



## **Research Methods**

**What impact does the way in which families make decisions enhance or arrest young people's ability to express their views and opinions during parental separation/divorce in family mediation.**

## 1. Aims

The aim of this study is to investigate and identify appropriate communication strategies to facilitate a "young person's" participation in the decision making process, on issues concerning them during parental separation and divorce. The term "young person"<sup>or</sup> "young people" will be used instead of "child," "children" in this research proposal. "Young people" is defined as being all pupils of compulsory school age, from five years and up until eighteen years of age (Alderson 1993). I prefer to use the term young people as opposed to "children" because <sup>grammar</sup> it is entrenched a number of socially constructed truths about young people being undeveloped human beings or "potential beings" (Roche). <sup>near</sup> In order to retain clarity I will use the term "child" or "children" in the literature review. Although the courts of the family division provide for the resolution of contested separation and divorce disputes, the study will focus upon the decision making process within family mediation. The main emphasis will be upon ascertaining whether the development of young peoples' reasoning and communication skills are arrested, or enhanced by their family unit. On the basis of being excluded or included from <sup>the</sup> daily decision making process are young people from families who exclude them disadvantaged? As a result when they are provided with an opportunity to participate they are unable to do so effectively because of a lack of experience, and as opposed to a lack of competence (Neale and Smart 2001). Are professionals involved in dispute resolution of separation and divorce able to recognise that the young person's ineffective reasoning and communication skills are attributable to a lack of experience in making decisions? <sup>And</sup> In response accordingly adopt appropriate communication strategies to enable and ensure that the actual view of the young person is ascertained and communicated effectively to the overall decision makers, usually their parents?

## 2. Scope of the study.

The scope of the study is potentially extensive. The exclusion of young people from decision making on matters concerning them occurs at all levels of society. In fact they are excluded from potentially every area which concerns them: central and local government, the legal system, educational system and even their families. I propose to limit this study to investigating the extent to which young people are involved on a daily basis in making decisions within their families. Family mediation is primarily a

procedure involving communication. It provides for amicable negotiation by parents' in dispute by facilitating communication between them. The young person may not have the requisite experience to enable effective communication. Mediators may not consider the cause of defective communication as being a lack of experience in making decisions within the family. The study will focus primarily upon young peoples' experience in the home and how they communicate within the mediation process. I will compare this with how parents and the mediators perceive the young person's skills to participate in making decisions on matters concerning them.

### 3. Background to the dispute

Since the late 1970s there has been a controversy over the extent and manner young people should participate in the decision making process during parental separation and divorce. The focus of participation is taken from the perspective that young people should be included on matters concerning them concomitant to parental separation and divorce. This means that the views and opinions of young people should be respected, acknowledged and taken into consideration when parents are making decisions affecting them. Quintessentially the 'voice' of young people should be included, directly or indirectly, and accorded with respect during family mediation on matters concerning them. The debate started with the introduction of family mediation into the United Kingdom (Roberts 1997). Mediation was considered to be beneficial to "young people" because of its collaborative nature, which exerts a positive influence over parental communication (Roberts<sup>year</sup>). However, young people are commonly seen as victims of parental separation or divorce (Neale and Smart<sup>year</sup>). Thus the inevitable injurious consequences upon young peoples' social, emotional and psychological development should be and are minimised. Young people must therefore be protected from the emotional upheaval, not exposed to it. Decisions will be taken on their behalf by their parents who ostensibly understand the nature of their needs (Fortin 200). In addition, the mediation process provides a safeguard for the young person's 'voice' by imposing an ethical responsibility upon mediators. (They are ethically bound to ensure parents consider young people's wishes and feelings (Roberts<sup>year</sup>)).

#### 4. Framework and key concepts

The objective of this study is to compare mediators, parents and young peoples' experiences of joint decision making. The study will be examining whether there is any disparity between young people who have experience in making family decisions with those who have not? The conceptual framework and background to the study will be explained in the literature review below. The literature review will also draw out the key concepts of this study, followed by a description of the methodology that I propose to use to research my hypothesis.

#### 5. Theoretical background

Generally the literature in this area is structured upon a recurring thesis, which is that childhood is a social construct (James and Prout).<sup>year</sup> Moreover, that there is no natural demarcation between adults and children. Adults (Foley et al) impose their social ordering upon children, even their exclusion from being able to make decisions on matters concerning them. Even though, the weight of evidence among social, historical and cross-cultural data substantiates this hypothesis and would be difficult to disprove. The idea of childhood being distinct from adulthood is deeply embedded within society. The concept of childhood has only been in existence for approximately two hundred years (Alderson 2000). Childhood exists to gratify the fears and anxieties held by adults (Gittens, 'The Child in Question').

Contemporary childhood is constructed upon adults' determining what is the "child's best interest", the welfare principle (Foley et al, King and Piper 1995). This principle is fundamental to the overall decision-making processes within the legal and educational system, social policy and politics. There are two interpretations of the welfare principle, which although paradoxical co-exist with one another (Foley et al). The prevailing views are that society needs to "protect" children from exploitation by adults and/or need to be "controlled" as they are undisciplined and irresponsible. Even though children's lives are better in many ways than previous generations, for example inclusive educational provisions, (Foley et al) they are nevertheless, constructed "...out of society, mutes their voices, denies their personhood, limits their potential." (Roche 1999) - page?

re: references always include year + page no.

Historically research into the consequences of separation and divorce concentrated upon social, emotional and psychological long term deprivations, resulting in "damaged" adults (Neale and Smart). Researchers tended to be preoccupied with attributing the cause of most deviant behaviours in society to parental separation and divorce. This however came to be counterproductive for the children involved. Society came to expect children from "broken homes" to become deviant in some way or another, which provided the justification for increasing welfare intervention for these families (Neil and Smart). I am of the opinion, that research connecting separation and divorce with the existence of deviant behaviours enables society to ignore its contribution to this problem. good

Data from research carried out at the end of the twentieth century directly challenged traditional perceptions about the cause of harm concomitant to parental separation and divorce (Fortin). The emerging body of evidence from research on how separation and divorce harms young people identified an aspect that had been over looked in previous research (Fortin). It showed that being excluded from the break down of the parental relationship (Fortin, Smart and Neale) significantly harmed young people. The change in emphasis is slight, nevertheless it has had, and continues to have a significant impact upon social, psychological and legal research on how young peoples' participation in separation and divorce decision making will be mutually beneficial to adults. One of the dominant theoretical frameworks upon which contemporary research is based is that of James and Prout (1990, 1997). They argue that "young people" "... are active social agents who shape the structures and processes around them (at least at the micro-level), ...". prout

The evidence from research into children's experiences started to engender change within certain areas of society, the law being one area. As a consequence a new **Children Act 1989** was passed, which was considered to being equivalent to "a charter for Children's rights," during its enactment through Parliament (James and James, 1999). The reason why the act was considered to be radical, in respect of children's rights, is that courts must ascertain the wishes and feelings of the child when making decisions concerning their welfare, in family proceedings. The reality of this act was found not to be as far reaching as it was purported to be (King et al). The act only provides the court with a discretionary power to ascertain the child's wishes and feelings, which may not be direct to the court but, by as secondary source such as Court Welfare Officer. Moreover, the wishes and feelings of the child may be

disregarded if it is considered that they conflict with the courts' determination of their best interest. The law itself is instrumental toward determining children's experiences in childhood. It provides for the institutionalising of children in schools, the key parameters of childhood such as when childhood ends and when they can consent to sexual relations (James et al). Even though contemporary research, discussed below, shows children are being harmed during separation and divorce because they are being excluded from making decisions on matters concerning themselves. The **Children Act 1989** based upon the privacy of family is biased toward minimal intervention into the affairs of families (King et al). Therefore the **Children Act 1989** perpetuates children's exclusion, as opposed to inclusion, as children are only able to activate their rights where the adult considers them to be of an age and understanding, S. 1(3)(a).

One of the reasons ~~for~~ why it is not necessary for professionals to consult directly with children when issues concerning them are being determined, is because it is assumed parents will tell them about the separation or divorce (Roberts, Fortin). In addition, parents know what is their child's best interest and will accordingly consult with them before making arrangements for them (Smith 1999). In practice this is not the reality as evidence from research into the child's perspective of separation and divorce proves (Mitchell 1985). Children's experiences were compared with their parents' perceptions of their children during separation and divorce. Although research undertaken retrospectively, five years after the divorce, most of the children were able to recollect their feelings quite accurately. The study showed that parents were inclined to attribute their children with the same feelings they felt (Scanian et al). *"In fact children we spoke to highlighted the fact that their parents all too often assumed that their children's wishes reflected their own."*

Therefore, only one third of the parents had thought that their children were upset. In fact two-thirds of the children had been upset. A more recent study (Scanian, Perry and Robinson 2000) showed 61% of the children were informed by their parents about the separation/divorce but only 26% had been asked about post divorce arrangements. The study undertaken by Mitchell <sup>(1985)</sup> may not be as accurate as one conducted nearer to the time parents separated or divorce as memory becomes distorted over time. It did highlight an important issue in respect of parents who are disinclined, for one reason or another, to

discuss the separation and divorce with their children. One young boy on being interviewed stated that it was the first time anyone had bothered to ask him how he felt (Mitchell). In the recent study 19% of the children interviewed said that their parents had told them nothing about the divorce. What percentage of these children had been asked how they felt for the first time?

Mediators themselves have a number of reservations about the place of children in family mediation (Roberts). The issue is contentious and views polarised, between absolute exclusion and full participation of children (Smith 1999). Many mediators prefer to encourage parents to consult with their children, which the National Family Mediation guidelines (April 1996) advocate. A postal questionnaire to 1511 mediators in England and Wales showed that only 59% of the 49% who responded always encouraged parents to take into consideration their child's view when discussing arrangements for them (Scanian et al). Notwithstanding mediator encouragement data from a survey on 104 children interviewed quite soon after their parents' divorce showed 63% had not been consulted on post separation/divorce arrangements (Scanian et al). Data from Australia showed how subjective opinions are when evaluating the impact direct involvement had upon the mediation. A trained child's interviewer, not involved in the parents' mediation, would feedback information from an interview with the children directly into the mediation session with the parents' mediator present. Mediators had evaluated the impact as being lower than parents were likely to and even lower than children did (McIntosh 2000). This raises an issue about mediator bias and whether this was challenged prior to their participating in this project. Another interesting issue that came out of this project was how mediators felt that where parental conflict was at a high level parents could not hear the feedback. Interviews with these parents indicated otherwise and that in fact it had altered the dynamics of their relationship. I would argue that this clearly shows the potential impact direct involvement has upon parents with a mindset on their own agendas and not that of their children's.

Impartiality on behalf of the mediator is fundamental to the mediation process and mediators are concerned that this will be undermined by involving children (Roberts). Through the child's view the mediator may become aligned with one of the parents. In addition, mediators will have to filter the information. As a result withhold information which may be beneficial to the parents (Roberts). It is possible to safeguard impartiality by using a separate mediator for the children. This mediator will only

see the parents to feedback their views and feelings whilst parents' mediator facilitates discussions using what the children's mediator is bringing into the session (McIntosh).

*this isn't a legal argument!*

Mediation is based upon communication, the purpose being to facilitate negotiations between parties with fixed positions (Sanian et al). Yet, mediators feel that they do not have the requisite training to communicate with children. Why is specialist training needed? I submit that this argument is based upon the social construction of the child and how they are distinct from adults and therefore they communicate differently. I accept there are differences but I submit it does not justify having to have specialist training to communicate with children, parents don't! Barriers to effective listening exist between people of all ages (Alderson). Communication is an active process whereby each person receiving information is interpreting what he or she has received and accordingly sends back information in response. The weakness here is the interpretation because we are rarely objective when we interpret information. Our attitudes, which are usually preconceived toward the person, affect how we perceive the information received from them. A common problem with intergenerational communication is the adult's view of the child's competence (Alderson). Effective communication with anyone takes time but because children may prefer non-verbal methods of communication this may prove time consuming and adults may not feel confident with the child's chosen method of communication (Alderson). Where adults are willing to learn children will show them how they can establish effective intergenerational communications.

*"Anne Solberg described how four-year-olds showed her that she was talking down to them and infantilising them during her interviews. With their help she established more relationships..."*

(Alderson). Such a course of action requires a certain degree of confidence to accept and to challenge ones' value system. I am inclined to argue that perhaps mediators need to encourage parents to challenge themselves on why they choose not to consult or allow their children to participate in making decisions on matters concerning the child. There is also an issue on mediator bias. What percentage of mediators has a particular idea of childhood, which they unknowingly bring into their role as a family mediator?

## 6. Location of the proposed study

how will you gain access to the centre?

The suggested focus of this study would be a family mediation centre situated in a new town, on the fringes of the South East of England. The local population is diverse ethnically and socio-economically. The centre received funding from central government to develop a mediation service allowing children to directly be involved within family mediation. The service called 'Listening to young people' is based upon Jennifer McIntosh's (1998) "model of child-inclusive practice in family law mediation". School aged children are seen by a trained child interviewer without either parent present. The centre provides for three sessions with the children which are child focused and led. The only time the child interviewer sees parents is when he give them feedback with their mediator present. The objective of the sessions is to provide the child with an opportunity to explore and express their feelings, fears, wishes and experiences of parental separation/divorce. They are not asked to make any decisions directly relating to their parents' separation or divorce or in relation to contact or place of residence.

## 7. Criteria for selection

Parents will be approached at intake session or by phone for permission to approach their children in respect of inviting them to take part in the study. Only young people intending to use the "Listening to young people service" will be invited to participate. Furthermore only those who are of compulsory school age, five, because they are presumed to be competent (Alderson 1993). Informed consent is required from both the young person and their parent. It is accepted that some parents may withhold consent but inferences may be drawn by parental refusal in respect of their ideas of childhood.

## 8. Weakness

This will be a small study and a number of variables, which could impact upon the study maybe difficult to isolate (Kumar 1999). For example ethnicity, gender, parental and children's educational level, family constellation (Adler 1998) and socio-economic status.

## 9. Qualitative study

The reason for choosing to undertake a qualitative study is to find out the young person's perspectives on decision making in the family. A questionnaire may raise some issues, however, it will not necessarily accord with the young person's perspective or be able to distinguish the researcher's perspective from that of the child's. A face to face interview is flexible and can be structured according to the young person's agenda and not the researchers'. It is also impossible to find out about children's experiences without their being directly involved in the research (Davis 1998). The study will be conducted in partnership with young people. The young person will decide the pace, agenda of the interview and the time, location and date. This may create problems given the time constraints and any commitments the young persons may have. Interviewing young people directly provides the researcher with an opportunity to explore issue raised during the interview that may not have been considered relevant. Interviewing young people raises questions about the extent a researcher can guarantee confidentiality. The National Children Bureau recommends not giving a guarantee (Mahon et al 1996). Kane and Thomas (1998) argue that it is possible to guarantee confidentiality on the basis that disclosure of harm by a young person is an indication that are ready to inform someone they trust. It is the responsibility of the researcher to encourage and support the child to tell someone who is able to act upon the information.

Interviewing young people raises an issue of power imbalance which young people may respond *as odd* according to what they perceive the interviewer wants to hear, as opposed to their view. The balance of power can be equalised by empowering the young person over the interview. It is essential that they feel they have the power to determine the mode of communication (Thomas et al). Ensure that the young person knows that they are able to leave whenever they want before the time allocated ends. Seek their consent to tape them and ask if them if they would like to be in control of the recording. In addition ask their permission to interview their parents too (Mahon et al). Throughout the interview be respectful to the child's views and opinions and refrain from making any value judgements. It is also important to ensure that the young person does not have any unresolved issues at the end of the interview and where necessary recommend an appropriate agency. It is also crucial to reassure the young person that the

information they shared during the course of the interview will only be disclosed with their consent, even in respect of the completed report.

The purpose of the initial interview is to find out what decision making experience the young person has. Then explore how they make decisions and whom do they go to when they need support with some decisions. Ascertain how they perceive their communication skills in relation to school friends and family members. Find out whether the young person feels they are able to express themselves freely in their family and whether they feel their parents listen and respect their feelings and views.

The focus of the follow up interview will be upon exploring the young person's experiences and feelings on the mediation sessions. Explore whether they felt they were able to express themselves clearly. Find out whether they felt any benefits from the sessions with the mediator and what these were. At the end of the interview reassure the young person that the information, shared during the interview, will only be disclosed with their consent. In addition ascertain that the young person feels they have had an opportunity to express their feelings and views they believe to be relevant to this study. Moreover ensure that the young person is not left in a state of distress again where necessary recommend an appropriate agency which can offer the requisite support.

*do you envisage any difficulties with this?*  
Interviews with parents will take place after their children have seen the family mediator in order to ascertain whether it has had an impact upon the dynamics of the family. The interviews may have to be conducted over the phone in the case of the non-resident parent. The main emphasis of the parents' interview is to ascertain their attitudes toward making collective family decisions about mundane issues such as household chores, bedtimes and any censoring of watching TV programmes. Explore how competent they consider their child to be to make decisions or what decisions their child should only be allowed to make and why. At the end of interview parents will be provided with an opportunity to say anything additional that they may consider relevant to the study. As with the young people being interviewed, check whether the interview did not engender any emotional issues. If this is the case encourage the parents to see a professional person to discuss the matter further.

As with the children interviewing offers flexibility and limits the potential for bias. A questionnaire is restrictive and questions maybe misinterpreted. Face to face contact can minimise the risk of misinterpretation by using reflexive techniques to ensure what is being said has been understood (Davis).

The aim of the interview with the young people's mediator is to explore how they perceived the young person's communication skills. Explore whether it was possible to identify a child who has experience of making decisions and one who has not. Find out whether a young person's confidence increased with the frequency of sessions. In addition explore the different methods of communication used and the extent the mediator relied upon the young person's body language to find out what they were feeling and wanted to express.

#### **10. Data collecting and analysis**

All interviews will be taped only where consent has been obtained. It may, however, not be easy to tape telephone conversations therefore extensive notes will be taken and transcribed immediately afterwards. The tapes will be transcribed. Assessment of the data will be undertaken continuously so that the data being sought reflects the young person's perceptions as much as possible.

The resulting data will be written up in a report highlighting areas of divergence between the participating groups.

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## Comments

*Research Methods: Dispute Prevention and Resolution*

### Marker One

Excellent—good research topic formulation, literature review comprehensive and sharpens topic; sensitive approach to method and data collection.

### Marker Two

Agreed, the only things to add are a couple of points on presentation. First when citing an author always include the year of publication and any relevant page numbers (eg from which quotation is taken). Second, your bibliography should be in alphabetical order by author surname and initials and include publisher details (name and location).

Agreed Mark 90%