

The longer-term impact of family mediation

Divorce law reforms have placed increasing emphasis on mediation as a way of resolving disputes which promotes consensual decision-making and reduces the conflict associated with marriage breakdown. Previous studies have suggested, however, that the benefits of mediation may be relatively short-lived, and evidence on its longer-term effectiveness is sparse. A three-year follow-up study, by Peter McCarthy and Janet Walker of the Relate Centre for Family Studies at Newcastle University, compared the experiences of those using 'all-issues' mediation with those using 'child-focused' mediation (normally limited to child-related matters). The research found:

f Mediating all the issues connected with divorce carries a number of benefits which continue to be appreciated several years later. Users of all-issues mediation were:

more likely to feel that mediation had helped them: end the marriage amicably, reduce conflict, maintain good relationships with their ex-spouses, and feel less bitter and resentful after divorce;

more content with existing child-care arrangements and less likely to have disagreements about child contact. Child-focused mediation was more likely to leave important issues connected with the care of children unresolved;

less likely to have sought help from outside the family with problems experienced by children;

able to reach agreements which had survived the test of time;

glad that they had used mediation.

f There were no differences between the two types of mediation in helping couples: deal with feelings of hurt and blame; understand why the relationship had ended and come to terms with it ending; or have a better relationship with children.

f People who were helped to reach agreements through either type of mediation tended to incur lower legal costs, although most did seek legal advice during divorce.

f The researchers conclude that reaching agreements in mediation - whichever approach is used - is a vital component in making and maintaining co-operative relationships between divorcing parents.

The benefits of mediation

The 1989 *Report of the Conciliation Project Unit on the Costs and Effectiveness of Conciliation in England and Wales* recommended that family mediation should not be restricted to issues directly connected with arrangements for children. In response, National Family Mediation developed pilot projects in five mediation services which were evaluated between 1990 and 1993. The findings published in 1994 (*Social Policy Research Findings* No. 48) showed that users of 'all-issues mediation' (previously known as 'comprehensive mediation') regarded it as a cost-effective alternative to the traditional legal process, and that greater benefits could be gained, in the short term at least, from mediation which was capable of dealing with *all* the issues consequent upon divorce (including matters concerning children, finance and property) than from mediation which focused specifically on matters relating to children.

The study suggested that all-issues mediation is a process from which many - though not all - divorcing couples might benefit. Concerns have remained, however, about the longer-term effectiveness of all types of mediation. One of the key questions addressed by this follow-up study was whether the more holistic approach to mediation afforded by various models of 'comprehensive' mediation are more likely to produce longer-lasting benefits.

The views of users

Almost two-thirds of all mediation users indicated that they were glad they had chosen mediation, while one in four wished they had not done so: 82 per cent of those using all-issues mediation, compared with 54 per cent of those using child-focused mediation said that they were glad they went. Seven in ten users of all-issues mediation indicated that it had helped them to reach agreements about maintenance payments and the division of property, while almost six in ten were enabled to reach agreements about children. Two-thirds of users said they had been helped to reduce conflict between themselves and former partners.

Users of all-issues mediation were more likely than those who had used child-focused mediation to feel they were helped to sort out arrangements for children, maintain good relationships with their ex-partner, end the marriage amicably, sort out maintenance arrangements, share out property, reduce post-divorce conflict and get a cheaper divorce. On the other hand, there were no differences between the different types of mediation in relation to enabling couples to deal with feelings of hurt and blame, understand why the relationship had ended and come to terms with it ending, or have a better

relationship with children. Nevertheless, those who did not use all-issues mediation seemed to be more resentful towards former partners and, in particular, to profess to feeling angry about the hurt done to them. Thus it would seem that the relationships of couples who use all-issues mediation are less likely to be affected by lingering, unresolved bitterness.

Responses indicate that there is more communication among parents who used all-issues mediation. However, on each of the measures, and on a cumulative index of them, differences between all-issues mediation clients and users of child-focused mediation were not statistically significant. It may be that looking at modes and styles of communication after divorce should be a more overt part of the mediation process.

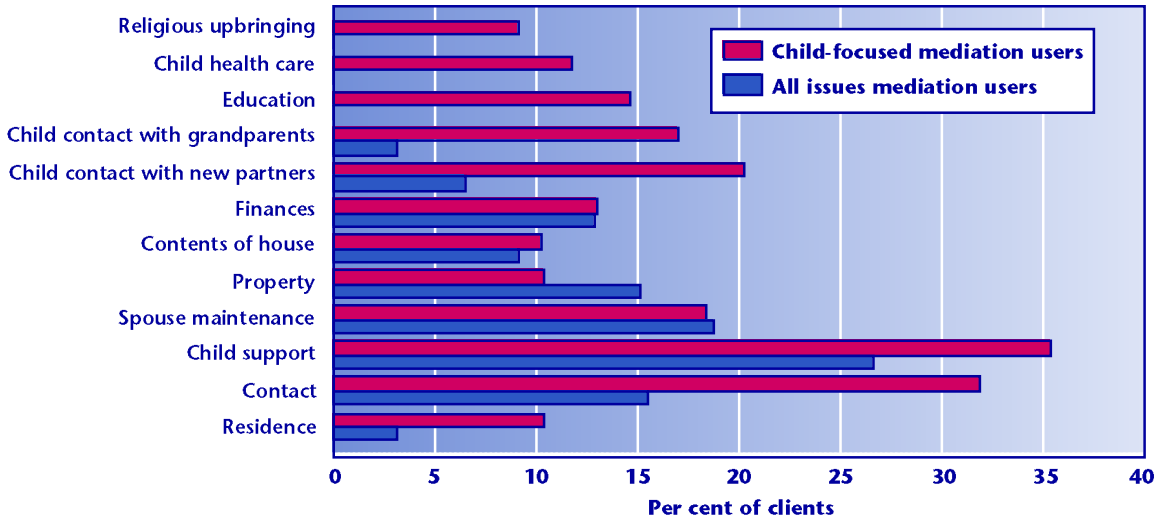
One in ten people indicated that they wished they and their ex-partner had stayed together, a figure not related to the type of mediation used (and, it should be noted, a wish not necessarily shared by their former partner). Users of all-issues mediation, however, were more likely to feel that attending mediation had enabled them to maintain a good relationship with their ex-partners. To a certain extent, however, this is because they had reported better relationships to begin with. There was no evidence that these people were more likely to improve the quality of relationships, or to have more contact with ex-partners.

Disagreements

Those using all-issues mediation were more likely to reach agreements in mediation. A key question, however, is whether they are less likely to have disagreements following mediation, as agreements reached in mediation may not last. Figure 1 indicates little difference between the two groups regarding disagreements about financial and property issues some three years after mediation. There is a difference, however, concerning issues to do with children. Users of child-focused mediation were more likely to have disagreements about contact arrangements, and also about children's contact with new partners and grandparents. They were also more likely to be in disagreement about the health care, education and religious upbringing of their children.

It would seem that mediation which is specifically focused on children might leave some issues about their upbringing unresolved. Perhaps as a consequence of this, users of child-focused mediation were more likely to seek assistance from outside the family with child-related problems: 39 per cent of child focused mediation users, compared with 15 per cent of those who used all-issues mediation sought such help.

Figure 1: **Disagreement between couples three years after mediation**



Users of child-focused mediation were more likely to have experienced changes in the nature of child-care arrangements, but it would seem that among both types of clients such changes tended to be mutually agreed by negotiation between both parents. Users of all-issues mediation, however, tended to be more content with the current arrangements: 43 per cent of people who used child-focused mediation, compared with 21 per cent of all-issues mediation users, indicated that they would like to change the current arrangements.

The evidence, as far as children are concerned, suggests that users of all-issues mediation are more likely to reach agreements and, moreover, seem more likely to have made agreements which have survived. Perhaps as a consequence of this, they are less likely to experience the emergence of new disputes about issues affecting children.

Reaching agreements

The reaching of agreements is an important function of mediation but it should not be seen as the be-all-and-end-all. The previous study indicated that all-issues mediation might produce benefits over and above enabling couples to reach agreements, for instance: improved communication, reduced bitterness and tension, and enhanced negotiating skills. Clients who reached agreements were significantly more likely to indicate that they were glad they went to mediation, but when two people are in dispute their perceptions of the process of resolving it may be different. While one party might be negative about mediation, the other may think it helped significantly to resolve differences.

When the mediation process had facilitated agreements, relationships tended to have changed for

the better afterwards. For instance, more than 70 per cent of clients who had reached agreements, compared with 44 per cent of those not reaching agreements, described their relationship with their ex-spouse as friendly. It would also seem that clients who reached agreements during mediation tended to establish better communication with partners concerning issues to do with children. That clients who reached agreements are better adjusted to divorce is further evidenced by their lower level of resentment towards former partners.

The Child Support Agency

Couples who participated in the study had attended mediation before the Child Support Act 1991 came into effect, and moved into post-divorce life when the Child Support Agency was in the process of being established. Sixteen per cent of all-issues mediation users, and 37 per cent of users of child-focused mediation, indicated that their child support arrangements had since been subject to CSA assessment. However, there were no instances of mediated agreements about child support being overturned by the CSA.

Mediation and the cost of divorce

Only three respondents to the follow-up study did not employ solicitors during the process of divorce. Of those who did, more than half received legal aid. Users of child-focused mediation were twice as likely as those using all-issues mediation to be receiving legal aid: 64 per cent compared with 31 per cent. Without getting information from the Legal Aid Board about the costs connected with specific cases, it is difficult to compare the legal expenditure of the two groups. Nevertheless, information provided by

those not receiving legal aid suggested that there might well be a difference. The average solicitor's bill for non-legally aided users of all-issues mediation was £1,744, while that of those using child-focused mediation was £5,055. However, data was provided by only 23 users of all-issues mediation and 20 child-focused mediation users, and the differences between mean costs falls short of statistical significance.

Costs tended to be lowest if child support arrangements had been agreed as a result of mediation. They were highest if couples continued to disagree about child support payments. It would seem that if mediating all-issues reduces legal costs it does so because it is more likely to lead to agreement about child support payments.

The future role of mediation in divorce

The follow-up study suggests that people who use all-issues mediation, rather than child-focused mediation, are less likely to feel bitter and resentful to their partners after divorce. However, they do not seem to establish better quality relationships with their partners nor to communicate with them more regularly over issues concerned with the raising of children, although people who mediate only about child issues seem more likely to have continuing disputes with partners about wider issues, including the education, health care and religious upbringing of children, and also about children's contact with new partners and with grandparents. It seems something of a paradox that an approach to mediation which by definition focuses on children seems more likely than more broadly focused mediation to leave important aspects of children's upbringing unresolved.

Nevertheless, the research demonstrates that what happens during mediation is more important in the long term than the particular approach employed. It is the reaching of agreements which is important, and some couples are helped to reach agreements about all issues despite using a form of mediation which is supposedly child-focused. Reaching agreements during mediation can have a significant impact on the quality of post-divorce life, and also on the cost of getting divorced. Those people for whom either type of mediation was instrumental in helping them to reach agreements tend to feel less bitterness and resentment

towards former partners and, perhaps because of this, are able to establish closer relationships with them, and communicate more regularly about issues concerned with the raising of children. In addition, those who reached agreements in mediation, whatever its focus, tended to incur lower legal costs. It would seem that reaching agreements is a vital component in the re-making of co-operative relationships, a process in which mediation has a role to play.

About the study

A postal questionnaire was sent in November 1995 to 166 people who had experienced mediation at the family mediation services involved in the pilot projects and had also taken part in the earlier evaluation. Replies were received from 113 people. Of these, 29 per cent had used all-issues mediation and 71 per cent had used child-focused mediation.

Further information

A full report of the follow-up research is available from the Relate Centre for Family Studies, University of Newcastle upon Tyne, NE1 7RU, Tel: 0191 222 7647, Fax: 0191 222 7871, priced £6.00 (plus postage & packing). Also available is the report of the previous study, *Mediation: The making and remaking of co-operative relationships*, priced £9.95 inc. p&p.

Related Findings

The following *Findings* look at related issues:

- 48** An evaluation of comprehensive mediation services for divorcing couples (Feb 94)
- 69** Supporting families in the workplace (Jan 95)
- 92** The impact of the Child Support Act on lone mothers and their children (Mar 96)
- 100** Domestic violence and child contact arrangements (Jun 96)
- 101** Inter-agency initiatives as a response to domestic violence (Jun 96)

For further information on these and other *Findings*, contact Sally Corrie on 01904 615905 (direct line/answerphone for publications queries only).



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