

INTERVIEW, FEBRUARY 2009 : John Bolch, Winch & Winch

John Bolch is a highly experienced Family Law solicitor at [Winch & Winch](#) Solicitors and has a blog called [Family Lore](#) which is an excellent site for up to date information on Family Law and the people who work within the system. John was one of the first members of the Law Society's Family Law Panel and is also a member of [Resolution](#). In this interview, John explains why the Family Justice System is often misunderstood.

What led you to work as a Family Law solicitor?

Quite simple: When I finished my articles (i.e. training), the firm I was with had a vacancy in their matrimonial department. I had already spent much of my articles doing family work, I liked the work, and I stayed on.

Which aspects of Family Law do you focus on and do you do any Legal Aid work?

Most of my work these days comprises divorce, ancillary relief (financial/property settlements on divorce), private law children disputes and cohabite disputes. Of those, ancillary relief probably takes up the most time.

I gave up doing legal aid work about five years ago, after having spent about twenty years doing predominantly legal aid work.

The Family Justice System has been heavily criticised in the press over the last two years; do you feel that the criticisms are warranted?

Some, but not most. Unfortunately, privacy rules have tended to work against the system, as they have created a lot of misunderstanding. Yes, mistakes are made, but generally all of those involved in the system are caring people who work hard to achieve the best for all concerned, especially the children – that has been my experience at least.

What is the most prevalent complaint about the system that you hear on a regular basis from your clients, notwithstanding the possible discomfort at not getting the result they wanted in its entirety?

Probably the most common complaint is from husbands and fathers, who feel that the system is biased against them. Of course, there is no presumption in favour of either party, and it is usually practicalities that decide with whom the children should reside and what the financial/property settlement should be.

The government seems to be upsetting the general public, specifically those with families, with their new and arguably draconian measures on child support: many feel the government has turned Britain into a Nazi State where civil liberties are being eroded away without the nation's consent – what is your view?

This is a difficult one. On the one hand there obviously need to be effective means to enforce payment of child support, but on the other hand I have no time for the headline-grabbing 'quick-fixes' of which this Government is so enthusiastic. Of course, part of the problem is making the system fair, and I am not convinced that any system based upon a rigid formula

can ever be fair in all cases. The old court-based system was not perfect, but at least it worked a lot better than the child support system.

You are the author of a well known and wonderful blog called Family Lore which highlights the issues of the day in the system and promotes existing and up and coming views on the practice of family law. Pressure groups online seem to be having an effect on how the government responds to its policies in this area, most recently seen by the new media proposals in the family courts: how important would you say is the internet when considering its potential for instigating more effective legislation and directing pragmatic precedent?

It is of increasing importance. The internet is becoming the primary means for voicing opinions, something that the Government recognized when it set up ePetitions. Unfortunately, the Government's (lack of) response to ePetitions all too often seems to indicate that they are not listening, and are just paying lip-service to the new media. I think they will soon have to listen.

Lawyers are often perceived by the public as large and grey with rows of sharp retractable teeth! Does court culture in your opinion, with its ingrained adversarial approach make it easier or harder for families to resolve their dilemmas not just in the short term but in the long term too?

Well, I can assure you that my teeth are neither sharp nor retractable! Having said that, I agree entirely that the adversarial approach is not appropriate to resolve family disputes. This is, in fact, recognized by the system, which encourages settlement at all stages up until final hearing. Unfortunately, all too often the parties demand their 'day in court', sometimes encouraged by their lawyers.

Collaborative law is being used more frequently in Britain; how do you see this area of law evolving over the next five years?

It's all about take-up. Coverage is pretty sketchy at present, and there is no point in going to the time and expense of training to be a collaborative lawyer if there are no other collaborative lawyers in your area, as there will be no one to represent the other party. If we get national coverage, however, then I see the collaborative approach becoming a major alternative to the conventional ways of resolving disputes, perhaps even the most popular method.

What strengths do you note about the Family Justice System?

As I've indicated above, I believe its main strength is the people who work within it. For the most part they are caring, dedicated people doing their best under difficult circumstances, and getting very little credit for it. I fear that all of the criticisms and lack of rewards may mean that the system will lose a lot of good people, and discourage new talent.

If there was one thing about the system you could change, what would it be?

There are so many things that I would like to change: a presumption of shared residence, clarification of rules for settlement of property disputes, property rights for cohabitees, a proper reform of child support (or even a return to the court-based system), better funding of

the courts, a separate divorce court – the list goes on. The one thing, however, that I think I would most like is a modernizing reform to the divorce laws, including a proper no-fault system – that alone could do so much to reduce animosity and conflict between separating spouses.