I was delighted to see Family Matters – the Times campaign to modernise family legislation – as the leading story in the Times today. There is plenty of scope for improvement to Family justice legislation and the fact that the Times are raising the profile of this cause, and pushing for much needed reform, will undoubtedly make a difference.

The call for no fault divorce was the headline issue in the Times today, and I expect most of their readership will be surprised to read that the law in this area has not changed significantly since the 1970s.

When families make the difficult decision that a marriage is no longer viable, they must either agree to wait until they have been separated for 2 years, and then divorce by consent, or blame one party for the end of the marriage (either because of unreasonable behaviour or adultery).

Unsurprisingly, most people do not want to wait for the 2 years – not least because it is not possible to completely finalise financial arrangements until the divorce is underway. Unreasonable behaviour has consistently been the most common ground for wives petitioning for divorce since the late 1970s.

In many cases the details of that behaviour will have been agreed between the parties before the divorce is filed at court – something that the President of the Family Division has described as intellectually dishonest but unfortunately that is the closest you can get to an immediate and yet amicable divorce. For most people this is not nearly close enough.

The Nuffield Foundation report revealed that 62% of petitioners (those who file for divorce) and 78% of respondents said using fault had made the process more bitter. Even more worryingly, 21% of respondents said fault had made it harder to sort out arrangements for children, and 31% of respondents thought fault made sorting out finances harder. These statistics are surely impossible to ignore: the implications of our current divorce law are clearly widespread and damaging.

I have been thinking about what changes have been made to family law since the 1970s, and I think that one of the most significant developments has been the extent to which children now have a voice in the family courts. Their best interests are rightly firmly at the heart of all the decisions made. If we were to take the same approach to law reform, and consider what is in the best interests of the child, then the answer would be clear: it is better for the children if their parents do not apportion blame. No fault divorce allows parties to look to their future rather than fight over their past.

I am hopeful that with so much support for change, it will happen (eventually).

Read the full article below:

The Times – Family Matters: Overhaul divorce to protect children, say MPs and peers
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