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November 16, 2009

Third of children lose touch with parents after divorce

Rosemary Bennett, Social Affairs Correspondent

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The failure of parents to divorce amicably means that one in three children permanently loses touch with a parent, usually the father, a new study has found.

It also found that one in five parents said that their primary objective during separation was to make the experience "as unpleasant as possible" for their former spouse. As a result, a fifth of children involved said that they "felt used" by their parents with a third feeling isolated and lonely. Half of parents involved said that they had sought a day in court to haggle over residency arrangements despite knowing it made matters worse for their children.

The study, commissioned by family lawyers at Mishcon de Reya to mark the 20th anniversary of the Children Act, is the biggest of its kind and involved interviews with 4,000 parents and children who had been through divorce. The Act was supposed to improve the welfare of youngsters caught up in parental separation by placing their needs first. But lawyers at the firm say it has clearly not worked and a new approach is now required. Between 15,000 and 20,000 couples go to court to resolve child access disputes each year.

Sandra Davis, head of the family division at Mishcon de Reya, which represented Diana, Princess of Wales in her divorce, said things had got even worse after the surge in care proceedings following the Baby P case. Battles over residency are now held in a 14-month queue as the family courts struggle to cope with the surge of cases of taking children into care.

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“The adversarial, blame-focused system is polarising parents and prevents them thinking forward about the long-term interests of their children,” Ms Davis said. “As a result the courts are drowning, trying to sort out what are fundamentally behavioural and family issues, with lawyers being drawn into disputes over what time a child is picked up from school.”

She and other campaigners want to see “conflict clinics” that parents would have to use, with the courts a last resort.

Ms Davis said with divorce cases themselves rarely going to court, there was nowhere for parents who felt bitter and angry to “let blood” other than in residency disputes over access, which are heard in the family court. “What we see is an overflow of emotion in the one arena where parents should be doing their very best to be civil. Litigation should be the last, not the first, resort for the resolution,” said Ms Davis.

A panel, including Tim Loughton, Shadow minister for children, Lord Justice Munby and Lord Justice Wall, met last week to discuss how the system could be improved to benefit children.

The research was carried out by independent analysts this year. The 2,000 parents and 2,000 children were all involved in divorce proceedings since the Children Act came into force in 1989. Last month Cafcass, the family court welfare service, published quarterly figures showing a 60 per cent rise in public law case requests, with 4,236 requests made between April and September compared with 2,608 in the same period last year.

Unfair in love and war

October 2007 Banker’s ex-wife jailed for a month for breaching an injunction barring her from seeing her children. She had approached the eldest child in the street

May 2008 Lord Justice Ward told a father there was nothing he could do to help him to re-establish contact with his teenage daughter who had been turned against him by her “vicious” mother. The “drip, drip, drip of venom” poured into the girl’s ears included unfounded accusations of sexual abuse, the judge said

November 2009 High Court hears the case of a father who has been seeking contact with his children for eight years. Judges have supported his requests but his wife has failed to comply with the court order. So far she has not been penalised