know. They face astonishing cultural barriers to their parenting, but they carry on.

I am proud to know such men. I will not insult them by asking for them to be given rights. That is not what they want. What they want is for their children to be given rights. Grown-ups can see to themselves. Children cannot. That is why they have parents. It is children who need rights.

Of course, children already have rights. Rights are moral things. They are not in the gift of some politician or other. And children very clearly have a moral right to a continuing relationship with both parents, whatever the status of the parents’ relationship with each other.



# Families Need Fathers

Keeping children and parents in contact since 1974

I am just sad to say that there are people out there who are prepared to abuse our children by denying them this right.

So, what do I mean by a continuing relationship with both parents? I mean, of course, Equal Parenting. But that is another one of those simple terms that one has to be careful in using, because it has been widely hijacked by those who do not have children's interests at heart.

Let me say quite categorically that Equal Parenting is not about time. It is about equality of responsibility. In Equal Parenting, parenting decisions are shared, taking into account everyone's perspective and everyone's needs, and the children benefit from knowing that both mother and father are fully involved in their lives. That is what happens in good, intact families. Equal Parenting is about that continuing when the parents can no longer be together.

So what about "fifty-fifty" parenting? It is so easy for someone who does not believe in sharing anything to trash that, saying it will never work, because in any given situation, perhaps it won't. It tends to be incompatible with school, for instance - though I do know one FNF member in Edinburgh who has this working over a fourteen day cycle. Anyway, no shared parenting organization with any very thoughtful perspective has ever advocated "fifty fifty" in simplistic terms, despite what the enemies of children's rights would have you believe.

All "fifty-fifty" is is a *starting point*. If enshrined in law, it would forcibly remind all concerned that parenting is *required* to be shared, and something has to be negotiated, starting from pure equality, and ending in a workable solution for that particular family. In only a very few cases would that result in an equal time share - the time may be split in many different ways, but responsibility must always be equal.

It is just necessary to add that there is a basic minimum of time in which a parenting relationship can be carried on. Those that want to hijack the serious discussion will talk to you about "quality time", but if you only have two hours a fortnight with your baby son, you cannot spend any of it in a quality way. Parenting does not work like that, as any fool can plainly see - unless perhaps they are the kind of fool that works in a large public building.

It is worth mentioning in passing that the equal starting point has been enshrined to some extent in the draft Parenting Agreement for Scotland, more of which anon.

So why does Equal Parenting not happen anyway? Well, the current system of family law is "Winner-Takes-All". If you get sole residency of the children you are likely to get the house, you get maintenance, not just for the children but, courtesy of the CSA, for your own lifestyle too, and you get the sympathy of everyone who sees you as a single parent, having a hard time raising youngsters on your own, even if it was in fact your own choice to do so.



# Families Need Fathers

Keeping children and parents in contact since 1974

On the other hand, if you don't have residency, you get nothing but humiliation and bills. You probably can't afford to live anywhere decent enough to have your children to stay over and you might not be able to afford to travel to see them. You can't parent them properly in McDonalds. You are seen by society as, at best, some kind of optional extra, and more likely as someone who is potentially dangerous. It is the other parent, the one with residency who is seen as the only "real" parent. Such is the system.

Now add human nature to this. Human nature determines that many people hate their ex at the point of break-up, they don't want to face up to their own share of the blame for the split, they want to project all the bad stuff onto the ex, and to gain whatever sense of vindication for themselves that they can. This is damaging psychological stuff, but, as the old song says, "breaking up is hard to do" and the most surprisingly normal and intelligent people can find themselves in such mental places and can do untold damage to their children before they eventually heal and come to their senses.

In short, the Winner-Takes-All system is just too tempting for someone in a distressed psychological state, who is not otherwise restrained by externally imposed boundaries. That is why the current system has to go.

I'll turn briefly to the 90% of couples that sort things out for themselves without any intervention from the authorities. First of all, this statistic is as far as we can determine completely made up. We have never seen any meaningful research on it. But anyway, we would not deny that a large percentage of couples do sort themselves out. But the key fact – and it is a key fact, and it is so obvious that you really have to boggle that more people don't readily take it on board – is that all these DIY solutions are made *in the shadow of the small faction that do end up in court.*

Think of it. You are a father, faced with a split up. You want to continue parenting your children because you know it is best for them. So you go to a lawyer, and are told that a court would be likely to give you "contact" every other weekend. So, wanting to avoid unnecessary conflict – because you also know that is bad for the children – you settle for that, though you know in your heart that the children need you a lot more than it allows. Your decision, and your children's entire future, has been settled on the basis of judgements made in other people's cases. *Shadow* is a suitably dark word to apply to this unholy situation.

Child-centred solutions are what is needed, and child centred solutions need power sharing. Each parent needs to have boundaries, to know that they *cannot* gain total control over the situation. They need to be confronted with the stark reality that they will *have* to find a way of working with the other parent – and of course they need to be supported to do this difficult thing.



# Families Need Fathers

Keeping children and parents in contact since 1974

So, will the Family Law Act help fathers? No, of course it won't. But then it was never intended to. The only thing the Family Law Act contains to do with fathers is the granting of Parental Rights and Responsibilities – PRR – to unmarried fathers who jointly register the birth. But mothers still control the registration process, and in any case PRR becomes entirely hypothetical when it actually matters – when the relationship breaks down. Families Need Fathers is stuffed full of married men, who have automatic PRR, but still do not get to parent their children.

However, all is not completely negative. The good thing to come out of this process is the Parenting Agreement for Scotland. This goes a considerable way, in our opinion, to addressing the problems of the Winner-Takes-All system. It sets out quite clearly a range of issues about which there should be agreement, and it gives important opportunities for the children to have input as well. And it makes it very clear that parents are equal, if different.

In Families Need Fathers, we wish the Parenting Agreement had some statutory footing – that courts were required to ask if the parties had tried to make an agreement and if not, why not, but nevertheless we think it is a good and helpful document.

Just one question about the Parenting Agreement for Scotland. Where is it then? It was ready for consultation last August. How many families could have used it between then and now?

So you've had my analysis of the current situation. What needs to happen?

Well, our culture needs to change. We need to be in the position where anyone denying a child its other parent – or, for that matter, its wider family on one side – is viewed in the same way as the abusive carer who denies a child education or healthcare. Denial of a parent should be socially, as well as legally unacceptable, and those who indulge in it, be they professionals or damaged other parents, should be treated, not tolerated.

That means many things – to highlight some minutiae, it means *inter alia* that no-one should be making arguments for “no contact” unless supported by clear, child-centred reasons, that advocates should be professionally barred from arguing “implacable hostility”; that there should be a clear presumption against “leave to remove.” It means that court orders, made only after careful consideration of the best interests of the child, should be enforced, that such enforcement should be mandatory rather than discretionary, and it should be done by the courts of themselves, not after another expensive application by the pursuer to get what the first application was for anyway.

But more than this, the Winner-Takes-All system should be obliterated. We should focus only on child-centred solutions, and they don't happen by adversarial conflict



# Families Need Fathers

Keeping children and parents in contact since 1974

in courts. Parents don't need separate legal representation in child cases – the law is very simple anyway, and the decisions are discretionary. All that is needed is an “honest broker” officer of the court – a child professional, not a lawyer, and someone whose primary duty is to the child. This person would give the same advice on the legal position to each parent, and would assist them to make and maintain a Parenting Agreement. If the agreement can't be made, the officer helps each parent to articulate their reasons for failing, and presents them to the judge, together with an impartial view as to how cooperative each parent has been in attempting to put the children first. All this supported with appropriate – and compulsory - education for the parents, which could be provided by the voluntary sector.

This sounds radical, but it is cost neutral. It can be funded by ending legal aid for parents in child cases. This legal aid is just public money helping warring parents to fight. It's a scandal.

Next I want to say let's be responsible about risk. I am fed up of hearing “provided it is safe” tagged onto anything that suggests a father has an important role in a child's life. How obvious is that? There are always some parents – mothers and fathers – who are mad, bad and dangerous to know. But not many. And the proper research – the NSPCC for instance<sup>1</sup> – shows quite clearly that a majority of the physical abuse of children is perpetrated by mothers, not fathers (49% to 40%). The biggest risk of child death in broken families comes from mothers' new partners, and having the child's father involved reduces, rather than increases this risk. Keeping the father involved therefore *saves children's lives*.

On the other hand, *not* having the father involved dramatically increases the risk of under-achievement, poor health, youth crime, poverty and many other negative social indicators. This is catastrophic for the child, but it is bad for everyone else too. How much time has the Parliament spent discussing anti-social behaviour recently, without any significant thought about its causes? The very high risk of increased deprivation due to lack of fathering must be included in risk assessment. *Parenting from a father should only be ended if it is safe for the child.*

Finally let us support Dads. I mentioned at the beginning that FNF Dads are heroes. We all know not all dads are of quite such stature. Many walk away. You will, understandably, find little sympathy among FNF members for those that leave, even when the children's mothers want them involved, and indeed, some of them are probably wastrels – as of course, some mothers are too.

But most people are basically good. How many basically good men just can't cope? No one taught them what to do, and they usually find no support. Being a dad, having to balance pressures of generating income, physical care, social pressures and many other things is hard enough at the best of times. If you don't have a stable

---

<sup>1</sup> Cawson P, Wattam P, Brooker S and Kelly G (2000), *Child Maltreatment in the United Kingdom*, London, NSPCC, particularly the section *Stereotypes and Reality*



# Families Need Fathers

Keeping children and parents in contact since 1974

relationship with your child's mother it is a thousand times worse. Let us give these men some support, so that their children, on whom depend all our futures, can benefit.

Thank you for listening. Is your conscience pricking? If it is not, you are probably part of the problem, not the solution. Only the self-interested or complacent think that we have done enough for children and families.