

ACTIVITIES AND ACHIEVEMENTS QUESTIONNAIRE

1. Non-Technical Summary

A 1000 word (maximum) summary of the main research results, in non-technical language, should be provided below. The summary might be used by ESRC to publicise the research. It should cover the aims and objectives of the project, main research results and significant academic achievements, dissemination activities and potential or actual impacts on policy and practice.

Research problem

Increasing numbers of separated and divorced parents require assistance from the family courts to make decisions about child contact (formerly known as ‘access’). In most courts, these litigating parents will be encouraged to find a solution to the dispute by attending an in-court conciliation meeting, a form of mediation held on court premises. During such meetings the implicated parties engage one another in a talk-based process of mediated conflict resolution. Existing socio-legal research has raised concerns about the fairness, safety and stability of agreements reached, while stakeholders have raised concerns about bias against fathers, the lack of attention to domestic violence and limited transparency in family court decision-making. Currently, however, very little empirical research has examined how mediation meetings are undertaken as communicative events, and we therefore have scant understanding not only of how matters relating to bias, fairness, safety etc. are addressed through communication within the meetings, but also how the actual dispute resolution work is undertaken as a talk-based, communicative process. Our study was designed to address this research omission.

Aims, objectives and methods

The project aimed to advance theoretical and empirical understanding about precisely how, through talk, courts make decisions in child-contact cases, using in-court conciliation as a case study. Our specific objective was to uncover, explicate and describe in detailed ways the communicative nature of the work undertaken in in-court conciliation. We did this by analysing audio recordings of fifteen actual court-based negotiations using the methodology of Conversation Analysis (CA). CA has been highly effective in exploring the talk-based processes through which institutional practices, professional tasks, and ‘work mandates’ are undertaken. We were able to build on this body of work. As CA is an inductive, data-driven method we did not pre-specify research hypotheses. We did, however, identify a set of research questions from the socio-legal and CA literature that informed, but did not restrict, our analyses.

These questions concerned:

- how proposals were elicited, disclosed, challenged, modified and developed
- how sensitive topics, including allegations of abuse or harm, were managed
- how the needs and rights of children were framed
- how conflict and emotion are displayed and managed

Main research results and significant academic achievements

Initial analyses of our data corpus enabled us to explore three key strands in detail; these were:

1. Framing the mediation meetings
2. Managing conflict
3. Facilitating agreement

The research we have produced within the three strands significantly enhances our understanding of *how* child-contact mediations are undertaken through spoken interaction. We have uncovered how mediation meetings commence, and explicated the dense institutional work – which includes ‘socialising’ the parents in the mediation process - that takes place within the first few minutes of the meetings. We have examined how ‘children’, though absent from the actual meetings, are invoked, in a variety of ways, within the meetings, and connected these invocations to the overarching expedient pursuit of a durable settlement of the parents’ disputes. We have uncovered how the delicate notion of ‘risk’ prefigures as a key component in the meetings, and described how institutional mandates to reach a settlement often override the apparent need for mediators to probe and investigate allegations of harm. We have demonstrated how closely-related notions of anger, conflict, and emotionality are omnirelevant in child-contact mediation meetings, and uncovered the complex and varied ways in which mediators proactively and retroactively ‘manage’ emotions in ways that promote conflict resolution rather than conflict escalation. We have examined how formulations are deployed resourcefully and strategically by mediators to enhance agreement and ultimately secure a mutually acceptable and workable outcome.

Our work contributes to a small, though growing, amount of CA research on child-contact mediation and as such extends methodologically and empirically broadens Conversation Analytic studies of conflict, institutional forms of talk, lay-professional interactions, and mediation more generally. The findings also add significantly to the socio-legal literature examining trends in family law. In particular, we have explored how the settlement orientation and contact presumption within the family justice system (Bailey-Harris et al 1999) are operationalised at the micro-level.

Dissemination and impact

Over the 12 months of the project we have presented seven papers to national and international meetings and submitted five papers to international, peer-reviewed journals (these papers cover openings, children, risk, anger and emotion management). In addition to organising an international symposium on conflict and mediation, we have five additional papers in preparation for submission to peer-reviewed journals. These papers deal with how ‘formulations’ are deployed strategically by mediators, the closings of meetings, how children’s rights are dealt with in the meetings, complaint narratives and how welfare and emotions are managed in the meetings.

Our findings have important practical implications for policy and practice. We have been active in disseminating findings to policy-makers and practitioners. We have been able to feed findings into a fundamental review of court-based mediation initiated by the President of the Family Division. Our paper on risk management, described as “a powerful piece of evidence”, contributed to a national policy decision to undertake future risk identification away from court and before the first hearing. We presented findings to nearly 200 practitioners at the CAFCASS annual research conference. We ran a full day

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workshop for senior CAFCASS managers to feedback findings and explore the potential of CA as a research and practice development tool. Both events were very positively evaluated and further training is under discussion. A summary article is being drafted for the widely-read and influential professional journal *Family Law*.