



Parents Have Input Until The Gavel Comes Down

Being an assessor in custody and access matters means walking into an active dispute between parents in high conflict. The reason the parents are before an assessor is because they have been unable to resolve their dispute between themselves and they are stuck with very different positions for the ongoing care of their children. Each parent is hoping that the assessor strengthens their respective position and that the assessor will make a recommendation in their favour. Clearly this is a set-up for the distinct possibility that one parent may be very dissatisfied. In some cases, even both parents may be dissatisfied.

Parents in this situation need to recognize that by going to Court and attending for an assessment, they have abdicated their right to determine the outcome of their dispute. They can only hope to influence it, but not determine it. Determination is now in the hands of the Court and will be greatly influenced by the recommendation of the assessor. Parents are well advised to reconsider looking at solutions for a settlement before going to Court. As soon as parents go to Court control is lost to the will of the Judge and the influence of the assessor.

Parents whose position or preferred outcome is not supported by the assessor may cry foul by challenging the competency of the assessor or alleging bias. However, their objection to the recommendation does not make it bad or wrong. It may just signal their upset for not winning.

The role of the assessor is not to take either parent's side, but to make recommendations with a view to the best interests of the child. The assessor is by definition on the side of the child. If by chance the opinion of the assessor aligns with the position of a parent, this does not in and of itself indicate bias on the part of the assessor. Further, some parents may complain that the assessor is opinionated. Interestingly though, that is exactly the role of the assessor. The assessor is to provide their opinion on the matter before them. If the assessor was not opinionated on the matter, then ironically there could truly be a problem with the assessment.

Regardless of a parent's position or how intensely a parent may defend their position, the assessor must look at the needs of the child now and for the future; the strengths and weaknesses of both parents; the conflict between them; their relative abilities to subordinate their needs to those of the child and then arrive at recommendations. The assessor should take a developmental view, one that regards the interests and needs of the child now and as they grow and age. The assessor should provide discussion on parental deficiencies or behaviour contributory to conflict or poor parenting and provide direction to address and improve those situations that may interfere with the child's development and well-being.

In the heat of a custody or access battle, some parents have difficulty heeding the input and recommendations of the assessor. A parent may seek to continue their battle and may even draw the assessor in as a target for the battle. While perhaps in a limited number of cases this may be appropriate, parents are advised to consider the input of the assessor carefully. The assessor is attempting to act only with the interest of the child. Their input may be instructive even if in conflict with a parent's position. The final thought to remember though is that the parent still has some measure of control up and until the time the Judge brings down the gavel.

Consider using the time between receiving the assessment and the Court date as an opportunity to negotiate a settlement. An agreement will likely be on the basis of the assessor's recommendation but there would be the opportunity to negotiate some fine-tuning to the plan and retain some measure of control. You may not like the outcome, but still try to work with the results before the gavel comes down.

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