



A Fair Family Law System Fact Sheet

If you're not separated or divorced, you probably know somebody who is. Nearly everybody in Australia is affected by the Family Law system in some way. It could be you, or a sibling, friend, cousin, or your new partner. Or it could be one of your children, affecting your relationship with your grandchildren. If you haven't already, the odds are you will come into contact with the Family Law system sometime in the future.

What is the problem¹

While the majority of separated parents described their relationship as friendly or cooperative 15 months after separation, a small percentage (around 1/5) of parents had high conflict relationships. A smaller number end up in the Family Court seeking a decision on how to manage their lives, including how to care for their children.

The Family Court is now required to consider whether children should spend "equal" or "substantial and significant" time with each parent. While this might sound ideal, where there is high conflict, children suffer in such an arrangement.

- 16-20% of parents with shared care-time arrangements held safety concerns associated with ongoing contact with the other parent
- Where violence is a factor, shared care has a negative affect on children's well-being
- There is a significant minority of children in shared care-time arrangements who have a family history entailing violence and a parent concerned about the child's safety
- Some professionals believe that the new legislation discourages women from raising concerns about violence for fear of a negative outcome for them and their children in court.

Key causes: why does it happen?

A number of changes have been made to the Family Law Act which have resulted in a more complex, less understandable system.

The aim of the reforms was to bring about "generational change in family law" and a "cultural shift" in the management of parental separation, "away from litigation and towards cooperative parenting". While this seems a noble goal, it has created confusion, and moved the focus away from the best interests of the child, to the rights of parents. It has also made it less safe for women and children.

¹ All information and data in this section are taken from Kaspiew, Gray, Weston, Moloney, Hand & Qu "Evaluation of the 2006 Family Law Reforms" for the Australian Institute of Family Studies, December 2009. It is supported by findings in other evaluations of the reforms.

What is needed

The Family Law Act must be amended to better focus on the best interests of children. Any reference to a preferred method of parenting – such as “equal or substantial time” – should be removed in recognition that there is no one way that suits everybody.

Families must be free to make the arrangements that suit them, and to be flexible enough to suit children’s changing needs.

The best interests of children, and safety for everybody, must be the paramount concerns of the Family Law system.

WEL will be using our Feminist Policy Framework to lobby for policies that increase fairness.

WEL believes that fair policies are those that:

- *Ensure the costs and benefits are fairly distributed between women and men, as well as between different groups of women*
- *Value and reward fairly people’s different skills, experiences and contributions*
- *Recognise the value of caring and supporting roles, whether paid or unpaid*
- *Recognise and rectify past and current inequalities and between men and women; and*
- *Enhance opportunities for both women and men to take on equal rights and responsibilities in all aspects of society: politics, community, employment and social life*

What you can do

Ask your local member:

- Do they support families being able to decide for themselves the best way to care for their children?
- Are they prepared to amend the Family Law Act to remove a requirement for judges to consider any one particular type of care as the preferred model for everybody?
- Will they implement recommendations in the Family Law evaluations that seek to improve the safety of women and children?

Make your voice count for fairness