

What is the role of law, lawyers and the courts in post separation parenting?

ICCD Norwich 2006

Limitations of law

'Where family law disputes are involved, the limitations of the law, as much as its strengths, must be understood. Its ability to provide an appropriate and long-lasting solution in a frequently hostile and violent environment will be restricted as law is by nature a fairly blunt instrument and the family structures of separating adults and children are inevitably complex and diverse.' Family Court of Australia (2003)

Bleak House in the Family Court

- *Jarndyce v Jarndyce* of the 21st Century would be about child contact
- **But only a small minority of cases go to court**
- Focus of court is on settlement not adjudication
- **Legal system perpetuates myths about contact**
- Is the key problem of compliance?
- **Children and Adoption Act 2006**

Children and Adoption Act 2006

'with its misunderstood attempts to tackle intractable contact disputes and inform parents about the difficulties of post separation parenting' Wall L.J.

- **Appearance of reform but little change**
- **New powers for courts and duties for CAFCASS**
- **Additional enforcement mechanisms**
- **Targets parents with care**

Limiting the role of the court

- Removing the court
 - Removes adjudication
 - The court framework for negotiation
 - Imposition of decisions where there is no agreement
- Change the dynamic of negotiation
- The need for adjudication
- Re-direction of resources to support
 - From rights to responsibilities
- Problems of rationing

Conclusion

Post separation parenting is difficult. It cannot simply be ordered; parents may require support and assistance to produce workable arrangements, and for some children the loss of a childhood relationship with one parent may be better than the conflicted involvement of both who cannot co-operate. There is little hope of finding resources for imaginative new services whilst failing ones continue to absorb any available funding.

